

E2SHB 1393 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

1 Strike everything after the enacting clause and insert the
2 following:

3 **"PART I. OFFICE OF CONSUMER EDUCATION FOR HOME CONSTRUCTION**

4 **NEW SECTION.** **Sec. 1.** A new section is added to chapter 43.10 RCW
5 to read as follows:

6 (1) The office of consumer education for home construction is
7 created in the office of the attorney general.

8 (2) The office of consumer education for home construction shall:

9 (a) Report to the legislature on an annual basis the total number
10 of complaints about residential construction received and the total
11 number of claims filed under section 9 of this act. For complaints,
12 the office of consumer education for home construction shall summarize
13 the nature of the complaints. For claims, the office of consumer
14 education for home construction shall summarize the nature of the
15 claims, the monetary value of the claims, whether claims have been
16 resolved, and any other information that the office deems relevant.
17 The first report is due on January 1, 2010, and subsequent reports are
18 due on November 1st of each year thereafter; and

19 (b) Examine issues involved in establishing a recovery fund to
20 provide compensation to residential real property homeowners through a
21 claim filing process. The office of consumer education for home
22 construction shall consult with appropriate agencies and
23 representatives from organizations involved in the area of residential
24 construction. The office of consumer education for home construction
25 shall make recommendations to the legislature on the creation of a
26 recovery fund by December 1, 2010.

27 **Sec. 2.** RCW 18.27.075 and 2001 c 159 s 14 are each amended to read
28 as follows:

1 (1) The department shall charge a fee of one hundred dollars for
2 issuing or renewing a certificate of registration during the 2001-2003
3 biennium. The department shall revise this amount at least once every
4 two years for the purpose of recognizing economic changes as reflected
5 by the fiscal growth factor under chapter 43.135 RCW.

6 (2) The department shall also charge a consumer education fee of
7 one hundred dollars per year for issuing or renewing a certificate of
8 registration to a contractor who discloses, as required under RCW
9 18.27.030, that he or she will perform both residential and commercial
10 work or only residential work. A contractor who discloses that he or
11 she will perform only commercial work is not required to pay the fee.
12 The department shall deposit the fee in the consumer education for home
13 construction account created in section 3 of this act.

14 NEW SECTION. Sec. 3. A new section is added to chapter 43.10 RCW
15 to read as follows:

16 The consumer education for home construction account is created in
17 the custody of the state treasurer for the purpose of funding the
18 office of consumer education for home construction. All fees charged
19 under RCW 18.27.075(2) and filing fees charged under section 9 of this
20 act must be deposited into the account. Expenditures from the account
21 may be used only to fund the office of consumer education for home
22 construction. Only the home construction board created under section
23 7 of this act or the board's designee may authorize expenditures from
24 the account. The account is subject to the allotment procedures under
25 chapter 43.88 RCW, but an appropriation is not required for
26 expenditures.

27 **Sec. 4.** RCW 43.79A.040 and 2008 c 208 s 9, 2008 c 128 s 20, and
28 2008 c 122 s 24 are each reenacted and amended to read as follows:

29 (1) Money in the treasurer's trust fund may be deposited, invested,
30 and reinvested by the state treasurer in accordance with RCW 43.84.080
31 in the same manner and to the same extent as if the money were in the
32 state treasury.

33 (2) All income received from investment of the treasurer's trust
34 fund shall be set aside in an account in the treasury trust fund to be
35 known as the investment income account.

1 (3) The investment income account may be utilized for the payment
2 of purchased banking services on behalf of treasurer's trust funds
3 including, but not limited to, depository, safekeeping, and
4 disbursement functions for the state treasurer or affected state
5 agencies. The investment income account is subject in all respects to
6 chapter 43.88 RCW, but no appropriation is required for payments to
7 financial institutions. Payments shall occur prior to distribution of
8 earnings set forth in subsection (4) of this section.

9 (4)(a) Monthly, the state treasurer shall distribute the earnings
10 credited to the investment income account to the state general fund
11 except under (b) and (c) of this subsection.

12 (b) The following accounts and funds shall receive their
13 proportionate share of earnings based upon each account's or fund's
14 average daily balance for the period: The Washington promise
15 scholarship account, the college savings program account, the
16 Washington advanced college tuition payment program account, the
17 agricultural local fund, the American Indian scholarship endowment
18 fund, the foster care scholarship endowment fund, the foster care
19 endowed scholarship trust fund, the students with dependents grant
20 account, the basic health plan self-insurance reserve account, the
21 contract harvesting revolving account, the Washington state combined
22 fund drive account, the commemorative works account, the Washington
23 international exchange scholarship endowment fund, the toll collection
24 account, the developmental disabilities endowment trust fund, the
25 energy account, the fair fund, the family leave insurance account, the
26 food animal veterinarian conditional scholarship account, the fruit and
27 vegetable inspection account, the future teachers conditional
28 scholarship account, the game farm alternative account, the GET ready
29 for math and science scholarship account, the grain inspection
30 revolving fund, the juvenile accountability incentive account, the law
31 enforcement officers' and firefighters' plan 2 expense fund, the local
32 tourism promotion account, the pilotage account, the produce railcar
33 pool account, the regional transportation investment district account,
34 the rural rehabilitation account, the stadium and exhibition center
35 account, the youth athletic facility account, the self-insurance
36 revolving fund, the sulfur dioxide abatement account, the children's
37 trust fund, the Washington horse racing commission Washington bred
38 owners' bonus fund account, the Washington horse racing commission

1 class C purse fund account, the individual development account program
2 account, the Washington horse racing commission operating account
3 (earnings from the Washington horse racing commission operating account
4 must be credited to the Washington horse racing commission class C
5 purse fund account), the life sciences discovery fund, the Washington
6 state heritage center account, the consumer education for home
7 construction account, and the reading achievement account. However,
8 the earnings to be distributed shall first be reduced by the allocation
9 to the state treasurer's service fund pursuant to RCW 43.08.190.

10 (c) The following accounts and funds shall receive eighty percent
11 of their proportionate share of earnings based upon each account's or
12 fund's average daily balance for the period: The advanced right-of-way
13 revolving fund, the advanced environmental mitigation revolving
14 account, the city and county advance right-of-way revolving fund, the
15 federal narcotics asset forfeitures account, the high occupancy vehicle
16 account, the local rail service assistance account, and the
17 miscellaneous transportation programs account.

18 (5) In conformance with Article II, section 37 of the state
19 Constitution, no trust accounts or funds shall be allocated earnings
20 without the specific affirmative directive of this section.

21 **Sec. 5.** RCW 43.79A.040 and 2008 c 239 s 9, 2008 c 208 s 9, 2008 c
22 128 s 20, and 2008 c 122 s 24 are each reenacted and amended to read as
23 follows:

24 (1) Money in the treasurer's trust fund may be deposited, invested,
25 and reinvested by the state treasurer in accordance with RCW 43.84.080
26 in the same manner and to the same extent as if the money were in the
27 state treasury.

