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**SUBSTITUTE HOUSE BILL 1635**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Ogden and Conway)

Read first time . Referred to Committee on .

1 AN ACT Relating to consumer protection regarding contractors;  
2 amending RCW 18.27.010, 18.27.030, 18.27.040, 18.27.050, 18.27.090,  
3 18.27.100, 18.27.110, 18.27.114, 60.04.031, 18.27.310, 18.27.320,  
4 18.27.340, 43.84.092, 43.84.092, and 18.27.075; reenacting and amending  
5 RCW 18.27.060; adding new sections to chapter 18.27 RCW; adding a new  
6 section to chapter 82.01 RCW; adding a new section to chapter 50.08  
7 RCW; adding a new section to chapter 43.22 RCW; prescribing penalties;  
8 providing an effective date; and providing expiration dates.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 **Sec. 1.** RCW 18.27.010 and 1997 c 314 s 2 are each amended to read  
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in  
13 this section apply throughout this chapter.

14 (1) "Contractor" means any person, firm, or corporation who or  
15 which, in the pursuit of an independent business undertakes to, or  
16 offers to undertake, or submits a bid to, construct, alter, repair, add  
17 to, subtract from, improve, move, wreck or demolish, for another, any  
18 building, highway, road, railroad, excavation or other structure,  
19 project, development, or improvement attached to real estate or to do

1 any part thereof including the installation of carpeting or other floor  
2 covering, the erection of scaffolding or other structures or works in  
3 connection therewith or who installs or repairs roofing or siding; or,  
4 who, to do similar work upon his or her own property, employs members  
5 of more than one trade upon a single job or project or under a single  
6 building permit except as otherwise provided herein. "Contractor"  
7 includes any person, firm, ~~((or))~~ corporation, or other entity covered  
8 by this subsection, whether or not registered as required under this  
9 chapter.

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

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

13 (4) "General contractor" means a contractor whose business  
14 operations require the use of more than two unrelated building trades  
15 or crafts whose work the contractor shall superintend or do in whole or  
16 in part. "General contractor" shall not include an individual who does  
17 all work personally without employees or other "specialty contractors"  
18 as defined in this section. The terms "general contractor" and  
19 "builder" are synonymous.

20 ~~((+3))~~ (5) "Partnership" means a business formed under Title 25  
21 RCW.

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

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

30 (8) "Residential homeowner" means an individual person or persons  
31 owning or leasing real property upon which one single-family residence  
32 is to be built or upon which there is a single-family residence to  
33 which improvements are to be made and in which the owner or lessee  
34 intends to reside upon completion of any construction.

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

37 ~~((+4))~~ (10) "Unregistered contractor" means a person, firm, ~~((or))~~  
38 corporation, or other entity doing work as a contractor without being  
39 registered in compliance with this chapter. "Unregistered contractor"

1 includes contractors whose registration is expired (~~for more than~~  
2 ~~thirty days beyond the renewal date or has been~~), revoked, or  
3 suspended. "Unregistered contractor" does not include a contractor who  
4 has maintained a valid bond and the insurance or assigned account  
5 required by RCW 18.27.050, and whose registration has lapsed for thirty  
6 or fewer days.

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

8 ~~(6) "Director" means the director of the department of labor and~~  
9 ~~industries.~~

10 ~~(7))~~ (11) "Unsatisfied final judgment" means a judgment that has  
11 not been satisfied either through payment, court approved settlement,  
12 discharge in bankruptcy, or assignment under RCW 19.72.070.

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

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

19 (1) An applicant for registration as a contractor shall submit an  
20 application under oath upon a form to be prescribed by the director and  
21 which shall include the following information pertaining to the  
22 applicant:

23 (a) Employer social security number.

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

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

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

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

32 (iii) For applicants domiciled in a state or province of Canada  
33 subject to an agreement entered into under RCW 51.12.120(7), as  
34 permitted by the agreement, filing a certificate of coverage issued by  
35 the agency that administers the workers' compensation law in the  
36 applicant's state or province of domicile certifying that the applicant  
37 has secured the payment of compensation under the other state's or  
38 province's workers' compensation law.

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

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

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

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

9       ~~((g))~~ (h) The name and address of each partner if the applicant  
10 is a firm or partnership, or the name and address of the owner if the  
11 applicant is an individual proprietorship, or the name and address of  
12 the corporate officers and statutory agent, if any, if the applicant is  
13 a corporation or the name and address of all members of other business  
14 entities. The information contained in such application is a matter of  
15 public record and open to public inspection.

