

2 **SSB 5101** - H COMM AMD **ADOPTED 4/10/01**  
3 By Committee on Commerce & Labor

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 18.27.010 and 1997 c 314 s 2 are each amended to read  
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11 (1) "Contractor" means any person, firm, or corporation who or  
12 which, in the pursuit of an independent business undertakes to, or  
13 offers to undertake, or submits a bid to, construct, alter, repair, add  
14 to, subtract from, improve, move, wreck or demolish, for another, any  
15 building, highway, road, railroad, excavation or other structure,  
16 project, development, or improvement attached to real estate or to do  
17 any part thereof including the installation of carpeting or other floor  
18 covering, the erection of scaffolding or other structures or works in  
19 connection therewith or who installs or repairs roofing or siding; or,  
20 who, to do similar work upon his or her own property, employs members  
21 of more than one trade upon a single job or project or under a single  
22 building permit except as otherwise provided herein. "Contractor"  
23 includes any person, firm, ~~((or))~~ corporation, or other entity covered  
24 by this subsection, whether or not registered as required under this  
25 chapter.

26 (2) "Department" means the department of labor and industries.

27 (3) "Director" means the director of the department of labor and  
28 industries or designated representative employed by the department.

29 (4) "General contractor" means a contractor whose business  
30 operations require the use of more than two unrelated building trades  
31 or crafts whose work the contractor shall superintend or do in whole or  
32 in part. "General contractor" shall not include an individual who does  
33 all work personally without employees or other "specialty contractors"  
34 as defined in this section. The terms "general contractor" and  
35 "builder" are synonymous.

1       ~~((3))~~ (5) "Partnership" means a business formed under Title 25  
2 RCW.

3       (6) "Registration cancellation" means a written notice from the  
4 department that a contractor's action is in violation of this chapter  
5 and that the contractor's registration has been revoked.

6       (7) "Registration suspension" means a written notice from the  
7 department that a contractor's action is a violation of this chapter  
8 and that the contractor's registration has been suspended for a  
9 specified time, or until the contractor shows evidence of compliance  
10 with this chapter.

11       (8) "Residential homeowner" means an individual person or persons  
12 owning or leasing real property:

13       (a) Upon which one single-family residence is to be built and in  
14 which the owner or lessee intends to reside upon completion of any  
15 construction; or

16       (b) Upon which there is a single-family residence to which  
17 improvements are to be made and in which the owner or lessee intends to  
18 reside upon completion of any construction.

19       (9) "Specialty contractor" means a contractor whose operations do  
20 not fall within the (~~foregoing~~) definition of "general contractor".

21       ~~((4))~~ (10) "Unregistered contractor" means a person, firm, (~~or~~)  
22 corporation, or other entity doing work as a contractor without being  
23 registered in compliance with this chapter. "Unregistered contractor"  
24 includes contractors whose registration is expired (~~for more than~~  
25 thirty days beyond the renewal date or has been)), ~~revoked, or~~  
26 suspended. "Unregistered contractor" does not include a contractor who  
27 has maintained a valid bond and the insurance or assigned account  
28 required by RCW 18.27.050, and whose registration has lapsed for thirty  
29 or fewer days.

30       ~~((5) "Department" means the department of labor and industries.~~

31       ~~(6) "Director" means the director of the department of labor and~~  
32 industries.

33       ~~(7))~~ (11) "Unsatisfied final judgment" means a judgment that has  
34 not been satisfied either through payment, court approved settlement,  
35 discharge in bankruptcy, or assignment under RCW 19.72.070.

36       (12) "Verification" means the receipt and duplication by the city,  
37 town, or county of a contractor registration card that is current on  
38 its face, checking the department's contractor registration data base,  
39 or calling the department to confirm that the contractor is registered.

1       **Sec. 2.** RCW 18.27.030 and 1998 c 279 s 3 are each amended to read  
2 as follows:

3       (1) An applicant for registration as a contractor shall submit an  
4 application under oath upon a form to be prescribed by the director and  
5 which shall include the following information pertaining to the  
6 applicant:

7       (a) Employer social security number.

8       (b) Unified business identifier number, if required by the  
9 department of revenue.

10       (c) Evidence of workers' compensation coverage for the applicant's  
11 employees working in Washington, as follows:

12       (i) The applicant's industrial insurance account number issued by  
13 the department;

14       (ii) The applicant's self-insurer number issued by the department;  
15 or

16       (iii) For applicants domiciled in a state or province of Canada  
17 subject to an agreement entered into under RCW 51.12.120(7), as  
18 permitted by the agreement, filing a certificate of coverage issued by  
19 the agency that administers the workers' compensation law in the  
20 applicant's state or province of domicile certifying that the applicant  
21 has secured the payment of compensation under the other state's or  
22 province's workers' compensation law.

23       ~~((e))~~ (d) Employment security department number.

24       ~~((d))~~ (e) State excise tax registration number.

25       ~~((e))~~ (f) Unified business identifier (UBI) account number may be  
26 substituted for the information required by ~~((b))~~ (c) of this  
27 subsection if the applicant will not employ employees in Washington,  
28 and by ~~((e))~~ (d) and ~~((d))~~ (e) of this subsection.