28 (2) All income received from investment of the treasurer's trust
29 fund shall be set aside in an account in the treasury trust fund to be
30 known as the investment income account.

31 (3) The investment income account may be utilized for the payment
32 of purchased banking services on behalf of treasurer's trust funds
33 including, but not limited to, depository, safekeeping, and
34 disbursement functions for the state treasurer or affected state
35 agencies. The investment income account is subject in all respects to
36 chapter 43.88 RCW, but no appropriation is required for payments to

1 financial institutions. Payments shall occur prior to distribution of
2 earnings set forth in subsection (4) of this section.

3 (4)(a) Monthly, the state treasurer shall distribute the earnings
4 credited to the investment income account to the state general fund
5 except under (b) and (c) of this subsection.

6 (b) The following accounts and funds shall receive their
7 proportionate share of earnings based upon each account's or fund's
8 average daily balance for the period: The Washington promise
9 scholarship account, the college savings program account, the
10 Washington advanced college tuition payment program account, the
11 agricultural local fund, the American Indian scholarship endowment
12 fund, the foster care scholarship endowment fund, the foster care
13 endowed scholarship trust fund, the students with dependents grant
14 account, the basic health plan self-insurance reserve account, the
15 contract harvesting revolving account, the Washington state combined
16 fund drive account, the commemorative works account, the Washington
17 international exchange scholarship endowment fund, the toll collection
18 account, the developmental disabilities endowment trust fund, the
19 energy account, the fair fund, the family leave insurance account, the
20 food animal veterinarian conditional scholarship account, the fruit and
21 vegetable inspection account, the future teachers conditional
22 scholarship account, the game farm alternative account, the GET ready
23 for math and science scholarship account, the grain inspection
24 revolving fund, the juvenile accountability incentive account, the law
25 enforcement officers' and firefighters' plan 2 expense fund, the local
26 tourism promotion account, the pilotage account, the produce railcar
27 pool account, the regional transportation investment district account,
28 the rural rehabilitation account, the stadium and exhibition center
29 account, the youth athletic facility account, the self-insurance
30 revolving fund, the sulfur dioxide abatement account, the children's
31 trust fund, the Washington horse racing commission Washington bred
32 owners' bonus fund account, the Washington horse racing commission
33 class C purse fund account, the individual development account program
34 account, the Washington horse racing commission operating account
35 (earnings from the Washington horse racing commission operating account
36 must be credited to the Washington horse racing commission class C
37 purse fund account), the life sciences discovery fund, the Washington
38 state heritage center account, the reduced cigarette ignition

1 propensity account, the consumer education for home construction
2 account, and the reading achievement account. However, the earnings to
3 be distributed shall first be reduced by the allocation to the state
4 treasurer's service fund pursuant to RCW 43.08.190.

5 (c) The following accounts and funds shall receive eighty percent
6 of their proportionate share of earnings based upon each account's or
7 fund's average daily balance for the period: The advanced right-of-way
8 revolving fund, the advanced environmental mitigation revolving
9 account, the city and county advance right-of-way revolving fund, the
10 federal narcotics asset forfeitures account, the high occupancy vehicle
11 account, the local rail service assistance account, and the
12 miscellaneous transportation programs account.

13 (5) In conformance with Article II, section 37 of the state
14 Constitution, no trust accounts or funds shall be allocated earnings
15 without the specific affirmative directive of this section.

16 NEW SECTION. Sec. 6. A new section is added to chapter 43.10 RCW
17 to read as follows:

18 For the purposes of sections 7 through 11 of this act the following
19 definitions apply:

20 (1) "Board" means the home construction board created in section 7
21 of this act.

22 (2) "Claim" means a claim filed with the board against a
23 construction professional under section 9 of this act and does not mean
24 a complaint as that term is used in section 1 of this act.

25 (3) "Construction professional" means an architect, builder,
26 builder vendor, contractor, subcontractor, engineer, or inspector,
27 performing or furnishing the design, supervision, inspection,
28 construction, or observation of the construction, of any improvement to
29 residential real property, whether operating as a sole proprietor,
30 partnership, corporation, or other business entity. "Construction
31 professional" does not include a supplier of materials who has
32 otherwise had no involvement in performing or furnishing the design,
33 supervision, inspection, construction, or observation of the
34 construction, of any improvement to residential real property.
35 "Construction professional" does not include an inspector who is an
36 agent or employee of a local or state government and acting in his or
37 her official capacity as an inspector.

1 (4) "Contractor" means a contractor, as defined in RCW 18.27.010,
2 that is registered with the department of labor and industries under
3 chapter 18.27 RCW.

4 (5) "Damages" means the cost of repairs, or if the cost of repairs
5 is clearly disproportionate to the loss in market value, damages is the
6 loss in market value.

7 (6) "Defect" means a deficiency, an inadequacy, or an insufficiency
8 arising out of or relating to the construction, alteration, or repair
9 of residential real property. "Defect" also includes a deficiency, an
10 inadequacy, or an insufficiency in a system, component, or material
11 incorporated into residential real property.

12 (7) "Homeowner" means a person or persons owning residential real
13 property. "Homeowner" does not include government agencies, political
14 subdivisions, financial institutions, and any other entity that
15 purchases, guarantees, or insures a loan secured by real property.
16 "Homeowner" also does not include the spouse, domestic partner, or
17 personal representative of the contractor named in the claim filed
18 under section 9 of this act.

19 (8) "Residential real property" has the same meaning as in section
20 15 of this act.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.10 RCW
22 to read as follows:

23 (1) The home construction board is established within the office of
24 consumer education for home construction to administer a residential
25 real property homeowner and construction professional early resolution
26 mediation program.

27 (2) The purpose of the board is to provide homeowners and
28 construction professionals with a cost-effective and time efficient
29 process to resolve disputes arising from alleged construction.

30 (3) The board consists of the following seven members:

31 (a) Three members possessing a minimum of ten years of experience
32 in the construction of residences and directly, or as employees or
33 officers of a firm, registered under chapter 18.27 RCW;

34 (b) One member possessing a minimum of ten years of experience in
35 the remodeling of residences and directly, or as employees or officers
36 of a firm, registered under chapter 18.27 RCW;

37 (c) One building inspector employed by a city or county; and

1 (d) Two members of the general public.

2 (4) Members of the board shall be appointed by the governor with
3 the consent of the senate. The governor shall appoint initial members
4 of the board to staggered terms of two to four years. Thereafter, all
5 members shall be appointed to full four-year terms. Members of the
6 board hold office until their successors are appointed. A vacancy
7 shall be filled by appointment by the governor for the unexpired
8 portion of the term in which the vacancy occurs.