16       (2) The department may verify the workers' compensation coverage  
17 information provided by the applicant under subsection (1)~~((b))~~ (c)  
18 of this section, including but not limited to information regarding the  
19 coverage of an individual employee of the applicant. If coverage is  
20 provided under the laws of another state, the department may notify the  
21 other state that the applicant is employing employees in Washington.

22       (3)(a) The department shall deny an application for registration  
23 if: (i) The applicant has been previously ~~((registered))~~ performing  
24 work subject to this chapter as a sole proprietor, partnership, ~~((or))~~  
25 corporation, or other entity and the department has notice that the  
26 applicant has an unsatisfied final judgment against him or her in an  
27 action based on this chapter ~~((that was incurred during a previous~~  
28 registration under this chapter)) or the applicant owes the department  
29 money for penalties assessed or fees due under this chapter as a result  
30 of a final judgment; (ii) the applicant was a principal or officer of  
31 a partnership, corporation, or other entity that either has an  
32 unsatisfied final judgment against it in an action that was incurred  
33 for work performed subject to this chapter or owes the department money  
34 for penalties assessed or fees due under this chapter as a result of a  
35 final judgment; or (iii) the applicant does not have a valid unified  
36 business identifier number, if required by the department of revenue.

37       (b) The department shall suspend an active registration if (i) the  
38 department has notice that the registrant is a sole proprietor or a  
39 principal or officer of a registered contractor that has an unsatisfied

1 final judgment against it for work under this chapter; or (ii) the  
2 applicant does not maintain a valid unified business identifier number,  
3 if required by the department of revenue.

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

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

11 (1) Each applicant shall file with the department a surety bond  
12 issued by a surety insurer who meets the requirements of chapter 48.28  
13 RCW in the sum of (~~six~~) twelve thousand dollars if the applicant is  
14 a general contractor and (~~four~~) six thousand dollars if the applicant  
15 is a specialty contractor. If no valid bond is already on file with  
16 the department at the time the application is filed, a bond must  
17 accompany the registration application. The bond shall have the state  
18 of Washington named as obligee with good and sufficient surety in a  
19 form to be approved by the department. The bond shall be continuous  
20 and may be canceled by the surety upon the surety giving written notice  
21 to the director (~~of its intent to cancel the bond~~). A cancellation  
22 or revocation of the bond or withdrawal of the surety from the bond  
23 automatically suspends the registration issued to the registrant until  
24 a new bond or reinstatement notice has been filed and approved as  
25 provided in this section. The bond shall be conditioned that the  
26 applicant will pay all persons performing labor, including employee  
27 benefits, for the contractor, will pay all taxes and contributions due  
28 to the state of Washington, and will pay all persons furnishing labor  
29 or material or renting or supplying equipment to the contractor and  
30 will pay all amounts that may be adjudged against the contractor by  
31 reason of breach of contract including negligent or improper work in  
32 the conduct of the contracting business. A change in the name of a  
33 business or a change in the type of business entity shall not impair a  
34 bond for the purposes of this section so long as one of the original  
35 applicants for such bond maintains partial ownership in the business  
36 covered by the bond.

37 (2) (~~Any contractor registered as of July 1, 1997, who maintains~~  
38 ~~such registration in accordance with this chapter shall be in~~

1 ~~compliance with this chapter until the next annual renewal of the~~  
2 ~~contractor's certificate of registration. At that time))~~ At the time  
3 of initial registration or renewal, the contractor shall provide a  
4 ~~bond((, cash deposit,))~~ or other security deposit as required by this  
5 chapter and comply with all of the other provisions of this chapter  
6 before the department shall issue or renew the contractor's certificate  
7 of registration. Any contractor registered as of July 1, 2001, who  
8 maintains that registration in accordance with this chapter is in  
9 compliance with this chapter until the next renewal of the contractor's  
10 certificate of registration.