29       ~~((f))~~ (g) Type of contracting activity, whether a general or a  
30 specialty contractor and if the latter, the type of specialty.

31       ~~((g))~~ (h) The name and address of each partner if the applicant  
32 is a firm or partnership, or the name and address of the owner if the  
33 applicant is an individual proprietorship, or the name and address of  
34 the corporate officers and statutory agent, if any, if the applicant is  
35 a corporation or the name and address of all members of other business  
36 entities. The information contained in such application is a matter of  
37 public record and open to public inspection.

38       (2) The department may verify the workers' compensation coverage  
39 information provided by the applicant under subsection (1)~~((b))~~ (c)

1 of this section, including but not limited to information regarding the  
2 coverage of an individual employee of the applicant. If coverage is  
3 provided under the laws of another state, the department may notify the  
4 other state that the applicant is employing employees in Washington.

5 (3)(a) The department shall deny an application for registration  
6 if: (i) The applicant has been previously (~~registered~~) performing  
7 work subject to this chapter as a sole proprietor, partnership, (~~or~~)  
8 corporation, or other entity and the department has notice that the  
9 applicant has an unsatisfied final judgment against him or her in an  
10 action based on this chapter (~~that was incurred during a previous~~  
11 registration under this chapter)) or the applicant owes the department  
12 money for penalties assessed or fees due under this chapter as a result  
13 of a final judgment; (ii) the applicant was a principal or officer of  
14 a partnership, corporation, or other entity that either has an  
15 unsatisfied final judgment against it in an action that was incurred  
16 for work performed subject to this chapter or owes the department money  
17 for penalties assessed or fees due under this chapter as a result of a  
18 final judgment; or (iii) the applicant does not have a valid unified  
19 business identifier number, if required by the department of revenue.

20 (b) The department shall suspend an active registration if (i) the  
21 department has notice that the registrant is a sole proprietor or a  
22 principal or officer of a registered contractor that has an unsatisfied  
23 final judgment against it for work within the scope of this chapter; or  
24 (ii) the applicant does not maintain a valid unified business  
25 identifier number, if required by the department of revenue.

26 (4) The department shall not deny an application or suspend a  
27 registration because of an unsatisfied final judgment if the  
28 applicant's or registrant's unsatisfied final judgment was determined  
29 by the director to be the result of the fraud or negligence of another  
30 party.

31 **Sec. 3.** RCW 18.27.040 and 1997 c 314 s 5 are each amended to read  
32 as follows:

33 (1) Each applicant shall file with the department a surety bond  
34 issued by a surety insurer who meets the requirements of chapter 48.28  
35 RCW in the sum of (~~six~~) twelve thousand dollars if the applicant is  
36 a general contractor and (~~four~~) six thousand dollars if the applicant  
37 is a specialty contractor. If no valid bond is already on file with  
38 the department at the time the application is filed, a bond must

1 accompany the registration application. The bond shall have the state  
2 of Washington named as obligee with good and sufficient surety in a  
3 form to be approved by the department. The bond shall be continuous  
4 and may be canceled by the surety upon the surety giving written notice  
5 to the director (~~(of its intent to cancel the bond)~~). A cancellation  
6 or revocation of the bond or withdrawal of the surety from the bond  
7 automatically suspends the registration issued to the registrant until  
8 a new bond or reinstatement notice has been filed and approved as  
9 provided in this section. The bond shall be conditioned that the  
10 applicant will pay all persons performing labor, including employee  
11 benefits, for the contractor, will pay all taxes and contributions due  
12 to the state of Washington, and will pay all persons furnishing labor  
13 or material or renting or supplying equipment to the contractor and  
14 will pay all amounts that may be adjudged against the contractor by  
15 reason of breach of contract including negligent or improper work in  
16 the conduct of the contracting business. A change in the name of a  
17 business or a change in the type of business entity shall not impair a  
18 bond for the purposes of this section so long as one of the original  
19 applicants for such bond maintains partial ownership in the business  
20 covered by the bond.

21 (2) (~~(Any contractor registered as of July 1, 1997, who maintains~~  
22 ~~such registration in accordance with this chapter shall be in~~  
23 ~~compliance with this chapter until the next annual renewal of the~~  
24 ~~contractor's certificate of registration. At that time)~~) At the time  
25 of initial registration or renewal, the contractor shall provide a  
26 bond(~~(, cash deposit,)~~) or other security deposit as required by this  
27 chapter and comply with all of the other provisions of this chapter  
28 before the department shall issue or renew the contractor's certificate  
29 of registration. Any contractor registered as of July 1, 2001, who  
30 maintains that registration in accordance with this chapter is in  
31 compliance with this chapter until the next renewal of the contractor's  
32 certificate of registration.