9 (5) The board shall select from its members a chair, vice-chair,
10 and any other officer the board determines is necessary to perform its
11 duties.

12 (6) The board shall meet a minimum of four times per year to carry
13 out its functions.

14 (7) The board may adopt rules to implement the board's duties.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.10 RCW
16 to read as follows:

17 (1) The board shall investigate and mediate claims filed by a
18 homeowner against a construction professional for alleged construction
19 defects to residential real property.

20 (2) The board may use the services of neutral third-party experts
21 to assist the board in investigating, assessing, and mediating claims.
22 The board may rely on the national building standards and other
23 recognized standards or codes that the board finds appropriate in
24 investigating and assessing the claim.

25 (3) The board shall dismiss a claim if the board determines that
26 the claim is against a contractor who is not registered under chapter
27 18.27 RCW.

28 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.10 RCW
29 to read as follows:

30 (1) A homeowner of residential real property alleging that a
31 construction professional has performed defective work must, prior to
32 commencing an action against the construction professional, file a
33 claim against the construction professional with the board.

34 (2) The claim must be in the form required by the board and must
35 include, at a minimum:

1 (a) The name and mailing address of the homeowner or the
2 homeowner's legal representative, if any;

3 (b) The address and location of the residential real property;

4 (c) The names and addresses of the construction professionals, to
5 the extent known to the homeowner, who performed the work;

6 (d) Whether the work performed involved construction of new
7 residential real property or a substantial remodel of residential real
8 property and the date that the homeowner took possession of the new
9 residential real property or, for a substantial remodel, the date the
10 work was substantially completed or the project was terminated;

11 (e) A description of the defective work performed and the actual or
12 estimated costs of repair;

13 (f) Any report, estimates, and other documents evidencing the
14 defect and the costs of repair;

15 (g) Whether there is a written contract between the construction
16 professional and the homeowner and whether the contract contains
17 warranties related to the work performed or the materials used.

18 (3) The board may not process a claim against a construction
19 professional unless the claim is filed with the board within the
20 applicable statute of limitations.

21 (4) When a claim is filed with the board within the applicable
22 statute of limitations, the filing of the claim tolls any applicable
23 statute of limitations and any applicable statute of repose for
24 construction-related claims for the period of time until fifteen days
25 after the board provides written notice of completion of mediation.

26 (5) Any action commenced in court by a homeowner prior to
27 compliance with the requirements of this section is subject to
28 dismissal without prejudice and may not be recommenced until the
29 homeowner has complied with the requirements of this section.

30 (6) The board by rule may impose a processing fee for claims filed
31 under this section not to exceed one hundred dollars. The fee must be
32 deposited into the consumer education for home construction account
33 created under section 3 of this act.

34 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.10 RCW
35 to read as follows:

36 (1) Upon receipt of a claim, the board shall give written notice to

1 the construction professional against whom the claim is made. The
2 notice of the claim must describe the claim in reasonable detail
3 sufficient to determine the nature of the defect.

4 (2) Within twenty-one days after service of the notice of claim,
5 the construction professional shall serve a written response on the
6 homeowner by registered mail or personal service. The written response
7 must:

8 (a) Propose to inspect the residence that is the subject of the
9 claim and to complete the inspection within a specified time frame.
10 The proposal must include the statement that the construction
11 professional shall, based on the inspection, offer to remedy the
12 defect, compromise by payment, or dispute the claim;

13 (b) Offer to compromise and settle the claim by monetary payment
14 without inspection. A construction professional's offer under this
15 subsection (2)(b) to compromise and settle a homeowner's claim may
16 include, but is not limited to, an express offer to purchase the
17 homeowner's residence that is the subject of the claim, and to pay the
18 homeowner's reasonable relocation costs; or

19 (c) State that the construction professional disputes the claim and
20 will neither remedy the defect nor compromise and settle the claim.

21 (3)(a) If the construction professional disputes the claim or does
22 not respond to the notice of claim within the time stated in subsection
23 (2) of this section, the board shall commence an investigation and
24 mediation of the claim.

25 (b) If the homeowner rejects the inspection proposal or the
26 settlement offer made by the construction professional under subsection
27 (2) of this section, the homeowner shall serve written notice of the
28 rejection on the construction professional and the board. After
29 service of the rejection, the board shall commence an investigation and
30 mediation of the claim.

31 (c) If the construction professional has not received from the
32 homeowner, within thirty days after the homeowner's receipt of the
33 construction professional's response, either an acceptance or rejection
34 of the inspection proposal or settlement offer, then at anytime
35 thereafter the construction professional may terminate the proposal or
36 offer by serving written notice to the homeowner, and the board shall
37 commence an investigation and mediation of the claim.

1 (4)(a) If the homeowner elects to allow the construction
2 professional to inspect in accordance with the construction
3 professional's proposal under this section, the homeowner shall provide
4 the construction professional and its contractors or other agents
5 reasonable access to the homeowner's residence during normal working
6 hours to inspect the premises and the claimed defect.

7 (b) Within fourteen days following completion of the inspection,
8 the construction professional shall serve on the homeowner:

9 (i) A written offer to remedy the defect at no cost to the
10 homeowner, including a report of the scope of the inspection, the
11 findings and results of the inspection, a description of the additional
12 construction necessary to remedy the defect, and a timetable for the
13 completion of such construction;

14 (ii) A written offer to compromise and settle the claim by monetary
15 payment under subsection (2)(b) of this section; or

16 (iii) A written statement that the construction professional will
17 not proceed further to remedy the defect.

18 (c) If the construction professional does not proceed further to
19 remedy the defect within the agreed timetable, or if the construction
20 professional fails to comply with (b) of this subsection, the homeowner
21 shall provide written notification to the board. The board shall
22 commence an investigation and mediation of the claim.

23 (d) If the homeowner rejects the offer made by the construction
24 professional under (b)(i) or (ii) of this subsection to either remedy
25 the defect or to compromise and settle the claim by monetary payment,
26 the homeowner shall serve written notice of the rejection on the
27 construction professional and the board. After service of the
28 rejection notice, the board shall commence an investigation and
29 mediation of the claim.

30 (e) If the construction professional has not received from the
31 homeowner, within thirty days after the homeowner's receipt of the
32 construction professional's response, either an acceptance or rejection
33 of the offer made under (b)(i) or (ii) of this subsection, then at
34 anytime thereafter the construction professional may terminate the
35 offer by serving written notice to the homeowner.

