

# HOUSE BILL ANALYSIS

## HB 1768

**Brief Description:** Changing provisions relating to notice requirements of general or specialty contractors.

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**Sponsors:** Conway and Clements

**Hearing:** February 15, 1999

### Brief Summary of Bill

- Expands the notice registered contractors must provide to customers prior to starting construction.
- Prevents contractors from suing the customer for payment owed if they did not provide notice to the customer.

### BACKGROUND:

The Department of Labor and Industries (L&I) administers and enforces the contractor registration statute. Under the statute, general and speciality contractors are required to register with the department. A person wishing to engage in construction must meet the requirements established by the statute, including bonding and disclosure requirements.

**Bonding:** With each application for registration or renewal of registration, contractors and specialty contractors must submit a bond to the department. General contractors must file a bond of \$6,000, and speciality contractors a bond of \$4,000. The surety of a bond is only liable for the amount listed in the bond nor for any monetary penalties assessed for an infraction.

The bond requirement is intended to insure that contractors will pay all persons providing labor, furnishing materials, or renting or supplying equipment to a contractor. If a laborer, material supplier, or subcontractor does not receive payment for services or materials, the person may file an action in court to access the bond or may file a lien on the home being constructed. Although a property owner may not deal directly with all project participants,

the owner is the one held responsible for any unpaid balances because the owner benefits by having his or her property improved.

The option to place a lien on the home is often the one chosen since it is relatively inexpensive to pursue. In order to get the lien removed, the homeowner is forced to pay the unpaid laborer, subcontractor, or supplier, or file an action in court to access the bond. In some cases, the bond amount is not sufficient to satisfy the lien and the homeowner must pay the difference.

Additionally, the bonding requirement is intended to insure that persons injured by the negligent work of a contractor will not go uncompensated.

**Disclosure:** Contractors who repair, alter, or construct up to four residential units totaling \$1,000 or more are required to supply their customers with a disclosure statement. The content of this statement is provided in law. The statement alerts the customer to the possibility of a laborer, supplier, or subcontractor placing a lien on the customer's property, and informs the customer of the contractor's bond.

A contractor may not bring or maintain an action to collect amounts owing to the contractor if he or she did not provide a disclosure notice to the customer.

#### **SUMMARY OF BILL:**

After the effective date of the act, the disclosure statement a contractor must provide to a customer is changed. The new statement does not inform the customer that the bond may be accessed to pay a claim for negligent or improper work by the contractor.

The new statement clarifies that an unpaid supplier of materials to a subcontractor may place a lien on the customer's property.

The new statement also notifies the customer of additional options for protection. The customer is informed that to receive greater protection from having a lien filed on his or her property the customer can,

- Hire a construction contract control company to monitor the contractor's accounting.
- Negotiate with the contractor to have the contractor acquire an additional bond above that required in statute.
- Employ a construction attorney or other construction professional to review and advise the customer regarding the construction project.

- Require that both the customer's and the contractor's signature be required before funds may be withdrawn to pay subcontractors, laborers or suppliers.
- Require that the construction contract allow the customer to withhold a percentage of the payment owed the contractor for a specified period of time as protection against liens.

The new statement also lists the telephone number and Internet address of the contractor's section of the Department of Labor and Industries. The customer is informed of the option to request from the department an information sheet on any registered contractor. The sheet gives background information about the contractor.

Contractors who do not provide a notice to a customer prior to starting construction may not sue for payments owed to them.

**RULES AUTHORITY:** The bill does not contain provisions addressing the rule making powers of an agency.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of a session in which bill is passed.