

Commerce & Labor Committee

SSB 5101

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 Summary of Substitute Bill

- *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.*
- *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 unregistered contractor enforcement team.*

Hearing Date: *3/28/01*

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.

Subcontractors and suppliers who do not contract directly with the owner must give the owner notice of right to claim a lien. In the case of new construction of a single-family residence, the notice of a right to claim a lien protects the right to claim the lien for services, materials, or equipment supplied after a date which is ten days before the notice is given. 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, liens and advertising are changed. Requirements related to increased consumer and contractor awareness are added. An unregistered contractors enforcement team is established. A dedicated account is created.

Residential Homeowner: A "residential homeowner" is 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.*

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.*

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) 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.*

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. In the case of new construction of a single-family residence, the notice of a right to claim a lien protects the right to claim the lien for services, materials, or equipment supplied after the date the notice is given. Such liens may only be satisfied from the amounts not yet paid to the prime contractor.

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

Consumer and Contractor Awareness: *The department must increase consumer awareness of legal protection available to consumers; increase contractor awareness of legal obligations; use reasonable means to increase awareness; develop model construction contracts; and air public service announcements regarding consumer and contractor education services.*

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 recommendations that would assist the team in more effectively carrying out its responsibilities, and must forward those recommendations to the Legislature by January 1 of each year. The director of the Department of Labor and Industries must allocate a minimum of .05 of an FTE to implement the plan.

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. Definitions of several terms, including "residential homeowner" and "unsatisfied final judgment" are added.

Appropriation: *None.*

Fiscal Note: *Available.*

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