36 (5)(a) Any homeowner accepting the offer of a construction
37 professional to remedy the defect under subsection (4)(b)(i) of this
38 section shall do so by serving the construction professional with a

1 written notice of acceptance within a reasonable time period after
2 receipt of the offer, and no later than thirty days after receipt of
3 the offer. The homeowner shall also send a copy of the written notice
4 of acceptance to the board. The homeowner shall provide the
5 construction professional and its contractors or other agents
6 reasonable access to the homeowner's residence during normal working
7 hours to perform and complete the construction by the timetable stated
8 in the offer.

9 (b) The homeowner and construction professional may, by written
10 mutual agreement, alter the extent of construction or the timetable for
11 completion of construction stated in the offer including, but not
12 limited to, repair of additional defects.

13 (6) Compliance with this section satisfies the requirements of RCW
14 64.50.020.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.10 RCW
16 to read as follows:

17 (1) If, after compliance with the procedures established in section
18 10 of this act, a resolution has not been reached between the homeowner
19 and construction professional, the board shall investigate the claim.

20 (2) The board may use the services of neutral third-party experts
21 to conduct on-site investigations, make recommendations to the board,
22 and assist the board in investigating and mediating claims.

23 (3) After the investigation is complete, the board shall provide
24 the parties with notification of the findings of the investigation. If
25 the parties do not provide the board with written notification within
26 fourteen days after receipt of the findings that the parties have
27 resolved the claim, the board shall mediate the claim.

28 (4) The mediation must be conducted by a panel of three members of
29 the board in accordance with rules adopted by the board.

30 (5) All proceedings of the mediation conference, including any
31 statement made by any party, attorney, or other participant, must be
32 privileged and not reported, recorded, placed in evidence, used for
33 impeachment, made known to a court or jury, or construed for any
34 purpose as an admission. No party is bound by anything done or said at
35 the mediation conference unless a settlement is reached, in which event
36 the agreement upon a settlement must be reduced to writing and is
37 binding upon all parties to that agreement.

1 (6) At the conclusion of the mediation, the board shall provide a
2 written notice of the completion of mediation to the parties. The
3 notice must include a statement of the results of the mediation and a
4 copy of any written settlement agreement between the parties. If the
5 parties did not reach an agreement, the notice must include a statement
6 that the parties may pursue any other right or remedy provided under
7 statutory or common law.

8 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.10 RCW
9 to read as follows:

10 (1) The board shall maintain and make available to the office of
11 consumer education for home construction a record of all claims filed
12 with the board against construction professionals under this chapter
13 and the outcomes of those claims.

14 (2) The office of consumer education for home construction shall
15 compile a summary of the claims into a report for the legislature as
16 required under section 1 of this act.

17 **Sec. 13.** RCW 64.50.020 and 2002 c 323 s 3 are each amended to read
18 as follows:

19 (1) In every construction defect action brought against a
20 construction professional, the claimant shall, no later than forty-five
21 days before filing an action, serve written notice of claim on the
22 construction professional. The notice of claim shall state that the
23 claimant asserts a construction defect claim against the construction
24 professional and shall describe the claim in reasonable detail
25 sufficient to determine the general nature of the defect.

26 (2) Within twenty-one days after service of the notice of claim,
27 the construction professional shall serve a written response on the
28 claimant by registered mail or personal service. The written response
29 shall:

30 (a) Propose to inspect the residence that is the subject of the
31 claim and to complete the inspection within a specified time frame.
32 The proposal shall include the statement that the construction
33 professional shall, based on the inspection, offer to remedy the
34 defect, compromise by payment, or dispute the claim;

35 (b) Offer to compromise and settle the claim by monetary payment
36 without inspection. A construction professional's offer under this

1 subsection (2)(b) to compromise and settle a homeowner's claim may
2 include, but is not limited to, an express offer to purchase the
3 claimant's residence that is the subject of the claim, and to pay the
4 claimant's reasonable relocation costs; or

5 (c) State that the construction professional disputes the claim and
6 will neither remedy the construction defect nor compromise and settle
7 the claim.

8 (3)(a) If the construction professional disputes the claim or does
9 not respond to the claimant's notice of claim within the time stated in
10 subsection (2) of this section, the claimant may bring an action
11 against the construction professional for the claim described in the
12 notice of claim without further notice.

13 (b) If the claimant rejects the inspection proposal or the
14 settlement offer made by the construction professional pursuant to
15 subsection (2) of this section, the claimant shall serve written notice
16 of the claimant's rejection on the construction professional. After
17 service of the rejection, the claimant may bring an action against the
18 construction professional for the construction defect claim described
19 in the notice of claim. If the construction professional has not
20 received from the claimant, within thirty days after the claimant's
21 receipt of the construction professional's response, either an
22 acceptance or rejection of the inspection proposal or settlement offer,
23 then at anytime thereafter the construction professional may terminate
24 the proposal or offer by serving written notice to the claimant, and
25 the claimant may thereafter bring an action against the construction
26 professional for the construction defect claim described in the notice
27 of claim.

28 (4)(a) If the claimant elects to allow the construction
29 professional to inspect in accordance with the construction
30 professional's proposal pursuant to subsection (2)(a) of this section,
31 the claimant shall provide the construction professional and its
32 contractors or other agents reasonable access to the claimant's
33 residence during normal working hours to inspect the premises and the
34 claimed defect.

35 (b) Within fourteen days following completion of the inspection,
36 the construction professional shall serve on the claimant:

37 (i) A written offer to remedy the construction defect at no cost to
38 the claimant, including a report of the scope of the inspection, the

1 findings and results of the inspection, a description of the additional
2 construction necessary to remedy the defect described in the claim, and
3 a timetable for the completion of such construction;

4 (ii) A written offer to compromise and settle the claim by monetary
5 payment pursuant to subsection (2)(b) of this section; or

6 (iii) A written statement that the construction professional will
7 not proceed further to remedy the defect.

8 (c) If the construction professional does not proceed further to
9 remedy the construction defect within the agreed timetable, or if the
10 construction professional fails to comply with the provisions of (b) of
11 this subsection, the claimant may bring an action against the
12 construction professional for the claim described in the notice of
13 claim without further notice.

14 (d) If the claimant rejects the offer made by the construction
15 professional pursuant to (b)(i) or (ii) of this subsection to either
16 remedy the construction defect or to compromise and settle the claim by
17 monetary payment, the claimant shall serve written notice of the
18 claimant's rejection on the construction professional. After service
19 of the rejection notice, the claimant may bring an action against the
20 construction professional for the construction defect claim described
21 in the notice of claim. If the construction professional has not
22 received from the claimant, within thirty days after the claimant's
23 receipt of the construction professional's response, either an
24 acceptance or rejection of the offer made pursuant to (b)(i) or (ii) of
25 this subsection, then at anytime thereafter the construction
26 professional may terminate the offer by serving written notice to the
27 claimant.