11 (3) Any person, firm, or corporation having a claim against the  
12 contractor for any of the items referred to in this section may bring  
13 suit upon the bond or deposit in the superior court of the county in  
14 which the work was done or of any county in which jurisdiction of the  
15 contractor may be had. The surety issuing the bond shall be named as  
16 a party to any suit upon the bond. Action upon the bond or deposit  
17 ~~((shall be commenced by filing the summons and complaint with the clerk~~  
18 ~~of the appropriate superior court within one year from the date of~~  
19 ~~expiration of the certificate of registration in force at the time))~~  
20 brought by a residential homeowner for breach of contract by a party to  
21 the construction contract shall be commenced by filing the summons and  
22 complaint with the clerk of the appropriate superior court within one  
23 year from the date the claimed contract work was substantially  
24 completed or abandoned. Action upon the bond or deposit brought by any  
25 other authorized party shall be commenced by filing the summons and  
26 complaint with the clerk of the appropriate superior court within one  
27 year from the date the claimed labor was performed and benefits  
28 accrued, taxes and contributions owing the state of Washington became  
29 due, materials and equipment were furnished, or the claimed contract  
30 work was substantially completed or abandoned. Service of process in  
31 an action against the contractor, the contractor's bond, or the deposit  
32 shall be exclusively by service upon the department. Three copies of  
33 the summons and complaint and a fee ((of)) adopted by rule of not less  
34 than ten dollars to cover the ((handling)) costs shall be served by  
35 registered or certified mail, or other delivery service requiring  
36 notice of receipt, 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~~) two days after it shall  
6 have been received.

7 (4) The total amount paid from a bond or deposit required by this  
8 section to claimants other than residential homeowners must not exceed  
9 one-half of the bond amount. The total amount paid from a bond or  
10 deposit required of a specialty contractor by this section to claimants  
11 other than residential homeowners must not exceed two-thirds of the  
12 bond amount.

13 (5) The surety upon the bond shall not be liable in an aggregate  
14 amount in excess of the amount named in the bond nor for any monetary  
15 penalty assessed pursuant to this chapter for an infraction. The  
16 liability of the surety shall not cumulate where the bond has been  
17 renewed, continued, reinstated, reissued or otherwise extended. The  
18 surety upon the bond may, upon notice to the department and the  
19 parties, tender to the clerk of the court having jurisdiction of the  
20 action an amount equal to the claims thereunder or the amount of the  
21 bond less the amount of judgments, if any, previously satisfied  
22 therefrom and to the extent of such tender the surety upon the bond  
23 shall be exonerated but if the actions commenced and pending at any one  
24 time exceed the amount of the bond then unimpaired, claims shall be  
25 satisfied from the bond in the following order:

26 (a) Employee labor and claims of laborers, including employee  
27 benefits;

28 (b) Claims for breach of contract by a party to the construction  
29 contract;

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

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

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

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

37 (~~(+5)~~) (6) The prevailing party in an action filed under this  
38 section against the contractor and contractor's bond or deposit, for  
39 breach of contract by a party to a construction contract, is entitled

1 to costs, interest, and reasonable attorneys' fees. The surety upon  
2 the bond is not liable in an aggregate amount in excess of the amount  
3 named in the bond nor for any monetary penalty assessed pursuant to  
4 this chapter for an infraction.

5 (7) If a final judgment impairs the liability of the surety upon  
6 the bond so furnished that there ~~((shall not be))~~ is not in effect a  
7 bond ~~((undertaking))~~ in the full amount prescribed in this section,  
8 ~~((the department shall suspend))~~ the registration of the contractor is  
9 automatically suspended until the bond liability in the required amount  
10 unimpaired by unsatisfied judgment claims is furnished. ~~((If the bond~~  
11 ~~becomes fully impaired, a new bond must be furnished at the rates~~  
12 ~~prescribed by this section.~~

13 ~~((6))~~ (8) In lieu of the surety bond required by this section the  
14 contractor may file with the department a deposit consisting of cash or  
15 other security acceptable to the department.

16 ~~((7))~~ (9) Any person having filed and served a summons and  
17 complaint as required by this section having an unsatisfied final  
18 judgment against the registrant for any items referred to in this  
19 section may execute upon the security held by the department by serving  
20 a certified copy of the unsatisfied final judgment by registered or  
21 certified mail upon the department within one year of the date of entry  
22 of such judgment. Upon the receipt of service of such certified copy  
23 the department shall pay or order paid from the deposit, through the  
24 registry of the superior court which rendered judgment, towards the  
25 amount of the unsatisfied judgment. The priority of payment by the  
26 department shall be the order of receipt by the department, but the  
27 department shall have no liability for payment in excess of the amount  
28 of the deposit.