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

1 of the appropriate superior court within one year from the date of  
2 expiration of the certificate of registration in force at the time))  
3 brought by a residential homeowner for breach of contract by a party to  
4 the construction contract shall be commenced by filing the summons and  
5 complaint with the clerk of the appropriate superior court within two  
6 years from the date the claimed contract work was substantially  
7 completed or abandoned. Action upon the bond or deposit brought by any  
8 other authorized party shall be commenced by filing the summons and  
9 complaint with the clerk of the appropriate superior court within one  
10 year from the date the claimed labor was performed and benefits  
11 accrued, taxes and contributions owing the state of Washington became  
12 due, materials and equipment were furnished, or the claimed contract  
13 work was substantially completed or abandoned. Service of process in  
14 an action against the contractor, the contractor's bond, or the deposit  
15 shall be exclusively by service upon the department. Three copies of  
16 the summons and complaint and a fee ((~~of ten~~)) adopted by rule of not  
17 less than twenty dollars to cover the ((~~handling~~)) costs shall be  
18 served by registered or certified mail, or other delivery service  
19 requiring notice of receipt, upon the department at the time suit is  
20 started and the department shall maintain a record, available for  
21 public inspection, of all suits so commenced. Service is not complete  
22 until the department receives the ((~~ten-dollar~~)) fee and three copies  
23 of the summons and complaint. The service shall constitute service on  
24 the registrant and the surety for suit upon the bond or deposit and the  
25 department shall transmit the summons and complaint or a copy thereof  
26 to the registrant at the address listed in the registrant's application  
27 and to the surety within ((~~forty-eight hours~~)) two days after it shall  
28 have been received.

29 (4) The surety upon the bond shall not be liable in an aggregate  
30 amount in excess of the amount named in the bond nor for any monetary  
31 penalty assessed pursuant to this chapter for an infraction. The  
32 liability of the surety shall not cumulate where the bond has been  
33 renewed, continued, reinstated, reissued or otherwise extended. The  
34 surety upon the bond may, upon notice to the department and the  
35 parties, tender to the clerk of the court having jurisdiction of the  
36 action an amount equal to the claims thereunder or the amount of the  
37 bond less the amount of judgments, if any, previously satisfied  
38 therefrom and to the extent of such tender the surety upon the bond  
39 shall be exonerated but if the actions commenced and pending at any one

1 time exceed the amount of the bond then unimpaired, claims shall be  
2 satisfied from the bond in the following order:

3 (a) Employee labor and claims of laborers, including employee  
4 benefits;

5 (b) Claims for breach of contract by a party to the construction  
6 contract;

7 (c) Registered or licensed subcontractors, material, and equipment;

8 (d) Taxes and contributions due the state of Washington;

9 (e) Any court costs, interest, and attorney's fees plaintiff may be  
10 entitled to recover. The surety is not liable for any amount in excess  
11 of the penal limit of its bond.

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

14 (5) The total amount paid from a bond or deposit required by this  
15 section to claimants other than residential homeowners must not exceed  
16 one-half of the bond amount.

17 (6) The prevailing party in an action filed under this section  
18 against the contractor and contractor's bond or deposit, for breach of  
19 contract by a party to a construction contract, is entitled to costs,  
20 interest, and reasonable attorneys' fees. The surety upon the bond is  
21 not liable in an aggregate amount in excess of the amount named in the  
22 bond nor for any monetary penalty assessed pursuant to this chapter for  
23 an infraction.

24 (7) If a final judgment impairs the liability of the surety upon  
25 the bond so furnished that there ~~((shall not be))~~ is not in effect a  
26 bond ~~((undertaking))~~ in the full amount prescribed in this section,  
27 ~~((the department shall suspend))~~ the registration of the contractor is  
28 automatically suspended until the bond liability in the required amount  
29 unimpaired by unsatisfied judgment claims is furnished. ~~((If the bond~~  
30 ~~becomes fully impaired, a new bond must be furnished at the rates~~  
31 ~~prescribed by this section.~~

32 ~~(6))~~ (8) In lieu of the surety bond required by this section the  
33 contractor may file with the department a deposit consisting of cash or  
34 other security acceptable to the department.

35 ~~((7))~~ (9) Any person having filed and served a summons and  
36 complaint as required by this section having an unsatisfied final  
37 judgment against the registrant for any items referred to in this  
38 section may execute upon the security held by the department by serving  
39 a certified copy of the unsatisfied final judgment by registered or

1 certified mail upon the department within one year of the date of entry  
2 of such judgment. Upon the receipt of service of such certified copy  
3 the department shall pay or order paid from the deposit, through the  
4 registry of the superior court which rendered judgment, towards the  
5 amount of the unsatisfied judgment. The priority of payment by the  
6 department shall be the order of receipt by the department, but the  
7 department shall have no liability for payment in excess of the amount  
8 of the deposit.

9 ~~((+8))~~ (10) The director may require an applicant applying to  
10 renew or reinstate a registration or applying for a new registration to  
11 file a bond of up to three times the normally required amount, if the  
12 director determines that an applicant, or a previous registration of a  
13 corporate officer, owner, or partner of a current applicant, has had in  
14 the past five years a total of six final judgments in actions under  
15 this chapter involving a residential single-family dwelling on two or  
16 more different structures.

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

19 **Sec. 4.** RCW 18.27.050 and 1987 c 303 s 1 are each amended to read  
20 as follows:

21 (1) At the time of registration and subsequent reregistration, the  
22 applicant shall furnish insurance or financial responsibility in the  
23 form of an assigned account in the amount of ~~((twenty))~~ fifty thousand  
24 dollars for injury or damages to property, and ~~((fifty))~~ one hundred  
25 thousand dollars for injury or damage including death to any one  
26 person, and ~~((one))~~ two hundred thousand dollars for injury or damage  
27 including death to more than one person ~~((or financial responsibility~~  
28 ~~to satisfy these amounts))~~.

