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SENATE BILL 6311

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State of Washington

56th Legislature

2000 Regular Session

By Senators Kline, Fairley and Hochstatter

Read first time . Referred to Committee on .

1 AN ACT Relating to contractor surety 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 1997 c 314 s 5 are each amended to read  
5 as follows:

6 (1) Each applicant shall file with the department a surety bond  
7 issued by a surety insurer who meets the requirements of chapter 48.28  
8 RCW in the sum of (~~six~~) fifteen thousand dollars if the applicant is  
9 a general contractor and (~~four~~) eight thousand dollars if the  
10 applicant is a specialty contractor. If no valid bond is already on  
11 file with the department at the time the application is filed, a bond  
12 must accompany the registration application. The bond shall have the  
13 state of Washington named as obligee with good and sufficient surety in  
14 a form to be approved by the department. The bond shall be continuous  
15 and may be canceled by the surety upon the surety giving written notice  
16 to the director of its intent to cancel the bond. A cancellation or  
17 revocation of the bond or withdrawal of the surety from the bond  
18 suspends the registration issued to the registrant until a new bond or  
19 reinstatement notice has been filed and approved as provided in this

1 section. The bond shall be conditioned that the applicant will pay all  
2 persons performing labor, including employee benefits, for the  
3 contractor, will pay all taxes and contributions due to the state of  
4 Washington, and will pay all persons furnishing labor or material or  
5 renting or supplying equipment to the contractor and will pay all  
6 amounts that may be adjudged against the contractor by reason of breach  
7 of contract including negligent or improper work in the conduct of the  
8 contracting business. A change in the name of a business or a change  
9 in the type of business entity shall not impair a bond for the purposes  
10 of this section so long as one of the original applicants for such bond  
11 maintains partial ownership in the business covered by the bond.

12 (2) Any contractor registered as of July 1, 1997, who maintains  
13 such registration in accordance with this chapter shall be in  
14 compliance with this chapter until the next annual renewal of the  
15 contractor's certificate of registration. At that time, the contractor  
16 shall provide a bond, cash deposit, or other security deposit as  
17 required by this chapter and comply with all of the other provisions of  
18 this chapter before the department shall renew the contractor's  
19 certificate of registration.

20 (3) Any person, firm, or corporation having a claim against the  
21 contractor for any of the items referred to in this section may bring  
22 suit upon the bond or deposit in the superior court of the county in  
23 which the work was done or of any county in which jurisdiction of the  
24 contractor may be had. The surety issuing the bond shall be named as  
25 a party to any suit upon the bond. Action upon the bond or deposit  
26 shall be commenced by filing the summons and complaint with the clerk  
27 of the appropriate superior court within one year from the date of  
28 expiration of the certificate of registration in force at the time the  
29 claimed labor was performed and benefits accrued, taxes and  
30 contributions owing the state of Washington became due, materials and  
31 equipment were furnished, or the claimed contract work was completed or  
32 abandoned. Service of process in an action against the contractor, the  
33 contractor's bond, or the deposit shall be exclusively by service upon  
34 the department. Three copies of the summons and complaint and a fee of  
35 ten dollars to cover the handling costs shall be served by registered  
36 or certified mail upon the department at the time suit is started and  
37 the department shall maintain a record, available for public  
38 inspection, of all suits so commenced. Service is not complete until  
39 the department receives the ten-dollar fee and three copies of the

1 summons and complaint. The service shall constitute service on the  
2 registrant and the surety for suit upon the bond or deposit and the  
3 department shall transmit the summons and complaint or a copy thereof  
4 to the registrant at the address listed in the registrant's application  
5 and to the surety within forty-eight hours after it shall have been  
6 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 at any one  
18 time exceed the amount of the bond then unimpaired, claims shall be  
19 satisfied from the bond in the following order:

20 (a) Employee labor and claims of laborers, including employee  
21 benefits(~~(b))~~

22 ~~(b))~~ and claims for breach of contract by a party to the  
23 construction contract;

24 ~~((e))~~ (b) Registered or licensed subcontractors, material, and  
25 equipment;

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

27 ~~((e))~~ (d) Any court costs, interest, and ~~((attorney's))~~  
28 attorneys' fees plaintiff may be entitled to recover. The surety is  
29 not liable for any amount in excess 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) If a final judgment impairs the liability of the surety upon  
33 the bond so furnished that there shall not be in effect a bond  
34 undertaking in the full amount prescribed in this section, the  
35 department shall suspend the registration of the contractor until the  
36 bond liability in the required amount unimpaired by unsatisfied  
37 judgment claims is furnished. If the bond becomes fully impaired, a  
38 new bond must be furnished at the rates prescribed by this section.

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

4 (7) Any person having filed and served a summons and complaint as  
5 required by this section having an unsatisfied final judgment against  
6 the registrant for any items referred to in this section may execute  
7 upon the security held by the department by serving a certified copy of  
8 the unsatisfied final judgment by registered or certified mail upon the  
9 department within one year of the date of entry of such judgment. Upon  
10 the receipt of service of such certified copy the department shall pay  
11 or order paid from the deposit, through the registry of the superior  
12 court which rendered judgment, towards the amount of the unsatisfied  
13 judgment. The priority of payment by the department shall be the order  
14 of receipt by the department, but the department shall have no  
15 liability for payment in excess of the amount of the deposit.

16 (8) The director may adopt rules necessary for the proper  
17 administration of the security.

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