29 ~~((8))~~ (10) The director may require an applicant applying to  
30 renew or reinstate a registration or applying for a new registration to  
31 file a bond of up to three times the normally required amount, if the  
32 director determines that an applicant, or a previous registration of a  
33 corporate officer, owner, or partner of a current applicant, has had in  
34 the past five years two or more unsatisfied judgments in actions under  
35 this chapter involving a residential owner of a single-family dwelling.

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



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

3       (1) At the time of registration and subsequent reregistration, the  
4 applicant shall furnish insurance or financial responsibility in the  
5 form of an assigned account in the amount of (~~(twenty)~~) fifty thousand  
6 dollars for injury or damages to property, and (~~(fifty)~~) one hundred  
7 thousand dollars for injury or damage including death to any one  
8 person, and (~~(one)~~) two hundred thousand dollars for injury or damage  
9 including death to more than one person (~~(or financial responsibility~~  
10 ~~to satisfy these amounts)~~)).

11       (2) (~~(Failure to maintain insurance or financial responsibility~~  
12 ~~relative to the contractor's activities shall be cause to suspend or~~  
13 ~~deny the contractor his or her or their registration.)~~) An expiration,  
14 cancellation, or revocation of the insurance policy or withdrawal of  
15 the insurer from the insurance policy automatically suspends the  
16 registration issued to the registrant until a new insurance policy or  
17 reinstatement notice has been filed and approved as provided in this  
18 section.

19       (3)(a) Proof of financial responsibility authorized in this section  
20 may be given by providing, in the amount required by subsection (1) of  
21 this section, an assigned account acceptable to the department. The  
22 assigned account shall be held by the department to satisfy any  
23 execution on a judgment issued against the contractor for damage to  
24 property or injury or death to any person occurring in the contractor's  
25 contracting operations, according to the provisions of the assigned  
26 account agreement. The department shall have no liability for payment  
27 in excess of the amount of the assigned account.

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

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

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

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

37       (c) If a contractor chooses to file an assigned account as  
38 authorized in this section, the contractor shall, on any contracting  
39 project, notify each person with whom the contractor enters into a

1 contract or to whom the contractor submits a bid that the contractor  
2 has filed an assigned account in lieu of insurance and that recovery  
3 from the account for any claim against the contractor for property  
4 damage or personal injury or death occurring in the project requires  
5 the claimant to obtain a court judgment.

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

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

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

15 ~~(a) One year;~~

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

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

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

21 ~~(4))~~ (3) If a contractor's surety bond or other security has an  
22 unsatisfied judgment against it or is canceled, or if the contractor's  
23 insurance policy is canceled, the contractor's registration shall be  
24 automatically suspended on the effective date of the impairment or  
25 cancellation. The department shall mail notice of the suspension to  
26 the contractor's address on the certificate of registration by  
27 certified and by first class mail within ~~((forty-eight hours))~~ two days  
28 after suspension.

29 ~~((+5))~~ (4) Renewal of registration is valid on the date the  
30 department receives the required fee and proof of bond and liability  
31 insurance, if sent by certified mail or other means requiring proof of  
32 delivery. The receipt or proof of delivery shall serve as the  
33 contractor's proof of renewed registration until he or she receives  
34 verification from the department.

35 ~~((+6))~~ (5) The department shall immediately suspend the  
36 certificate of registration of a contractor who has been certified by  
37 the department of social and health services as a person who is not in  
38 compliance with a support order or a residential or visitation order as

1 provided in RCW 74.20A.320. The certificate of registration shall not  
2 be reissued or renewed unless the person provides to the department a  
3 release from the department of social and health services stating that  
4 he or she is in compliance with the order and the person has continued  
5 to meet all other requirements for certification during the suspension.

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

8 (1) If an unregistered contractor defaults in a payment, penalty,  
9 or fine due to the department, the director or the director's designee  
10 may issue a notice of assessment certifying the amount due. The notice  
11 must be served upon the unregistered contractor by mailing the notice  
12 to the unregistered contractor by certified mail to the unregistered  
13 contractor's last known address or served in the manner prescribed for  
14 the service of a summons in a civil action.