29 ~~((Failure to maintain insurance or financial responsibility~~  
30 ~~relative to the contractor's activities shall be cause to suspend or~~  
31 ~~deny the contractor his or her or their registration.))~~ An expiration,  
32 cancellation, or revocation of the insurance policy or withdrawal of  
33 the insurer from the insurance policy automatically suspends the  
34 registration issued to the registrant until a new insurance policy or  
35 reinstatement notice has been filed and approved as provided in this  
36 section.

37 (3)(a) Proof of financial responsibility authorized in this section  
38 may be given by providing, in the amount required by subsection (1) of



1 this section, an assigned account acceptable to the department. The  
2 assigned account shall be held by the department to satisfy any  
3 execution on a judgment issued against the contractor for damage to  
4 property or injury or death to any person occurring in the contractor's  
5 contracting operations, according to the provisions of the assigned  
6 account agreement. The department shall have no liability for payment  
7 in excess of the amount of the assigned account.

8 (b) The assigned account filed with the director as proof of  
9 financial responsibility shall be canceled at the expiration of three  
10 years after:

11 (i) The contractor's registration has expired or been revoked; or

12 (ii) The contractor has furnished proof of insurance as required by  
13 subsection (1) of this section;

14 if, in either case, no legal action has been instituted against the  
15 contractor or on the account at the expiration of the three-year  
16 period.

17 (c) If a contractor chooses to file an assigned account as  
18 authorized in this section, the contractor shall, on any contracting  
19 project, notify each person with whom the contractor enters into a  
20 contract or to whom the contractor submits a bid that the contractor  
21 has filed an assigned account in lieu of insurance and that recovery  
22 from the account for any claim against the contractor for property  
23 damage or personal injury or death occurring in the project requires  
24 the claimant to obtain a court judgment.

25 **Sec. 5.** RCW 18.27.060 and 1997 c 314 s 6 and 1997 c 58 s 817 are  
26 each reenacted and amended to read as follows:

27 (1) A certificate of registration shall be valid for ~~((one))~~ two  
28 years and shall be renewed on or before the expiration date. The  
29 department shall issue to the applicant a certificate of registration  
30 upon compliance with the registration requirements of this chapter.

31 (2) If the department approves an application, it shall issue a  
32 certificate of registration to the applicant. ~~((The certificate shall  
33 be valid for:~~

34 ~~(a) One year;~~

35 ~~(b) Until the bond expires; or~~

36 ~~(c) Until the insurance expires, whichever comes first. The  
37 department shall place the expiration date on the certificate.~~

1       ~~(3) A contractor may supply a short term bond or insurance policy~~  
2 ~~to bring its registration period to the full one year.~~

3       ~~(4))~~ (3) If a contractor's surety bond or other security has an  
4 unsatisfied judgment against it or is canceled, or if the contractor's  
5 insurance policy is canceled, the contractor's registration shall be  
6 automatically suspended on the effective date of the impairment or  
7 cancellation. The department shall mail notice of the suspension to  
8 the contractor's address on the certificate of registration by  
9 certified and by first class mail within ~~((forty-eight hours))~~ two days  
10 after suspension.

11       ~~((5))~~ (4) Renewal of registration is valid on the date the  
12 department receives the required fee and proof of bond and liability  
13 insurance, if sent by certified mail or other means requiring proof of  
14 delivery. The receipt or proof of delivery shall serve as the  
15 contractor's proof of renewed registration until he or she receives  
16 verification from the department.

17       ~~((6))~~ (5) The department shall immediately suspend the  
18 certificate of registration of a contractor who has been certified by  
19 the department of social and health services as a person who is not in  
20 compliance with a support order or a residential or visitation order as  
21 provided in RCW 74.20A.320. The certificate of registration shall not  
22 be reissued or renewed unless the person provides to the department a  
23 release from the department of social and health services stating that  
24 he or she is in compliance with the order and the person has continued  
25 to meet all other requirements for certification during the suspension.

26       NEW SECTION. Sec. 6. A new section is added to chapter 18.27 RCW  
27 to read as follows:

28       (1) If an unregistered contractor defaults in a payment, penalty,  
29 or fine due to the department, the director or the director's designee  
30 may issue a notice of assessment certifying the amount due. The notice  
31 must be served upon the unregistered contractor by mailing the notice  
32 to the unregistered contractor by certified mail to the unregistered  
33 contractor's last known address or served in the manner prescribed for  
34 the service of a summons in a civil action.

35       (2) A notice of assessment becomes final thirty days from the date  
36 the notice was served upon the unregistered contractor unless a written  
37 request for reconsideration is filed with the department or an appeal  
38 is filed in a court of competent jurisdiction in the manner specified

1 in RCW 34.05.510 through 34.05.598. The request for reconsideration  
2 must set forth with particularity the reason for the unregistered  
3 contractor's request. The department, within thirty days after  
4 receiving a written request for reconsideration, may modify or reverse  
5 a notice of assessment, or may hold a notice of assessment in abeyance  
6 pending further investigation. If a final decision of a court in favor  
7 of the department is not appealed within the time allowed by law, then  
8 the amount of the unappealed assessment, or such amount of the  
9 assessment as is found due by the final decision of the court, is  
10 final.