28 (5)(a) Any claimant accepting the offer of a construction
29 professional to remedy the construction defect pursuant to subsection
30 (4)(b)(i) of this section shall do so by serving the construction
31 professional with a written notice of acceptance within a reasonable
32 time period after receipt of the offer, and no later than thirty days
33 after receipt of the offer. The claimant shall provide the
34 construction professional and its contractors or other agents
35 reasonable access to the claimant's residence during normal working
36 hours to perform and complete the construction by the timetable stated
37 in the offer.

1 (b) The claimant and construction professional may, by written
2 mutual agreement, alter the extent of construction or the timetable for
3 completion of construction stated in the offer, including, but not
4 limited to, repair of additional defects.

5 (6) Any action commenced by a claimant prior to compliance with the
6 requirements of this section shall be subject to dismissal without
7 prejudice, and may not be recommenced until the claimant has complied
8 with the requirements of this section.

9 (7) Nothing in this section may be construed to prevent a claimant
10 from commencing an action on the construction defect claim described in
11 the notice of claim if the construction professional fails to perform
12 the construction agreed upon, fails to remedy the defect, or fails to
13 perform by the timetable agreed upon pursuant to subsection (2)(a) or
14 (5) of this section.

15 (8) Prior to commencing any action alleging a construction defect,
16 or after the dismissal of any action without prejudice pursuant to
17 subsection (6) of this section, the claimant may amend the notice of
18 claim to include construction defects discovered after the service of
19 the original notice of claim, and must otherwise comply with the
20 requirements of this section for the additional claims. The service of
21 an amended notice of claim shall relate back to the original notice of
22 claim for purposes of tolling statutes of limitations and repose.
23 Claims for defects discovered after the commencement or recommencement
24 of an action may be added to such action only after providing notice to
25 the construction professional of the defect and allowing for response
26 under subsection (2) of this section.

27 (9) This section does not apply to a claim filed with the home
28 construction board under sections 9 through 11 of this act.

29 **PART II. RESIDENTIAL REAL PROPERTY WARRANTIES,**
30 **LEGAL REMEDIES, AND THIRD-PARTY INSPECTIONS**

31 NEW SECTION. **Sec. 14.** A new section is added to chapter 64.50 RCW
32 to read as follows:

33 (1) Any defect in either design or construction that adversely
34 affects the owner's reasonable enjoyment or use of the home may be
35 considered a breach of the common law implied warranty of habitability.

1 (2) The common law implied warranty of habitability may not be
2 disclaimed, waived, modified, or limited by contractual agreement. A
3 provision of any contract for the purchase or sale of newly constructed
4 residential property or substantial remodel that purports to disclaim,
5 waive, modify, or limit the implied warranty of habitability is void
6 and unenforceable.

7 (3) The common law implied warranty of habitability for newly
8 constructed residential real property and substantial remodels extends
9 to any homeowner who purchases the property within six years of its
10 construction, and is not limited to the initial owner-occupant of the
11 property. A homeowner who purchases the property subsequent to the
12 initial owner-occupant, and within six years of the construction or
13 substantial remodel of the property, receives the same protections of
14 the common law implied warranty of habitability as possessed by the
15 person from whom the property was purchased.

16 NEW SECTION. **Sec. 15.** A new section is added to chapter 64.50 RCW
17 to read as follows:

18 (1) A construction professional involved in the construction of new
19 residential real property, or the substantial remodel or repair of
20 existing residential real property, warrants that the work, and any
21 part thereof, will be suitable for the ordinary uses of real property
22 of its type and that the work will be:

23 (a) Free from defective materials;

24 (b) Constructed in accordance with sound engineering and
25 construction standards;

26 (c) Constructed in a work-like manner; and

27 (d) Constructed in compliance with all laws then applicable to the
28 improvements.

29 (2) If a construction professional breaches a warranty arising
30 under this section and the breach threatens to damage or results in
31 damage to any portion of the residential real property, the current
32 owner of the residential real property may bring a cause of action for
33 damages against the construction professional. Absence of privity of
34 contract between the owner and the construction professional is not a
35 defense to the enforcement of a warranty arising under this section.

36 (3) In a judicial proceeding for breach of a warranty arising under
37 this section, the plaintiff must show that the alleged breach has

1 adversely affected or will adversely affect the performance of that
2 portion of the property alleged to be in breach. To establish an
3 adverse effect, the person alleging the breach is not required to prove
4 that the breach renders the property unfit for occupancy. As used in
5 this subsection, "adverse effect" must be more than technical and must
6 be significant to a reasonable person.

7 (4) Proof of breach of a warranty arising under this section is not
8 proof of damages. Damages awarded for a breach of a warranty arising
9 under this section are the cost of repairs, moving and relocation
10 expenses if a court or arbitrator finds these expenses necessary, and
11 expert witness fees if the court or arbitrator finds these fees
12 reasonable. However, if it is established that the cost of repairs is
13 clearly disproportionate to the loss in market value caused by the
14 breach, damages are limited to the loss in market value.

15 (5)(a) A judicial proceeding for breach of a warranty arising under
16 this section must be commenced within four years after the cause of
17 action accrues. This period may not be reduced by either oral or
18 written agreement, or through the use of contractual claims or notice
19 procedures that require the filing or service of any claim or notice
20 prior to the expiration of the period specified in this section.

21 (b) Except as provided under (c) of this subsection, a judicial
22 proceeding for breach of a warranty arising under this section accrues,
23 regardless of the owner's lack of knowledge of the breach:

24 (i) In the case of the purchase of newly constructed residential
25 real property, on the date the initial owner enters into possession of
26 the property; or

27 (ii) In the case of the substantial remodel of existing residential
28 real property, on the date of substantial completion of construction or
29 termination of the construction project, whichever is later.

30 (c) A cause of action for breach of a warranty arising under this
31 section that is based on a latent structural defect or a latent water
32 penetration defect accrues when the claimant discovers or reasonably
33 should have discovered the latent structural defect or latent water
34 penetration defect.

35 (d) An action for breach of warranty under this section is subject
36 to the time limitations provided in RCW 4.16.310.

37 (6) If a written notice of claim is served under RCW 64.50.020
38 within the time prescribed for the filing of an action under this

1 section, the statute of limitations in this section and any applicable
2 statute of repose for construction-related claims are tolled until
3 sixty days after the period of time during which the filing of an
4 action is barred under RCW 64.50.020.

5 (7) The warranties provided under this section are in addition to
6 any other rights or remedies available under statutory law or common
7 law or provided for under contract. The warranties provided under this
8 section may not be waived, disclaimed, modified, or limited.

9 (8) In a judicial proceeding under this section, the court may
10 award reasonable attorneys' fees and costs to the prevailing party.

11 (9) This section is not intended to create an independent right to
12 maintain a class action against any construction professional.

13 (10) This section does not apply to condominiums subject to chapter
14 64.34 RCW.