15 (2) A notice of assessment becomes final thirty days from the date  
16 the notice was served upon the unregistered contractor unless a written  
17 request for reconsideration is filed with the department or an appeal  
18 is filed in a court of competent jurisdiction in the manner specified  
19 in RCW 34.05.510 through 34.05.598. The request for reconsideration  
20 must set forth with particularity the reason for the unregistered  
21 contractor's request. The department, within thirty days after  
22 receiving a written request for reconsideration, may modify or reverse  
23 a notice of assessment, or may hold a notice of assessment in abeyance  
24 pending further investigation. If a final decision of a court in favor  
25 of the department is not appealed within the time allowed by law, then  
26 the amount of the unappealed assessment, or such amount of the  
27 assessment as is found due by the final decision of the court, is  
28 final.

29 (3) The director or the director's designee may file with the clerk  
30 of any county within the state, a warrant in the amount of the notice  
31 of assessment, plus interest, penalties, and a filing fee of twenty  
32 dollars. The clerk of the county in which the warrant is filed shall  
33 immediately designate a superior court cause number for the warrant,  
34 and the clerk shall cause to be entered in the judgment docket under  
35 the superior court cause number assigned to the warrant, the name of  
36 the unregistered contractor mentioned in the warrant, the amount of  
37 payment, penalty, fine due on it, or filing fee, and the date when the  
38 warrant was filed. The aggregate amount of the warrant as docketed

1 shall become a lien upon the title to, and interest in, all real and  
2 personal property of the unregistered contractor against whom the  
3 warrant is issued, the same as a judgment in a civil case docketed in  
4 the office of the clerk. The sheriff shall proceed upon the warrant in  
5 all respects and with like effect as prescribed by law with respect to  
6 execution or other process issued against rights or property upon  
7 judgment in a court of competent jurisdiction. The warrant so docketed  
8 is sufficient to support the issuance of writs of garnishment in favor  
9 of the state in a manner provided by law in case of judgment, wholly or  
10 partially unsatisfied. The clerk of the court is entitled to a filing  
11 fee which will be added to the amount of the warrant. A copy of the  
12 warrant shall be mailed to the unregistered contractor within three  
13 days of filing with the clerk.

14 (4) The director or the director's designee may issue to any  
15 person, firm, corporation, other entity, municipal corporation,  
16 political subdivision of the state, a public corporation, or any agency  
17 of the state, a notice and order to withhold and deliver property of  
18 any kind whatsoever when he or she has reason to believe that there is  
19 in the possession of the person, firm, corporation, other entity,  
20 municipal corporation, political subdivision of the state, public  
21 corporation, or agency of the state, property that is or will become  
22 due, owing, or belonging to an unregistered contractor upon whom a  
23 notice of assessment has been served by the department for payments,  
24 penalties, or fines due to the department. The effect of a notice and  
25 order is continuous from the date the notice and order is first made  
26 until the liability out of which the notice and order arose is  
27 satisfied or becomes unenforceable because of lapse of time. The  
28 department shall release the notice and order when the liability out of  
29 which the notice and order arose is satisfied or becomes unenforceable  
30 by reason of lapse of time and shall notify the person against whom the  
31 notice and order was made that the notice and order has been released.

32 The notice and order to withhold and deliver must be served by the  
33 sheriff of the county or by the sheriff's deputy, by certified mail,  
34 return receipt requested, or by an authorized representative of the  
35 director. A person, firm, corporation, other entity, municipal  
36 corporation, political subdivision of the state, public corporation, or  
37 agency of the state upon whom service has been made shall answer the  
38 notice within twenty days exclusive of the day of service, under oath  
39 and in writing, and shall make true answers to the matters inquired of

1 in the notice and order. Upon service of the notice and order, if the  
2 party served possesses any property that may be subject to the claim of  
3 the department, the party shall promptly deliver the property to the  
4 director or the director's authorized representative. The director  
5 shall hold the property in trust for application on the unregistered  
6 contractor's indebtedness to the department, or for return without  
7 interest, in accordance with a final determination of a petition for  
8 review. In the alternative, the party shall furnish a good and  
9 sufficient surety bond satisfactory to the director conditioned upon  
10 final determination of liability. If a party served and named in the  
11 notice fails to answer the notice within the time prescribed in this  
12 section, the court may render judgment by default against the party for  
13 the full amount claimed by the director in the notice, together with  
14 costs. If a notice is served upon an unregistered contractor and the  
15 property subject to it is wages, the unregistered contractor may assert  
16 in the answer all exemptions provided for by chapter 6.27 RCW to which  
17 the wage earner is entitled.