11 (3) The director or the director's designee may file with the clerk  
12 of any county within the state, a warrant in the amount of the notice  
13 of assessment, plus interest, penalties, and a filing fee of twenty  
14 dollars. The clerk of the county in which the warrant is filed shall  
15 immediately designate a superior court cause number for the warrant,  
16 and the clerk shall cause to be entered in the judgment docket under  
17 the superior court cause number assigned to the warrant, the name of  
18 the unregistered contractor mentioned in the warrant, the amount of  
19 payment, penalty, fine due on it, or filing fee, and the date when the  
20 warrant was filed. The aggregate amount of the warrant as docketed  
21 shall become a lien upon the title to, and interest in, all real and  
22 personal property of the unregistered contractor against whom the  
23 warrant is issued, the same as a judgment in a civil case docketed in  
24 the office of the clerk. The sheriff shall proceed upon the warrant in  
25 all respects and with like effect as prescribed by law with respect to  
26 execution or other process issued against rights or property upon  
27 judgment in a court of competent jurisdiction. The warrant so docketed  
28 is sufficient to support the issuance of writs of garnishment in favor  
29 of the state in a manner provided by law in case of judgment, wholly or  
30 partially unsatisfied. The clerk of the court is entitled to a filing  
31 fee which will be added to the amount of the warrant. A copy of the  
32 warrant shall be mailed to the unregistered contractor within three  
33 days of filing with the clerk.

34 (4) The director or the director's designee may issue to any  
35 person, firm, corporation, other entity, municipal corporation,  
36 political subdivision of the state, a public corporation, or any agency  
37 of the state, a notice and order to withhold and deliver property of  
38 any kind whatsoever when he or she has reason to believe that there is  
39 in the possession of the person, firm, corporation, other entity,

1 municipal corporation, political subdivision of the state, public  
2 corporation, or agency of the state, property that is or will become  
3 due, owing, or belonging to an unregistered contractor upon whom a  
4 notice of assessment has been served by the department for payments,  
5 penalties, or fines due to the department. The effect of a notice and  
6 order is continuous from the date the notice and order is first made  
7 until the liability out of which the notice and order arose is  
8 satisfied or becomes unenforceable because of lapse of time. The  
9 department shall release the notice and order when the liability out of  
10 which the notice and order arose is satisfied or becomes unenforceable  
11 by reason of lapse of time and shall notify the person against whom the  
12 notice and order was made that the notice and order has been released.

13       The notice and order to withhold and deliver must be served by the  
14 sheriff of the county or by the sheriff's deputy, by certified mail,  
15 return receipt requested, or by an authorized representative of the  
16 director. A person, firm, corporation, other entity, municipal  
17 corporation, political subdivision of the state, public corporation, or  
18 agency of the state upon whom service has been made shall answer the  
19 notice within twenty days exclusive of the day of service, under oath  
20 and in writing, and shall make true answers to the matters inquired of  
21 in the notice and order. Upon service of the notice and order, if the  
22 party served possesses any property that may be subject to the claim of  
23 the department, the party shall promptly deliver the property to the  
24 director or the director's authorized representative. The director  
25 shall hold the property in trust for application on the unregistered  
26 contractor's indebtedness to the department, or for return without  
27 interest, in accordance with a final determination of a petition for  
28 review. In the alternative, the party shall furnish a good and  
29 sufficient surety bond satisfactory to the director conditioned upon  
30 final determination of liability. If a party served and named in the  
31 notice fails to answer the notice within the time prescribed in this  
32 section, the court may render judgment by default against the party for  
33 the full amount claimed by the director in the notice, together with  
34 costs. If a notice is served upon an unregistered contractor and the  
35 property subject to it is wages, the unregistered contractor may assert  
36 in the answer all exemptions provided for by chapter 6.27 RCW to which  
37 the wage earner is entitled.

38       (5) In addition to the procedure for collection of a payment,  
39 penalty, or fine due to the department as set forth in this section,

1 the department may recover civil penalties imposed under this chapter  
2 in a civil action in the name of the department brought in a court of  
3 competent jurisdiction of the county where the violation is alleged to  
4 have occurred.

5 **Sec. 7.** RCW 18.27.090 and 1997 c 314 s 8 are each amended to read  
6 as follows:

7 The registration provisions of this chapter ((does)) do not apply  
8 to:

9 (1) An authorized representative of the United States government,  
10 the state of Washington, or any incorporated city, town, county,  
11 township, irrigation district, reclamation district, or other municipal  
12 or political corporation or subdivision of this state;

13 (2) Officers of a court when they are acting within the scope of  
14 their office;

15 (3) Public utilities operating under the regulations of the  
16 utilities and transportation commission in construction, maintenance,  
17 or development work incidental to their own business;

18 (4) Any construction, repair, or operation incidental to the  
19 discovering or producing of petroleum or gas, or the drilling, testing,  
20 abandoning, or other operation of any petroleum or gas well or any  
21 surface or underground mine or mineral deposit when performed by an  
22 owner or lessee;

