
SENATE BILL 5996

State of Washington

55th Legislature

1997 Regular Session

By Senators Schow, Newhouse and Horn

Read first time 02/25/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to contractor registration bonds; and amending RCW
2 18.27.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 18.27.040 and 1988 c 139 s 1 are each amended to read
5 as follows:

6 (1) Each applicant shall, at the time of applying for or renewing
7 a certificate of registration, file with the department (~~a surety bond~~
8 ~~issued by a surety insurer who meets the requirements of chapter 48.28~~
9 ~~RCW in a form acceptable to the department running to the state of~~
10 ~~Washington if a general contractor, in the sum of six thousand dollars;~~
11 ~~if a specialty contractor, in the sum of four thousand dollars;~~) the
12 application for a certificate of registration with a surety bond or
13 continuation certificate issued by a surety insurer who meets the
14 requirements of chapter 48.28 RCW in the sum of six thousand dollars if
15 the applicant is a general contractor and four thousand dollars if the
16 applicant is a specialty contractor. The bond shall have the state of
17 Washington named as obligee with good and sufficient surety in a form
18 to be approved by the department. The bond shall be continuous and may
19 be canceled by the surety upon the surety giving written notice to the

1 director of its intent to cancel the bond. A cancellation or
2 revocation of the bond or withdrawal of the surety from the bond
3 suspends the registration issued to the registrant until a new bond or
4 reinstatement notice has been filed and approved as provided in this
5 section. Whether or not the bond is renewed, continued, reinstated,
6 reissued, or otherwise extended, replaced, or modified, including
7 increases or decreases in the penal sum, it shall be considered one
8 continuous obligation, and the surety upon the bond shall not be liable
9 in an aggregate or cumulative amount exceeding the penal sum set forth
10 on the face of the bond. In no event shall the penal sum, or a portion
11 thereof, at two or more points in time be added together in determining
12 the surety's liability. The bond shall be conditioned that the
13 applicant will pay all persons performing labor, including employee
14 benefits, for the contractor, will pay all taxes and contributions due
15 to the state of Washington, and will pay all persons furnishing labor
16 or material or renting or supplying equipment to the contractor and
17 will pay all amounts that may be adjudged against the contractor by
18 reason of ((negligent or improper work or)) breach of contract
19 including negligent or improper work in the conduct of the contracting
20 business. A change in the name of a business or a change in the type
21 of business entity shall not impair a bond for the purposes of this
22 section so long as one of the original applicants for such bond
23 maintains partial ownership in the business covered by the bond.

24 (2) Any contractor registered as of ((~~the effective date of this~~
25 ~~1983 act~~)) July 1, 1997, who maintains such registration in accordance
26 with this chapter shall be in compliance with this chapter until the
27 next annual renewal of the contractor's certificate of registration.
28 At that time, the contractor shall provide a bond, cash deposit, or
29 other security deposit as required by this chapter and comply with all
30 of the other provisions of this chapter before the department shall
31 renew the contractor's certificate of registration.

32 (3) Any person, firm, or corporation having a claim against the
33 contractor for any of the items referred to in this section may bring
34 suit upon ((~~such~~)) the bond or deposit in the superior court of the
35 county in which the work was done or of any county in which
36 jurisdiction of the contractor may be had. The surety issuing the bond
37 shall be named as a party to any suit upon the bond. Action upon
38 ((~~such~~)) the bond or deposit shall be commenced by filing the summons
39 and complaint with the clerk of the appropriate superior court within

1 one year from the date of expiration of the certificate of registration
2 in force at the time the claimed labor was performed and benefits
3 accrued, taxes and contributions owing the state of Washington became
4 due, materials and equipment were furnished, or the claimed contract
5 work was completed or abandoned. Service of process in an action
6 against the contractor, the contractor's bond, or the deposit shall be
7 exclusively by service upon the department. Three copies of the
8 summons and complaint and a fee of ten dollars to cover the handling
9 costs shall be served by registered or certified mail upon the
10 department at the time suit is started and the department shall
11 maintain a record, available for public inspection, of all suits so
12 commenced. Service is not complete until the department receives the
13 ten-dollar fee and three copies of the summons and complaint. ((Such))
14 The service shall constitute service on the registrant and the surety
15 for suit upon the bond or deposit and the department shall transmit the
16 summons and complaint or a copy thereof to the registrant at the
17 address listed in ((his)) the registrant's application and to the
18 surety within forty-eight hours after it shall have been received.

19 (4) The surety upon the bond shall not be liable in an aggregate
20 amount in excess of the amount named in the bond nor for any monetary
21 penalty assessed pursuant to this chapter for an infraction. The
22 liability of the surety shall not cumulate where the bond has been
23 renewed, continued, reinstated, reissued or otherwise extended. The
24 surety upon the bond may, upon notice to the department and the
25 parties, tender to the clerk of the court having jurisdiction of the
26 action an amount equal to the claims thereunder or the amount of the
27 bond less the amount of judgments, if any, previously satisfied
28 therefrom and to the extent of such tender the surety upon the bond
29 shall be exonerated but if the actions commenced and pending at any one
30 time exceed the amount of the bond then unimpaired, claims shall be
31 satisfied from the bond in the following order:

- 32 (a) Employee labor, including employee benefits;
33 (b) Claims for breach of contract by a party to the construction
34 contract;
35 (c) Material and equipment;
36 (d) Taxes and contributions due the state of Washington;
37 (e) Any court costs, interest, and attorney's fees plaintiff may be
38 entitled to recover. The prevailing party in a bond claim action
39 against the contractor and the contractor's bond, as required by this

1 section, for breach of a construction contract is entitled to costs,
2 interest, and reasonable attorneys' fees. However, the surety is not
3 liable for any amount in excess of the penal limit of its bond.

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

6 (5) ~~((In the event that any))~~ If a final judgment ~~((shall))~~ impairs
7 the liability of the surety upon the bond so furnished that there shall
8 not be in effect a bond undertaking in the full amount prescribed in
9 this section, the department shall suspend the registration of ~~((such))~~
10 the contractor until the bond liability in the required amount
11 unimpaired by unsatisfied judgment claims ~~((shall have been))~~ is
12 furnished. If ~~((such))~~ the bond becomes fully impaired, a new bond
13 must be furnished at the ~~((increased))~~ rates prescribed by this section
14 ~~((as now or hereafter amended)).~~

15 (6) In lieu of the surety bond required by this section the
16 contractor may file with the department a deposit consisting of cash or
17 other security acceptable to the department.

18 (7) 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 (8) The director may ~~((promulgate))~~ adopt rules necessary for the
31 proper administration of the security.

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