18 (5) In addition to the procedure for collection of a payment,  
19 penalty, or fine due to the department as set forth in this section,  
20 the department may recover civil penalties imposed under this chapter  
21 in a civil action in the name of the department brought in a court of  
22 competent jurisdiction of the county where the violation is alleged to  
23 have occurred.

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

26 The registration provisions of this chapter ((does)) do not apply  
27 to:

28 (1) An authorized representative of the United States government,  
29 the state of Washington, or any incorporated city, town, county,  
30 township, irrigation district, reclamation district, or other municipal  
31 or political corporation or subdivision of this state;

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

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

37 (4) Any construction, repair, or operation incidental to the  
38 discovering or producing of petroleum or gas, or the drilling, testing,

1 abandoning, or other operation of any petroleum or gas well or any  
2 surface or underground mine or mineral deposit when performed by an  
3 owner or lessee;

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

7 (6) Any construction, alteration, improvement, or repair of  
8 personal property(~~(, except this chapter shall apply to all~~  
9 ~~mobile/manufactured housing. A mobile/manufactured home may be~~  
10 ~~installed, set up, or repaired by the registered or legal owner, by a~~  
11 ~~contractor registered under this chapter)~~) performed by the registered  
12 or legal owner, or by a mobile/manufactured home retail dealer or  
13 manufacturer licensed under chapter 46.70 RCW who shall warranty  
14 service and repairs under chapter 46.70 RCW;

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

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

21 (9) Any work or operation on one undertaking or project by one or  
22 more contracts, the aggregate contract price of which for labor and  
23 materials and all other items is less than five hundred dollars, such  
24 work or operations being considered as of a casual, minor, or  
25 inconsequential nature. The exemption prescribed in this subsection  
26 does not apply in any instance wherein the work or construction is only  
27 a part of a larger or major operation, whether undertaken by the same  
28 or a different contractor, or in which a division of the operation is  
29 made into contracts of amounts less than five hundred dollars for the  
30 purpose of evasion of this chapter or otherwise. The exemption  
31 prescribed in this subsection does not apply to a person who advertises  
32 or puts out any sign or card or other device which might indicate to  
33 the public that he or she is a contractor, or that he or she is  
34 qualified to engage in the business of contractor;

35 (10) Any construction or operation incidental to the construction  
36 and repair of irrigation and drainage ditches of regularly constituted  
37 irrigation districts or reclamation districts; or to farming, dairying,  
38 agriculture, viticulture, horticulture, or stock or poultry raising; or  
39 to clearing or other work upon land in rural districts for fire

1 prevention purposes; except when any of the above work is performed by  
2 a registered contractor;

3 (11) An owner who contracts for a project with a registered  
4 contractor;

5 (12) Any person working on his or her own property, whether  
6 occupied by him or her or not, and any person working on his or her  
7 personal residence, whether owned by him or her or not but this  
8 exemption shall not apply to any person otherwise covered by this  
9 chapter who constructs an improvement on his or her own property with  
10 the intention and for the purpose of selling the improved property;

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

14 (14) A licensed architect or civil or professional engineer acting  
15 solely in his or her professional capacity, an electrician licensed  
16 under the laws of the state of Washington, or a plumber licensed under  
17 the laws of the state of Washington or licensed by a political  
18 subdivision of the state of Washington while operating within the  
19 boundaries of such political subdivision. The exemption provided in  
20 this subsection is applicable only when the licensee is operating  
21 within the scope of his or her license;

22 (15) Any person who engages in the activities herein regulated as  
23 an employee of a registered contractor with wages as his or her sole  
24 compensation or as an employee with wages as his or her sole  
25 compensation;

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

29 (17) A mobile/manufactured home dealer or manufacturer who  
30 subcontracts the installation, set-up, or repair work to actively  
31 registered contractors. This exemption only applies to the  
32 installation, set-up, or repair of the mobile/manufactured homes that  
33 were manufactured or sold by the mobile/manufactured home dealer or  
34 manufacturer.

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

37 (1) Except as provided in RCW 18.27.065 for partnerships and joint  
38 ventures, no person who has registered under one name as provided in

1 this chapter shall engage in the business, or act in the capacity, of  
2 a contractor under any other name unless such name also is registered  
3 under this chapter.