23 (5) The sale or installation of any finished products, materials,  
24 or articles of merchandise ((which)) that are not actually fabricated  
25 into and do not become a permanent fixed part of a structure;

26 (6) Any construction, alteration, improvement, or repair of  
27 personal property((, ~~except this chapter shall apply to all~~  
28 ~~mobile/manufactured housing. A mobile/manufactured home may be~~  
29 ~~installed, set up, or repaired by the registered or legal owner, by a~~  
30 ~~contractor registered under this chapter)) performed by the registered  
31 or legal owner, or by a mobile/manufactured home retail dealer or  
32 manufacturer licensed under chapter 46.70 RCW who shall warranty  
33 service and repairs under chapter 46.70 RCW;~~

34 (7) Any construction, alteration, improvement, or repair carried on  
35 within the limits and boundaries of any site or reservation under the  
36 legal jurisdiction of the federal government;

1 (8) Any person who only furnished materials, supplies, or equipment  
2 without fabricating them into, or consuming them in the performance of,  
3 the work of the contractor;

4 (9) Any work or operation on one undertaking or project by one or  
5 more contracts, the aggregate contract price of which for labor and  
6 materials and all other items is less than five hundred dollars, such  
7 work or operations being considered as of a casual, minor, or  
8 inconsequential nature. The exemption prescribed in this subsection  
9 does not apply in any instance wherein the work or construction is only  
10 a part of a larger or major operation, whether undertaken by the same  
11 or a different contractor, or in which a division of the operation is  
12 made into contracts of amounts less than five hundred dollars for the  
13 purpose of evasion of this chapter or otherwise. The exemption  
14 prescribed in this subsection does not apply to a person who advertises  
15 or puts out any sign or card or other device which might indicate to  
16 the public that he or she is a contractor, or that he or she is  
17 qualified to engage in the business of contractor;

18 (10) Any construction or operation incidental to the construction  
19 and repair of irrigation and drainage ditches of regularly constituted  
20 irrigation districts or reclamation districts; or to farming, dairying,  
21 agriculture, viticulture, horticulture, or stock or poultry raising; or  
22 to clearing or other work upon land in rural districts for fire  
23 prevention purposes; except when any of the above work is performed by  
24 a registered contractor;

25 (11) An owner who contracts for a project with a registered  
26 contractor, except that this exemption shall not deprive the owner of  
27 the protections of this chapter against registered and unregistered  
28 contractors;

29 (12) Any person working on his or her own property, whether  
30 occupied by him or her or not, and any person working on his or her  
31 personal residence, whether owned by him or her or not but this  
32 exemption shall not apply to any person otherwise covered by this  
33 chapter who constructs an improvement on his or her own property with  
34 the intention and for the purpose of selling the improved property;

35 (13) Owners of commercial properties who use their own employees to  
36 do maintenance, repair, and alteration work in or upon their own  
37 properties;

38 (14) A licensed architect or civil or professional engineer acting  
39 solely in his or her professional capacity, an electrician licensed

1 under the laws of the state of Washington, or a plumber licensed under  
2 the laws of the state of Washington or licensed by a political  
3 subdivision of the state of Washington while operating within the  
4 boundaries of such political subdivision. The exemption provided in  
5 this subsection is applicable only when the licensee is operating  
6 within the scope of his or her license;

7 (15) Any person who engages in the activities herein regulated as  
8 an employee of a registered contractor with wages as his or her sole  
9 compensation or as an employee with wages as his or her sole  
10 compensation;

11 (16) Contractors on highway projects who have been prequalified as  
12 required by RCW 47.28.070, with the department of transportation to  
13 perform highway construction, reconstruction, or maintenance work;

14 (17) A mobile/manufactured home dealer or manufacturer who  
15 subcontracts the installation, set-up, or repair work to actively  
16 registered contractors. This exemption only applies to the  
17 installation, set-up, or repair of the mobile/manufactured homes that  
18 were manufactured or sold by the mobile/manufactured home dealer or  
19 manufacturer.

20 **Sec. 8.** RCW 18.27.100 and 1997 c 314 s 9 are each amended to read  
21 as follows:

22 (1) Except as provided in RCW 18.27.065 for partnerships and joint  
23 ventures, no person who has registered under one name as provided in  
24 this chapter shall engage in the business, or act in the capacity, of  
25 a contractor under any other name unless such name also is registered  
26 under this chapter.

27 (2) All advertising and all contracts, correspondence, cards,  
28 signs, posters, papers, and documents which show a contractor's name or  
29 address shall show the contractor's name or address as registered under  
30 this chapter.

31 (3)(a) All advertising that shows the contractor's name or address  
32 shall show the contractor's current registration number. The  
33 registration number may be omitted in an alphabetized listing of  
34 registered contractors stating only the name, address, and telephone  
35 number: PROVIDED, That signs on motor vehicles subject to RCW  
36 46.16.010 and on-premise signs shall not constitute advertising as  
37 provided in this section. All materials used to directly solicit  
38 business from retail customers who are not businesses shall show the

1 contractor's current registration number. A contractor shall not use  
2 a false or expired registration number in purchasing or offering to  
3 purchase an advertisement for which a contractor registration number is  
4 required. Advertising by airwave transmission shall not be subject to  
5 this subsection (3)(a).