15 (11) This section does not affect the application of the notice and
16 opportunity to cure requirements and procedures imposed under RCW
17 64.50.010 through 64.50.050.

18 (12) An action for breach of a warranty created under this section
19 is subject to any requirements for mandatory arbitration imposed under
20 chapter 7.06 RCW or state or local court rules.

21 (13) For the purposes of this section:

22 (a) "Construction professional" means an architect, builder,
23 builder vendor, contractor, subcontractor, engineer, or inspector,
24 performing or furnishing the design, supervision, inspection,
25 construction, or observation of the construction, of any improvement to
26 residential real property, whether operating as a sole proprietor,
27 partnership, corporation, or other business entity. "Construction
28 professional" does not include a supplier of materials who has
29 otherwise had no involvement in performing or furnishing the design,
30 supervision, inspection, construction, or observation of the
31 construction, of any improvement to residential real property.

32 (b) "Residential real property" means a single-family home, a
33 duplex, a triplex, or a quadraplex, but does not include a condominium
34 subject to chapter 64.34 RCW.

35 (c) "Substantial completion of construction" means the state of
36 completion reached when an improvement upon real property may be used
37 or occupied for its intended use.

1 **Sec. 16.** RCW 4.16.310 and 2002 c 323 s 9 are each amended to read
2 as follows:

3 (1) All claims or causes of action as set forth in RCW 4.16.300
4 shall accrue, and the applicable statute of limitation shall begin to
5 run only during the period within six years after substantial
6 completion of construction, or during the period within six years after
7 the termination of the services enumerated in RCW 4.16.300, whichever
8 is later. The phrase "substantial completion of construction" shall
9 mean the state of completion reached when an improvement upon real
10 property may be used or occupied for its intended use. Any cause of
11 action which has not accrued within six years after such substantial
12 completion of construction, or within six years after such termination
13 of services, whichever is later, shall be barred: PROVIDED, That this
14 limitation shall not be asserted as a defense by any owner, tenant or
15 other person in possession and control of the improvement at the time
16 such cause of action accrues. The limitations prescribed in this
17 section apply to all claims or causes of action as set forth in RCW
18 4.16.300 brought in the name or for the benefit of the state which are
19 made or commenced after June 11, 1986.

20 If a written notice is filed under RCW 64.50.020 within the time
21 prescribed for the filing of an action under this chapter, the period
22 of time during which the filing of an action is barred under RCW
23 64.50.020 plus sixty days shall not be a part of the period limited for
24 the commencement of an action, nor for the application of this section.

25 (2) Actions and claims for fraud arising from including, but not
26 limited to, construction, alteration, repair, design, planning, survey,
27 and the engineering of improvements upon real property are not subject
28 to the time limitations under subsection (1) of this section. Such
29 actions and claims are governed under RCW 4.16.080.

30 NEW SECTION. **Sec. 17.** A new section is added to chapter 64.50 RCW
31 to read as follows:

32 (1) All real residential property must have a wood moisture
33 inspection by a qualified inspector. The qualified inspector must be
34 qualified in the areas that the inspector is to inspect and that are
35 approved by the building official. This inspection must identify,
36 among other things, the maximum allowable moisture content, as

1 established by the state building code council by rule, of natural or
2 manufactured wood framing members prior to enclosing the framing.

3 (2) The rules adopted under this section must provide for the
4 maximum percentage of moisture allowed, the various locations in a
5 building that must be tested including at least ten locations per
6 floor, the standards that need to be applied during testing including
7 testing for moisture after the roof and windows, electrical, plumbing
8 and HVAC are installed, but before insulation is added, and procedures
9 for retesting the structure if the moisture content exceeds the maximum
10 allowable amount at the time of inspection. Testing is mandatory from
11 November 1st through April 30th, and at other times as the building
12 official deems necessary.

13 (3) Upon completion of an inspection required under this section,
14 the qualified inspector shall prepare and submit to the appropriate
15 building department a signed letter certifying that the wood moisture
16 content has been tested and does not exceed the maximum percentage of
17 moisture allowed, or that the building official did not require testing
18 of the wood moisture content. If testing was required, the letter
19 must also include the locations tested and moisture content results.

20 (4) The building department shall not issue a final certificate of
21 occupancy or other equivalent final acceptance until the letter
22 required under this section has been submitted. The building
23 department is not charged with and has no responsibility for
24 determining whether the wood moisture inspection is adequate or
25 appropriate to satisfy the requirements of this section.

26 **PART III. CONTRACTOR REGISTRATION, WORKER CERTIFICATION,**
27 **AND BONDING**

28 NEW SECTION. **Sec. 18.** (1) The legislature finds that there is
29 inadequate protection for consumers in the area of residential
30 construction. The legislature further finds that a significant amount
31 of the problems in the construction of new residential real property,
32 or the substantial remodel of existing residential real property,
33 pertain to water intrusion and unstable foundations and develop from
34 poor installation of roofing, siding, framing, foundations, doors, and
35 windows. The legislature recognizes that it is important to assure
36 consumers that those doing construction work are properly trained. The

1 legislature, therefore, intends to establish a worker certification
2 requirement for those doing construction work in the areas of roofing,
3 siding, framing, foundations, doors, and windows.

4 (2) The department of labor and industries shall contract for
5 consultant services to develop recommendations to the legislature on
6 the education, experience, and examination requirements of the program
7 to certify workers engaged in the installation of roofing, siding,
8 framing, foundations, doors, and windows. In developing the
9 recommendations, the consultant and the department shall closely
10 involve and consult with stakeholders. The recommendations must be
11 submitted to the legislature by November 1, 2009.

12 (3) This section expires December 31, 2009.

13 **Sec. 19.** RCW 18.27.030 and 2008 c 120 s 1 are each amended to read
14 as follows:

15 (1) An applicant for registration as a contractor shall submit an
16 application under oath upon a form to be prescribed by the director and
17 which shall include the following information pertaining to the
18 applicant:

19 (a) Employer social security number.

20 (b) Unified business identifier number.

21 (c) Evidence of workers' compensation coverage for the applicant's
22 employees working in Washington, as follows:

23 (i) The applicant's industrial insurance account number issued by
24 the department;

25 (ii) The applicant's self-insurer number issued by the department;
26 or

27 (iii) For applicants domiciled in a state or province of Canada
28 subject to an agreement entered into under RCW 51.12.120(7), as
29 permitted by the agreement, filing a certificate of coverage issued by
30 the agency that administers the workers' compensation law in the
31 applicant's state or province of domicile certifying that the applicant
32 has secured the payment of compensation under the other state's or
33 province's workers' compensation law.

34 (d) Employment security department number.

35 (e) Unified business identifier (UBI) account number may be
36 substituted for the information required by (c) and (d) of this
37 subsection if the applicant will not employ employees in Washington.