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

8 (3)(a) All advertising that shows the contractor's name or address  
9 shall show the contractor's current registration number. The  
10 registration number may be omitted in an alphabetized listing of  
11 registered contractors stating only the name, address, and telephone  
12 number: PROVIDED, That signs on motor vehicles subject to RCW  
13 46.16.010 and on-premise signs shall not constitute advertising as  
14 provided in this section. All materials used to directly solicit  
15 business from retail customers who are not businesses shall show the  
16 contractor's current registration number. A contractor shall not use  
17 a false or expired registration number in purchasing or offering to  
18 purchase an advertisement for which a contractor registration number is  
19 required. Advertising by airwave transmission shall not be subject to  
20 this subsection (3)(a).

21 (b) The director may issue a subpoena to any person or entity  
22 selling any advertising subject to this section for the name, address,  
23 and telephone number provided to the seller of the advertising by the  
24 purchaser of the advertising. The subpoena must have enclosed a  
25 stamped, self-addressed envelope and blank form to be filled out by the  
26 seller of the advertising. If the seller of the advertising has the  
27 information on file, the seller shall, within a reasonable time, return  
28 the completed form to the department. The subpoena must be issued  
29 (~~before forty-eight hours~~) no more than two days after the expiration  
30 of the issue or publication containing the advertising or after the  
31 broadcast of the advertising. The good-faith compliance by a seller of  
32 advertising with a written request of the department for information  
33 concerning the purchaser of advertising shall constitute a complete  
34 defense to any civil or criminal action brought against the seller of  
35 advertising arising from such compliance. Advertising by airwave or  
36 electronic transmission is subject to this subsection (3)(b).

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



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

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

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

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

18 **Sec. 9.** RCW 18.27.110 and 1997 c 314 s 11 are each amended to read  
19 as follows:

20 (1) No city, town or county shall issue a construction building  
21 permit for work which is to be done by any contractor required to be  
22 registered under this chapter without verification that such contractor  
23 is currently registered as required by law. When such verification is  
24 made, nothing contained in this section is intended to be, nor shall be  
25 construed to create, or form the basis for any liability under this  
26 chapter on the part of any city, town or county, or its officers,  
27 employees or agents. However, failure to verify the contractor  
28 registration number results in liability to the city, town, or county  
29 to a penalty to be imposed according to RCW 18.27.100(~~(+7)~~) (6)(a).

30 (2) At the time of issuing the building permit, all cities, towns,  
31 or counties are responsible for:

32 (a) Printing the contractor registration number on the building  
33 permit; and

34 (b) Providing a written notice to the building permit applicant  
35 informing them of contractor registration laws and the potential risk  
36 and monetary liability to the homeowner for using an unregistered  
37 contractor.

1 (3) If a building permit is obtained by an applicant or contractor  
2 who falsifies information to obtain an exemption provided under RCW  
3 18.27.090, the building permit shall be forfeited.

4 **Sec. 10.** RCW 18.27.114 and 1997 c 314 s 12 are each amended to  
5 read as follows:

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

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

10 (b) for the repair, alteration, or construction of a commercial  
11 building when the bid or contract price totals one thousand dollars or  
12 more but less than sixty thousand dollars, must provide the customer

13 with the following disclosure statement in substantially the following  
14 form using lower case and upper case twelve-point and bold type where  
15 appropriate, prior to starting work on the project:

16 "NOTICE TO CUSTOMER

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

36 This contractor is registered with the state of Washington,  
37 registration no. . . . ., and has posted with the state a bond or

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

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

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

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

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

19 **YOUR PROPERTY MAY BE LIENED.**

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

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

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

31 (2) A contractor subject to this section shall notify any consumer  
32 to whom notice is required under subsection (1) of this section if the  
33 contractor's registration has expired or is revoked or suspended by the  
34 department prior to completion or other termination of the contract  
35 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. 11.** RCW 60.04.031 and 1992 c 126 s 2 are each amended to read  
16 as follows:

17 (1) Except as otherwise provided in this section, every person  
18 furnishing professional services, materials, or equipment for the  
19 improvement of real property shall give the owner or reputed owner  
20 notice in writing of the right to claim a lien. If the prime  
21 contractor is in compliance with the requirements of RCW 19.27.095,  
22 60.04.230, and 60.04.261, this notice shall also be given to the prime  
23 contractor as described in this subsection unless the potential lien  
24 claimant has contracted directly with the prime contractor. The notice  
25 may be given at any time but only protects the right to claim a lien  
26 for professional services, materials, or equipment supplied after the  
27 date which is sixty days before:

28 (a) Mailing the notice by certified or registered mail to the owner  
29 or reputed owner; or

30 (b) Delivering or serving the notice personally upon the owner or  
31 reputed owner and obtaining evidence of delivery in the form of a  
32 receipt or other ((acknowledgement)) acknowledgment signed by the owner  
33 or reputed owner or an affidavit of service.