6 (b) The director may issue a subpoena to any person or entity  
7 selling any advertising subject to this section for the name, address,  
8 and telephone number provided to the seller of the advertising by the  
9 purchaser of the advertising. The subpoena must have enclosed a  
10 stamped, self-addressed envelope and blank form to be filled out by the  
11 seller of the advertising. If the seller of the advertising has the  
12 information on file, the seller shall, within a reasonable time, return  
13 the completed form to the department. The subpoena must be issued  
14 (~~before forty-eight hours~~) no more than two days after the expiration  
15 of the issue or publication containing the advertising or after the  
16 broadcast of the advertising. The good-faith compliance by a seller of  
17 advertising with a written request of the department for information  
18 concerning the purchaser of advertising shall constitute a complete  
19 defense to any civil or criminal action brought against the seller of  
20 advertising arising from such compliance. Advertising by airwave or  
21 electronic transmission is subject to this subsection (3)(b).

22 (4) No contractor shall advertise that he or she is bonded and  
23 insured because of the bond required to be filed and sufficiency of  
24 insurance as provided in this chapter.

25 (5) A contractor shall not falsify a registration number and use  
26 it, or use an expired registration number, in connection with any  
27 solicitation or identification as a contractor. All individual  
28 contractors and all partners, associates, agents, salesmen, solicitors,  
29 officers, and employees of contractors shall use their true names and  
30 addresses at all times while engaged in the business or capacity of a  
31 contractor or activities related thereto.

32 (6) Any advertising by a person, firm, or corporation soliciting  
33 work as a contractor when that person, firm, or corporation is not  
34 registered pursuant to this chapter is a violation of this chapter.

35 (7)(a) The finding of a violation of this section by the director  
36 at a hearing held in accordance with the Administrative Procedure Act,  
37 chapter 34.05 RCW, shall subject the person committing the violation to  
38 a penalty of not more than (~~five~~) ten thousand dollars as determined  
39 by the director.



1 (b) Penalties under this section shall not apply to a violation  
2 determined to be an inadvertent error.

3 **Sec. 9.** RCW 18.27.114 and 1997 c 314 s 12 are each amended to read  
4 as follows:

5 (1) Any contractor agreeing to perform any contracting project:

6 (a) For the repair, alteration, or construction of four or fewer  
7 residential units or accessory structures on such residential property  
8 when the bid or contract price totals one thousand dollars or more; or

9 (b) for the repair, alteration, or construction of a commercial  
10 building when the bid or contract price totals one thousand dollars or  
11 more but less than sixty thousand dollars, must provide the customer  
12 with the following disclosure statement in substantially the following  
13 form using lower case and upper case twelve-point and bold type where  
14 appropriate, prior to starting work on the project:

15 "NOTICE TO CUSTOMER

16 (~~(This contractor is registered with the state of Washington,~~  
17 ~~registration no. . . . ., as a general/specialty contractor and~~  
18 ~~has posted with the state a bond or cash deposit of~~  
19 ~~\$6,000/\$4,000 for the purpose of satisfying claims against the~~  
20 ~~contractor for negligent or improper work or breach of contract~~  
21 ~~in the conduct of the contractor's business. The expiration~~  
22 ~~date of this contractor's registration is . . . . . This~~  
23 ~~bond or cash deposit may not be sufficient to cover a claim~~  
24 ~~which might arise from the work done under your contract. If~~  
25 ~~any supplier of materials used in your construction project or~~  
26 ~~any employee of the contractor or subcontractor is not paid by~~  
27 ~~the contractor or subcontractor on your job, your property may~~  
28 ~~be liened to force payment. If you wish additional protection,~~  
29 ~~you may request the contractor to provide you with original~~  
30 ~~"lien release" documents from each supplier or subcontractor on~~  
31 ~~your project. The contractor is required to provide you with~~  
32 ~~further information about lien release documents if you request~~  
33 ~~it. General information is also available from the department~~  
34 ~~of labor and industries."))~~

35 This contractor is registered with the state of Washington,  
36 registration no. . . . ., and has posted with the state a bond or  
37 deposit of . . . . . for the purpose of satisfying claims

1 against the contractor for breach of contract including  
2 negligent or improper work in the conduct of the contractor's  
3 business. The expiration date of this contractor's  
4 registration is . . . . .

5 **THIS BOND OR DEPOSIT MIGHT NOT BE SUFFICIENT TO COVER A CLAIM**  
6 **THAT MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT.**

7 This bond or deposit is not for your exclusive use because it  
8 covers all work performed by this contractor. The bond or  
9 deposit is intended to pay valid claims up to . . . . . that  
10 you and other customers, suppliers, subcontractors, or taxing  
11 authorities may have.

12 **FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR**  
13 **CONTRACT.**

14 You may withhold a contractually defined percentage of your  
15 construction contract as retainage for a stated period of time  
16 to provide protection to you and help insure that your project  
17 will be completed as required by your contract.

18 **YOUR PROPERTY MAY BE LIENED.**

19 If a supplier of materials used in your construction project or  
20 an employee or subcontractor of your contractor or  
21 subcontractors is not paid, your property may be liened to  
22 force payment and you could pay twice for the same work.

