

HOUSE BILL REPORT

SSB 5101

As Reported by House Committee On:

Commerce & Labor

Title: An act relating to consumer protection regarding contractors.

Brief Description: Protecting consumers in contractor transactions.

Sponsors: By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice, Winsley, Kohl-Welles, Fairley and Fraser; by request of Department of Labor & Industries).

Brief History:

Committee Activity:

Commerce & Labor: 3/28/01, 3/30/01 [DPA].

Brief Summary of Substitute Bill (As Amended by House Committee)

- Defines "residential homeowner" as a person owning or leasing real property upon which a single-family residence is to be built or improved, and the residence is one in which the person intends to reside upon completion of construction.
- Increases the amounts of the bonds and the insurance required of general and specialty contractors, and limits recovery against the bonds by claimants other than residential homeowners.
- Requires the Department of Labor and Industries to deny and suspend registration of contractors with an unsatisfied final judgment.
- Directs the department to establish an unregistered contractor enforcement team.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; B. Chandler, Republican Vice Chair; Wood, Democratic Vice Chair; Hunt, Kenney, Lisk and

McMorris.

Staff: Jill Reinmuth (786-7134).

Background:

The Contractor Registration Act, Chapter 18.27 RCW, requires general and specialty contractors to register with the Department of Labor and Industries. They also must meet certain requirements relating to registration, bonding and insurance, and notice to customers. In addition to registering contractors, the department administers and enforces other provisions of the Act.

Registration: The department must deny an application for registration if the applicant has previously registered and has an unsatisfied final judgment under the previous registration. A registration is valid for one year. The department may not charge a registration fee of more than \$50.

Bonds: An applicant for registration or renewal must submit a bond. The amount of the bond must be \$6,000 for general contractors, and \$4,000 for specialty contractors. An action to recover against the bond must be filed in superior court within one year of the expiration of the current registration. Failure to maintain the bond is cause to suspend or deny a contractor's registration.

Insurance: An applicant also must obtain insurance or provide the department with an assigned account. The amount of insurance coverage or the assigned account must be \$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. Failure to maintain the insurance or the account is also cause to suspend or deny a contractor's registration.

Disclosure Statement: A contractor bidding on or performing construction work that has a contract price of \$1,000 or more must provide the customer with a disclosure statement that includes the contractor's registration number. The disclosure statement must also set forth the amount of the contractor's bond and an explanation of steps that the customer might take to procure additional protection if a claim arises from the work done under the contract.

Advertising: The civil penalty for prohibited advertising may not exceed \$5,000.

Summary of Amended Bill:

The Contractor Registration Act is modified. Requirements relating to registration, bonding and insurance, disclosure statements, and advertising are changed. Requirements related to increased consumer and contractor awareness are added. An unregistered

contractors enforcement team is established.

Residential Homeowner: A "residential homeowner" is defined as a person who owns or leases real property upon which a single-family residence is to be built or improved, and the residence is one in which the person intends to reside upon completion of construction.

Registration: The Department of Labor and Industries must deny an application for registration if the applicant was a principal or an officer of a previous registrant with an unsatisfied final judgment or owes the department penalties or fees. The department must suspend an active registration if the registrant has an unsatisfied final judgment against him or her, or is a principal or an officer of another registrant with an unsatisfied final judgment. A registration is valid for two years, instead of one year. The \$50 limitation on contractor registration fees is increased to \$100 for a two-year certificate of registration in the 2001-2003 biennium.

Bonds: The amount of the bond is increased from \$6,000 to \$12,000 for a general contractor, and from \$4,000 to \$6,000 for a specialty contractor. In specified circumstances, the director may increase the amount of the bond to up to \$36,000 for a general contractor and \$18,000 for a specialty contractor. Amounts paid to claimants other than residential homeowners must not exceed \$6,000 from a general contractor bond and \$3,000 from a specialty contractor bond. A residential homeowner may bring an action against the bond for breach of contract within two years of the date work is completed or abandoned. If a final judgment impairs the full amount of the bond, the contractor's registration is automatically suspended.

Insurance: The amount of insurance coverage or the assigned account is increased from \$20,000 to \$50,000 for property damage, from \$50,000 to \$100,000 for injury or death to one person, and from \$100,000 to \$200,000 for injury or death to more than one person. If the insurance policy expires, or is cancelled, revoked, or withdrawn, the contractor's registration is automatically suspended.

Disclosure Statement: In addition to registration and bonding information, the disclosure statement that a contractor must give to a customer must say that: (1) the bond might not be sufficient to pay a customer's claim; (2) the customer's property can be liened; (3) for greater protection, the customer may retain a portion of the contract; and (4) for additional protection, the customer may request original lien release documents.

Advertising: The maximum penalty for prohibited advertising is increased from \$5,000 to \$10,000.

Consumer and Contractor Awareness: The department must use reasonable means to increase consumer awareness of available legal protection and contractor awareness of legal obligations. The department must accomplish these tasks within existing resources.

Unregistered Contractors: The department, along with the Employment Security Department and the Department of Revenue, must establish an unregistered contractors enforcement team. The team must develop a written plan to coordinate enforcement activities, and must forward it to the Legislature by December 1, 2001. All of the departments must accomplish these tasks within existing resources.

Other: The Contractor Registration Act is made inapplicable to a mobile/manufactured home dealer or manufacturer who subcontracts with a registered contractor to set up a home. A process is established for the department to collect payments, penalties, or fines due from unregistered contractors.

Amended Bill Compared to Substitute Bill:

Dedicated Account: The sections relating to a dedicated contractor registration account are stricken.

Bonds: The circumstances when the director of the Department of Labor and Industries may require an increased bond amount are changed to only include when the applicant has a total of six final judgments in actions involving a residential single-family dwelling on two or more different structures.

Liens: The section changing the date after which a notice of a right to claim a lien protects that right is stricken.

Consumer and Contractor Awareness: The requirements that the department offer workshops, distribute brochures, operate consumer and contractor internet and phone hotlines, distribute model construction contracts, and arrange for public service announcements are deleted. The requirement that the department accomplish these tasks within existing resources is added.

Unregistered Contractors: The requirement that the enforcement team develop annual recommendations is deleted. The requirement that the director of the Department of Labor and Industries allocate one-half of a full-time employee to implement the plan is deleted. The requirement that the departments participating on the enforcement team accomplish these tasks within existing resources is added.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This is a historic bill that provides greater protection for consumers. In particular, the lien provisions in the striking amendment will protect consumers from catastrophic losses. The increased bond amounts will increase costs, but are acceptable to contractors. The increased bond amounts are a step in the right direction, but should be even higher to reflect the risks that consumers take. Any changes to state law that help consumers are worthwhile.

Testimony Against: The lien provisions in the substitute bill are not acceptable. The lien provisions in the striking amendment address concerns about changing the date after which a notice of a right to claim a lien protects that right, but not other concerns. The bond amounts should be higher. Subcontractors and suppliers must be able to hold people accountable for amounts not paid.

Testified: (In support) Representative Ogden, prime sponsor of companion bill; Patrick Woods, Department of Labor and Industries; Sally Gustafson, Office of the Attorney General; Dennis Marada, private citizen; and Bob Campbell, Building Industry Association of Washington.

(Opposed) Janis Lucas, Thrifty Supply Company; Dana Lantz, Millwork Incorporated; Gale Albertson, Pameco Corporation; and Jim Turner and Ken Marson, Western Building Materials Association.