1 (f) Type of contracting activity, whether a general or a specialty
2 contractor and if the latter, the type of specialty.

3 (g) Type of work performed, whether residential, commercial, or
4 both.

5 (h) The name ((and)), address, social security number, date of
6 birth, and driver's license number of each partner if the applicant is
7 a firm or partnership, or the name ((and)), address, social security
8 number, date of birth, and driver's license number of the owner if the
9 applicant is an individual proprietorship, or the name ((and)),
10 address, social security number, date of birth, and driver's license
11 number of the corporate officers and statutory agent, if any, if the
12 applicant is a corporation, or the name ((and)), address, social
13 security number, date of birth, and driver's license number of all
14 members of other business entities. The information contained in such
15 application is a matter of public record and open to public inspection,
16 except for a person's social security number and driver's license
17 number.

18 (i) The registration numbers and unified business identifier
19 account numbers of previously or currently registered businesses
20 involving the same owner, principal, or officer as the applicant.

21 (j) Disclosure of any bankruptcy proceedings filed by or against
22 the applicant.

23 (k) Information about any construction licenses, certifications, or
24 registrations that have been issued to the applicant by other states.
25 The applicant shall also provide details about any denials,
26 suspensions, revocations, or any enforcement actions related to
27 construction against the applicant by other states.

28 (2) The department may verify the workers' compensation coverage
29 information provided by the applicant under subsection (1)(c) of this
30 section, including but not limited to information regarding the
31 coverage of an individual employee of the applicant. If coverage is
32 provided under the laws of another state, the department may notify the
33 other state that the applicant is employing employees in Washington.

34 (3)(a) The department shall deny an application for registration
35 if: (i) The applicant has been previously performing work subject to
36 this chapter as a sole proprietor, partnership, corporation, or other
37 entity and the department has notice that the applicant has an
38 unsatisfied final judgment against him or her in an action based on

1 work performed subject to this chapter or the applicant owes the
2 department money for penalties assessed or fees due under this chapter
3 as a result of a final judgment; (ii) the applicant was an owner,
4 principal, or officer of a partnership, corporation, or other entity
5 that either has an unsatisfied final judgment against it in an action
6 that was incurred for work performed subject to this chapter or owes
7 the department money for penalties assessed or fees due under this
8 chapter as a result of a final judgment; (iii) the applicant does not
9 have a valid unified business identifier number; (iv) the department
10 determines that the applicant has falsified information on the
11 application, unless the error was inadvertent; ~~((e))~~ (v) the applicant
12 does not have an active and valid certificate of registration with the
13 department of revenue; or (vi) the department has determined that a
14 different state has taken enforcement action against the applicant for
15 activities that would be a violation of this chapter if they had
16 occurred in Washington state.

17 (b) The department shall suspend an active registration if: (i)
18 The department has determined that the registrant has an unsatisfied
19 final judgment against it for work within the scope of this chapter;
20 (ii) the department has determined that the registrant is a sole
21 proprietor or an owner, principal, or officer of a registered
22 contractor that has an unsatisfied final judgment against it for work
23 within the scope of this chapter; (iii) the registrant does not
24 maintain a valid unified business identifier number; (iv) the
25 department has determined that the registrant falsified information on
26 the application, unless the error was inadvertent; ~~((e))~~ (v) the
27 registrant does not have an active and valid certificate of
28 registration with the department of revenue; or (vi) the department has
29 determined that a different state has taken enforcement action against
30 the registrant for activities that would be a violation of this chapter
31 if they had occurred in Washington state.

32 (c) The department may suspend an active registration if the
33 department has determined that an owner, principal, partner, or officer
34 of the registrant was an owner, principal, or officer of a previous
35 partnership, corporation, or other entity that has an unsatisfied final
36 judgment against it.

37 (4) The department shall not deny an application or suspend a
38 registration because of an unsatisfied final judgment if the

1 applicant's or registrant's unsatisfied final judgment was determined
2 by the director to be the result of the fraud or negligence of another
3 party.

4 NEW SECTION. **Sec. 20.** A new section is added to chapter 18.27 RCW
5 to read as follows:

6 A registered contractor, by or against whom a petition in
7 bankruptcy has been filed, shall notify the department of the
8 proceedings in bankruptcy, including the identity and location of the
9 court in which the proceedings are pending, within ten days of the
10 filing.

11 **Sec. 21.** RCW 18.27.040 and 2007 c 436 s 4 are each amended to read
12 as follows:

13 (1) Each applicant shall file with the department a surety bond
14 issued by a surety insurer who meets the requirements of chapter 48.28
15 RCW in the sum of (~~twelve~~) twenty-four thousand dollars if the
16 applicant is a general contractor and (~~six~~) twelve thousand dollars
17 if the applicant is a specialty contractor. If no valid bond is
18 already on file with the department at the time the application is
19 filed, a bond must accompany the registration application. The bond
20 shall have the state of Washington named as obligee with good and
21 sufficient surety in a form to be approved by the department. The bond
22 shall be continuous and may be canceled by the surety upon the surety
23 giving written notice to the director. A cancellation or revocation of
24 the bond or withdrawal of the surety from the bond automatically
25 suspends the registration issued to the contractor until a new bond or
26 reinstatement notice has been filed and approved as provided in this
27 section. The bond shall be conditioned that the applicant will pay all
28 persons performing labor, including employee benefits, for the
29 contractor, will pay all taxes and contributions due to the state of
30 Washington, and will pay all persons furnishing material or renting or
31 supplying equipment to the contractor and will pay all amounts that may
32 be adjudged against the contractor by reason of breach of contract
33 including improper work in the conduct of the contracting business. A
34 change in the name of a business or a change in the type of business
35 entity shall not impair a bond for the purposes of this section so long

1 as one of the original applicants for such bond maintains partial
2 ownership in the business covered by the bond.

3 (2) At the time of initial registration or renewal, the contractor
4 shall provide a bond or other security deposit as required by this
5 chapter and comply with all of the other provisions of this chapter
6 before the department shall issue or renew the contractor's certificate
7 of registration. Any contractor registered as of July 1, 2001, who
8 maintains that registration in accordance with this chapter is in
9 compliance with this chapter until the next renewal of the contractor's
10 certificate of registration.

