

SENATE BILL REPORT

SB 5232

As Reported By Senate Committee On:
Labor & Workforce Development, March 2, 1999

Title: An act relating to consumer protection regarding contractors.

Brief Description: Enhancing consumer protection regarding contractors.

Sponsors: Senators Horn, Heavey, Fairley, Oke, Franklin, Hochstatter, Kohl-Welles and Winsley.

Brief History:

Committee Activity: Labor & Workforce Development: 2/16/99, 3/2/99 [DPS, DNPS].

SENATE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5232 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Franklin, Vice Chair; Kline and Wojahn.

Minority Report: Do not pass substitute.

Signed by Senator Hochstatter.

Staff: Jack Brummel (786-7428)

Background: Consumer complaints against building contractors are consistently in the top ten of all complaints taken by the Attorney General's Office. The Legislature recently addressed the issue of contractor registration and consumer protection by making penalties of unregistered contractors stiffer and more certain and by requiring contractors to get the uniform business identifier number of a subcontractor.

General contractors must file a \$6,000 surety bond and specialty contractors must file a \$4,000 surety bond with the Department of Labor and Industries when applying for registration. The department denies an application for registration if the applicant has previously registered and has an unsatisfied final judgment under the previous registration. A contractor must give notice to a customer at the start of a construction project about the availability of the bond.

When a contractor or subcontractor goes into bankruptcy, if they have not paid their subcontractors or suppliers for work done on a construction project, they may discharge their obligations through bankruptcy proceedings, typically at a fraction of their full amount. There is currently no statutory obligation to pay contractors, subcontractors, or suppliers in a timely fashion for work performed on or material supplied to a construction project and they may file a lien against the property if they have not been paid. Notice on the right to claim a lien must be given in certain circumstances.

The maximum penalty for violation of statutory registration, advertising, identification and solicitation requirements is \$5,000. The department is prohibited from charging a contractor's registration fee of more than \$50.

Summary of Substitute Bill: The Department of Labor and Industries is to deny a contractor's application for registration and suspend an active registration if the applicant or registrant was a major participant in a contracting company with an unsatisfied final judgment.

The amount of the surety bond required is increased to \$12,000 for general contractors and \$6,000 for specialty contractors. \$6,000 of the general contractor's bond and \$2,000 of the specialty contractor's bond is to be reserved for claims by residential homeowners. The amount of insurance required of a contractor is increased to \$50,000 for property damage; to \$100,000 for personal injury or death of one person; and to \$200,000 for personal injury or death of more than one person.

The notice that a contractor must give to a customer about the contractor's bond is to include statements that: (1) the bond might not be sufficient to pay a customer's claim; (2) payment and performance bonds, hiring attorneys or construction professionals, and retaining funds can provide greater protection; (3) the customer's property can be liened; and (4) the customer should pay joint checks or get lien releases.

The Professional Contractors' Advisory Board is established with five industry representatives, four public members, one labor representative, and one local official. At least three of the board members are to be general contractors and at least one is to be a specialty contractor. The board is to devise a dispute resolution process and recommend it to the Legislature. The board is terminated February 1, 2000.

The maximum penalty for violation of advertising requirements is increased to \$10,000. Money from penalties is kept by the department for administration and enforcement of contractor registration requirements.

Owners of new single family residences are to receive notice of right to claim a lien from all who do not contract directly with the owner. The notice is to include a bold statement that it is intended to provide information necessary to manage the owners construction project.

Substitute Bill Compared to Original Bill: The substitute bill made technical changes; modified the amount of the specialty contractor's bond reserved for homeowners; removed restrictions on the enforcement of liens; removed provisions relating to prompt payment of obligations; and added in the notice requirements additional suggestions on how homeowners can protect themselves.

Appropriation: None.

Fiscal Note: Requested on February 11, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Raising the bond amount is needed. The provisions on suspending registration for unsatisfied judgments are good, as are the increased notice provisions. The bill goes a long way toward ensuring that homeowners will not have to pay twice for their home. Enhanced enforcement and the advisory committee are good ideas.

Other Testimony: The date of implementation for bond increases needs to be phased in. The general/specialty contractor distinction should be eliminated.

Testimony Against: There is not enough protection for homeowners in the registration section. The lien provisions are onerous. The bill may restrict credit.

Testified: Kevin Morris, L&I (pro); Patty Van DerBrock, Janis Lucas, National Assn. of Credit Managers (pro); Kerry Lawrence; Paul Nolan, BIAW; Bernadette Somers, Millers Interiors (con); Bob Blayden (con); Larry Stevens, CBIC, MCA/NECA; Bob Gee, WA Building Materials Assn.; Rick Slunaker, AGC; Gary Smith, Independent Business Assn.