23 **FOR ADDITIONAL PROTECTION, YOU MAY REQUEST THE CONTRACTOR TO**  
24 **PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FROM EACH**  
25 **SUPPLIER OR SUBCONTRACTOR ON YOUR PROJECT.**

26 The contractor is required to provide you with further  
27 information about lien release documents if you request it.  
28 General information is also available from the state Department  
29 of Labor and Industries."

30 (2) A contractor subject to this section shall notify any consumer  
31 to whom notice is required under subsection (1) of this section if the  
32 contractor's registration has expired or is revoked or suspended by the  
33 department prior to completion or other termination of the contract  
34 with the consumer.

1 (3) No contractor subject to this section may bring or maintain any  
2 lien claim under chapter 60.04 RCW based on any contract to which this  
3 section applies without alleging and proving that the contractor has  
4 provided the customer with a copy of the disclosure statement as  
5 required in subsection (1) of this section.

6 (4) This section does not apply to contracts authorized under  
7 chapter 39.04 RCW or to contractors contracting with other contractors.

8 (5) Failure to comply with this section shall constitute an  
9 infraction under the provisions of this chapter.

10 (6) The department shall produce model disclosure statements, and  
11 public service announcements detailing the information needed to assist  
12 contractors and contractors' customers to comply under this section.  
13 As necessary, the department shall periodically update these education  
14 materials.

15 **Sec. 10.** RCW 18.27.310 and 1993 c 454 s 10 are each amended to  
16 read as follows:

17 (1) The administrative law judge shall conduct contractors' notice  
18 of infraction cases pursuant to chapter 34.05 RCW.

19 (2) The burden of proof is on the department to establish the  
20 commission of the infraction by a preponderance of the evidence. The  
21 notice of infraction shall be dismissed if the defendant establishes  
22 that, at the time the (~~notice was issued~~) work was performed, the  
23 defendant was registered by the department, without suspension, or was  
24 exempt from registration.

25 (3) After consideration of the evidence and argument, the  
26 administrative law judge shall determine whether the infraction was  
27 committed. If it has not been established that the infraction was  
28 committed, an order dismissing the notice shall be entered in the  
29 record of the proceedings. If it has been established that the  
30 infraction was committed, the administrative law judge shall issue  
31 findings of fact and conclusions of law in its decision and order  
32 determining whether the infraction was committed.

33 (4) An appeal from the administrative law judge's determination or  
34 order shall be to the superior court. The decision of the superior  
35 court is subject only to discretionary review pursuant to Rule 2.3 of  
36 the Rules of Appellate Procedure.

1       **Sec. 11.** RCW 18.27.320 and 1993 c 454 s 11 are each amended to  
2 read as follows:

3       The administrative law judge shall dismiss the notice of infraction  
4 at any time upon written notification from the department that the  
5 contractor named in the notice of infraction was registered, without  
6 suspension, at the time the (~~notice of infraction was issued~~) work  
7 was performed.

8       NEW SECTION. **Sec. 12.** A new section is added to chapter 18.27 RCW  
9 to read as follows:

10       (1) The department shall use reasonable means, including working  
11 cooperatively with construction industry, financial institution, local  
12 government, consumer, media, and other interested organizations and  
13 individuals, to increase:

14       (a) Consumer awareness of the requirements of this chapter and the  
15 methods available to consumers to protect themselves against loss; and

16       (b) Contractor awareness of the obligations imposed on contractors  
17 by this chapter.

18       (2) The department shall accomplish the tasks listed in this  
19 section within existing resources, including but not limited to fees  
20 charged under RCW 18.27.075.

21       NEW SECTION. **Sec. 13.** A new section is added to chapter 18.27 RCW  
22 to read as follows:

23       (1) The legislature finds that it is contrary to public policy to  
24 allow unregistered contractors to continue doing business illegally.

25       (2) The department of labor and industries, the employment security  
26 department, and the department of revenue shall establish an  
27 unregistered contractors enforcement team. The team shall develop a  
28 written plan to coordinate the activities of the participating agencies  
29 to enforce the state's contractor registration laws and rules and other  
30 state laws and rules deemed appropriate by the team. In developing the  
31 plan, the team shall seek the input and advice of interested  
32 stakeholders who support the work of the team.

33       (3) The director or the director's designee shall call the initial  
34 meeting of the unregistered contractors enforcement team by September  
35 1, 2001. The team shall complete the plan and forward it to the  
36 appropriate standing committees of the legislature and to the  
37 departments that contribute members to the team by December 1, 2001.

1 (4) The department of labor and industries, the employment security  
2 department, and the department of revenue shall accomplish the tasks  
3 listed in this section within existing resources, including but not  
4 limited to fees charged under RCW 18.27.075.

5 **Sec. 14.** RCW 18.27.075 and 1983 c 74 s 2 are each amended to read  
6 as follows:

7 The department (~~may not set~~) shall charge a fee (~~higher than~~  
8 ~~fifty~~) of one hundred dollars for issuing or renewing a certificate of  
9 registration during the 2001-2003 biennium. The department shall  
10 revise this amount at least once every two years for the purpose of  
11 recognizing economic changes as reflected by the fiscal growth factor  
12 under chapter 43.135 RCW."

13 Correct the title.

--- END ---