11 (3) Any person, firm, or corporation having a claim against the
12 contractor for any of the items referred to in this section may bring
13 suit against the contractor and the bond or deposit in the superior
14 court of the county in which the work was done or of any county in
15 which jurisdiction of the contractor may be had. The surety issuing
16 the bond shall be named as a party to any suit upon the bond. Action
17 upon the bond or deposit brought by a residential homeowner for breach
18 of contract by a party to the construction contract shall be commenced
19 by filing the summons and complaint with the clerk of the appropriate
20 superior court within two years from the date the claimed contract work
21 was substantially completed or abandoned, whichever occurred first.
22 Action upon the bond or deposit brought by any other authorized party
23 shall be commenced by filing the summons and complaint with the clerk
24 of the appropriate superior court within one year from the date the
25 claimed labor was performed and benefits accrued, taxes and
26 contributions owing the state of Washington became due, materials and
27 equipment were furnished, or the claimed contract work was
28 substantially completed or abandoned, whichever occurred first.
29 Service of process in an action filed under this chapter against the
30 contractor and the contractor's bond or the deposit shall be
31 exclusively by service upon the department. Three copies of the
32 summons and complaint and a fee adopted by rule of not less than fifty
33 dollars to cover the costs shall be served by registered or certified
34 mail, or other delivery service requiring notice of receipt, upon the
35 department at the time suit is started and the department shall
36 maintain a record, available for public inspection, of all suits so
37 commenced. Service is not complete until the department receives the
38 fee and three copies of the summons and complaint. The service shall

1 constitute service and confer personal jurisdiction on the contractor
2 and the surety for suit on claimant's claim against the contractor and
3 the bond or deposit and the department shall transmit the summons and
4 complaint or a copy thereof to the contractor at the address listed in
5 the contractor's application and to the surety within two days after it
6 shall have been received.

7 (4) The surety upon the bond shall not be liable in an aggregate
8 amount in excess of the amount named in the bond nor for any monetary
9 penalty assessed pursuant to this chapter for an infraction. The
10 liability of the surety shall not cumulate where the bond has been
11 renewed, continued, reinstated, reissued or otherwise extended. The
12 surety upon the bond may, upon notice to the department and the
13 parties, tender to the clerk of the court having jurisdiction of the
14 action an amount equal to the claims thereunder or the amount of the
15 bond less the amount of judgments, if any, previously satisfied
16 therefrom and to the extent of such tender the surety upon the bond
17 shall be exonerated but if the actions commenced and pending and
18 provided to the department as required in subsection (3) of this
19 section, at any one time exceed the amount of the bond then unimpaired,
20 claims shall be satisfied from the bond in the following order:

21 (a) Employee labor and claims of laborers, including employee
22 benefits;

23 (b) Claims for breach of contract by a party to the construction
24 contract;

25 (c) Registered or licensed subcontractors, material, and equipment;

26 (d) Taxes and contributions due the state of Washington;

27 (e) Any court costs, interest, and attorneys' fees plaintiff may be
28 entitled to recover. The surety is not liable for any amount in excess
29 of the penal limit of its bond.

30 A payment made by the surety in good faith exonerates the bond to
31 the extent of any payment made by the surety.

32 (5) The total amount paid from a bond or deposit required of a
33 general contractor by this section to claimants other than residential
34 homeowners must not exceed one-half of the bond amount. The total
35 amount paid from a bond or deposit required of a specialty contractor
36 by this section to claimants other than residential homeowners must not
37 exceed one-half of the bond amount or four thousand dollars, whichever
38 is greater.

1 (6) The prevailing party in an action filed under this section
2 against the contractor and contractor's bond or deposit, for breach of
3 contract by a party to the construction contract involving a
4 residential homeowner, is entitled to costs, interest, and reasonable
5 attorneys' fees. The surety upon the bond or deposit is not liable in
6 an aggregate amount in excess of the amount named in the bond or
7 deposit nor for any monetary penalty assessed pursuant to this chapter
8 for an infraction.

9 (7) If a final judgment impairs the liability of the surety upon
10 the bond or deposit so furnished that there is not in effect a bond or
11 deposit in the full amount prescribed in this section, the registration
12 of the contractor is automatically suspended until the bond or deposit
13 liability in the required amount unimpaired by unsatisfied judgment
14 claims is furnished.

15 (8) In lieu of the surety bond required by this section the
16 contractor may file with the department an assigned savings account,
17 upon forms provided by the department.

18 (9) Any person having filed and served a summons and complaint as
19 required by this section having an unsatisfied final judgment against
20 the registrant for any items referred to in this section may execute
21 upon the security held by the department by serving a certified copy of
22 the unsatisfied final judgment by registered or certified mail upon the
23 department within one year of the date of entry of such judgment. Upon
24 the receipt of service of such certified copy the department shall pay
25 or order paid from the deposit, through the registry of the superior
26 court which rendered judgment, towards the amount of the unsatisfied
27 judgment. The priority of payment by the department shall be the order
28 of receipt by the department, but the department shall have no
29 liability for payment in excess of the amount of the deposit.

30 (10) Within ten days after resolution of the case, a certified copy
31 of the final judgment and order, or any settlement documents where a
32 case is not disposed of by a court trial, a certified copy of the
33 dispositive settlement documents must be provided to the department by
34 the prevailing party. Failure to provide a copy of the final judgment
35 and order or the dispositive settlement documents to the department
36 within ten days of entry of such an order constitutes a violation of
37 this chapter and a penalty adopted by rule of not less than two hundred
38 fifty dollars may be assessed against the prevailing party.

1 (11) The director may require an applicant applying to renew or
2 reinstate a registration or applying for a new registration to file a
3 bond of up to three times the normally required amount, if the director
4 determines that an applicant, or a previous registration of a corporate
5 officer, owner, or partner of a current applicant, has had in the past
6 five years a total of three final judgments in actions under this
7 chapter involving a residential single-family dwelling on two or more
8 different structures.

9 (12) The director may adopt rules necessary for the proper
10 administration of the security.

11 NEW SECTION. **Sec. 22.** Section 4 of this act expires August 1,
12 2009.

13 NEW SECTION. **Sec. 23.** Section 5 of this act takes effect August
14 1, 2009.

15 NEW SECTION. **Sec. 24.** Sections 6 through 15 of this act take
16 effect April 1, 2010.

17 NEW SECTION. **Sec. 25.** Part headings used in this act are not any
18 part of the law."

E2SHB 1393 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

19 On page 1, line 1 of the title, after "Relating to" strike the
20 remainder of the title and insert "improving residential real property
21 construction by creating the office of consumer education for home
22 construction, strengthening warranty protections applicable to
23 residential real property construction, creating remedies, requiring
24 third-party inspections, enhancing contractor registration
25 requirements, establishing worker certification standards, and
26 enhancing bonding requirements; amending RCW 18.27.075, 64.50.020,

1 4.16.310, 18.27.030, and 18.27.040; reenacting and amending RCW
2 43.79A.040 and 43.79A.040; adding new sections to chapter 43.10 RCW;
3 adding new sections to chapter 64.50 RCW; adding a new section to
4 chapter 18.27 RCW; creating new sections; providing effective dates;
5 and providing expiration dates."

--- END ---