

# SENATE BILL REPORT

## SB 6356

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As Reported By Senate Committee On:  
Labor & Workforce Development, February 3, 2000

**Title:** An act relating to consumer protection regarding contractors.

**Brief Description:** Protecting consumers in contractor transactions.

**Sponsors:** Senators Prentice, Winsley, Fraser, Kohl-Welles and Gardner; by request of Department of Labor & Industries.

**Brief History:**

**Committee Activity:** Labor & Workforce Development: 1/27/2000, 2/3/2000 [DPS, DNPS].

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### SENATE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 6356 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 received by the Attorney General's Office.

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. An action to recover against the bond must be filed in superior court within one year of the expiration of the current certification. The amount of insurance required of a contractor is \$20,000 for property damage, \$50,000 for injury or death to one person, and \$100,000 for injury or death to more than one person.

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.

Contractors, subcontractors, or suppliers may file a lien against 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 must 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 \$15,000 for general contractors and \$8,000 for specialty contractors. \$7,500 of the general contractor's bond and \$4,000 of the specialty contractor's bond is to be reserved for claims by residential homeowners. The amount of the surety bond required may be increased if the director determines there is a history of unpaid judgments against, or too many actions filed against, a contractor. Residential homeowners have up to two years to file against the bond after completion or abandonment of the contracted work. If a residential homeowner makes a claim against the bond, at least 50% of the bond amount must be available to him or her.

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 department is authorized to establish a process to collect payments, penalties, or fines due from contractors.

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.

Contractors may advertise that they are bonded and insured. The maximum penalty for violation of advertising requirements is increased to \$10,000.

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. Such liens may only be satisfied from the amounts not yet paid to the prime contractor. The notice is to include a bold statement that it is intended to provide information necessary to manage the owner's construction project.

The \$50 limitation on contractor registration fees is removed.

**Substitute Bill Compared to Original Bill:** The substitute reserves 50 percent of the bond amount for residential homeowner claimants. It also clarifies the meaning of residential homeowner and requires advertisements that state a contractor is bonded and insured to list the current contractor registration number.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Lots of consumers end up in terrible financial problems under the current system. The bonds are increased under the bill with a reserve for consumers. From 1982 to 1999, yearly summons and complaints have increase from 126 in an amount of \$650,000 to 3,500 in an amount of \$30 million. \$6 million of this was paid out this year. An average of 13 percent goes to consumers. The Attorney General's Office had over 7,000 complaints about contractors last year. Over 70 percent were performance complaints. 40 percent of the complaints are with registered contractors.

**Testimony Against:** 50 to 60 percent of complaints are with unregistered contractors. The bill increases the cost of doing business when it increases the bond and insurance amounts. The increased time allowed for making a claim presents a problem.

**Testified:** PRO: Patrick Woods, Kevin Morris, Labor & Industry; Sally Gustafson, Consumer Protection Division of the Attorney General's Office; CON: Joe Schwab, Washington Building Industries Association; Dan Terry.