

Commerce & Labor Committee

HB 1635

Brief Description: *Protecting consumers in contractor transactions.*

Sponsors: *Representatives Ogden and Conway.*

Brief Summary of Bill

- *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.*
- *Provides that liens filed by subcontractors or suppliers in connection with new residential construction for a residential homeowner may only be satisfied from amounts not yet paid to the prime contractor.*
- *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 advisory committee and education and testing requirements for contractors.*

Hearing Date: *2/13/01*

Staff: *Jill Reinmuth (786-7134).*

Background:

The Contractors 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.*

Liens: *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.*

Persons who do not contract directly with the owner must give the owner notice of right to claim a lien. Subcontractors and suppliers who are not paid may file a lien against the property even if the prime contractor has been paid in full.

Advertising: *A contractor may not advertise that he or she is bonded and insured. The civil penalty for prohibited advertising may not exceed \$5,000.*

Summary of Bill:

The Contractors Registration Act is modified. Requirements relating to registration, bonding and insurance, notice to customers, and advertising are changed. In addition, an advisory committee and education and testing requirements must be established.

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 repealed.*

Bonds: *The amount of the bond is increased from \$6,000 to \$15,000 for a general contractor, and from \$4,000 to \$8,000 for a specialty contractor. In specified circumstances, the director may increase the amount of the bond to up to \$75,000 for a*

general contractor and \$40,000 for a specialty contractor. Amounts paid to claimants other than residential homeowners must not exceed \$7,500 from a general contractor bond and \$4,000 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 the certificate of registration expires. 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.

Liens: 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) for greater protection, the customer may request a payment and performance bond; (3) for additional protection, the customer should make checks payable jointly to the contractor and the supplier or subcontractor and require a lien release; (4) other methods of protection include hiring attorneys or construction professionals; and (5) the customer's property can be liened.

Subcontractors and suppliers who do not contract directly with the owner must give the owner notice of right to claim a lien in connection with new residential construction. Such liens may only be satisfied from the amounts not yet paid to the prime contractor.

Advertising: The prohibition on advertising that a contractor is bonded and insured is repealed. The maximum penalty for other prohibited advertising is increased from \$5,000 to \$10,000.

Advisory Committee: The director of the department must establish a construction contractor advisory committee to advise the department on matters relating to contractor registration. The director or his or her designee serves as the chair of the committee.

Education and Testing: The department must establish rules requiring applicants to complete up to 16 hours of education related to business practices and laws affecting contractors and pass competency tests. After July 1, 2002, passing a test is required prior to registration. Exemptions from the education and testing requirements are available to certain contractors previously registered in the state or elsewhere.

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 contractors. Definitions of several terms, including "residential homeowner," are added.

Rules Authority: The bill contains provisions requiring the exercise of rule-making powers by the Department of Labor and Industries.

Appropriation: None.

Fiscal Note: Requested on February 7, 2001.

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