34 In the case of new construction of a single-family residence, the  
35 notice of a right to claim a lien may be given at any time but only  
36 protects the right to claim a lien for professional services,  
37 materials, or equipment supplied after ((a)) the date ((~~which is ten~~  
38 ~~days before~~)) the notice is given as described in this subsection.

1 (2) Notices of a right to claim a lien shall not be required of:

2 (a) Persons who contract directly with the owner or the owner's  
3 common law agent;

4 (b) Laborers whose claim of lien is based solely on performing  
5 labor; or

6 (c) Subcontractors who contract for the improvement of real  
7 property directly with the prime contractor, except as provided in  
8 subsection (3)(b) of this section.

9 (3) Persons who furnish professional services, materials, or  
10 equipment in connection with the repair, alteration, or remodel of an  
11 existing owner-occupied single-family residence or appurtenant garage  
12 or in connection with the new construction of a single-family residence  
13 for a residential homeowner:

14 (a) Who contract directly with the (~~owner-occupier~~) owner or  
15 (~~their~~) the owner's common law agent shall not be required to send a  
16 written notice of the right to claim a lien and shall have a lien for  
17 the full amount due under their contract, as provided in RCW 60.04.021;  
18 or

19 (b) Who do not contract directly with the (~~owner-occupier~~) owner  
20 or (~~their~~) the owner's common law agent shall give notice of the  
21 right to claim a lien to the (~~owner-occupier~~) owner. Liens of  
22 persons furnishing professional services, materials, or equipment who  
23 do not contract directly with the (~~owner-occupier~~) owner or (~~their~~)  
24 the owner's common law agent may only be satisfied from amounts not yet  
25 paid to the prime contractor by the owner at the time the notice  
26 described in this section is received, regardless of whether amounts  
27 not yet paid to the prime contractor are due, and these liens may not  
28 be satisfied if the owner or the owner's common law agent has paid the  
29 contractor, prior to receipt of the lien notice, for the services or  
30 supplies for which the lien is claimed. For the purposes of this  
31 subsection "received" means actual receipt of notice by personal  
32 service, or registered or certified mail, or three days after mailing  
33 by registered or certified mail, excluding Saturdays, Sundays, or legal  
34 holidays.

35 (4) The notice of right to claim a lien described in subsection (1)  
36 of this section, shall include but not be limited to the following  
37 information and shall substantially be in the following form, using  
38 lower-case and upper-case ten-point type where appropriate.

39 NOTICE TO OWNER

1                   IMPORTANT:  READ BOTH SIDES OF THIS NOTICE  
2   CAREFULLY.

3                   PROTECT YOURSELF FROM PAYING TWICE

4 To:           . . . . .   Date: . . . . .

5 Re:           (description of property:       Street address or general  
6       location.)

7 From:       . . . . .

8 AT THE REQUEST OF:           (Name of person ordering the professional  
9       services, materials, or equipment)

10 THIS IS NOT A LIEN--THIS NOTICE IS MEANT TO PROVIDE YOU WITH  
11 INFORMATION NECESSARY TO PROPERLY MANAGE YOUR CONSTRUCTION PROJECT:  
12 This notice is sent to you to tell you who is providing professional  
13 services, materials, or equipment for the improvement of your property  
14 and to advise you of the rights of these persons and your  
15 responsibilities.  Also take note that laborers on your project may  
16 claim a lien without sending you a notice.

17   OWNER/OCCUPIER OF EXISTING  
18   RESIDENTIAL PROPERTY AND/OR  
19   NEW RESIDENTIAL PROPERTY

20 Under Washington law, those who furnish labor, professional services,  
21 materials, or equipment for the repair, remodel, or alteration of your  
22 owner-occupied principal residence and who are not paid, have a right  
23 to enforce their claim for payment against your property.  This claim  
24 is known as a construction lien.

25 The law limits the amount that a lien claimant can claim against your  
26 property.  If the improvement to your property is the construction of  
27 a new single-family residence, a lien may be claimed for all  
28 professional services, materials, or equipment furnished after the date  
29 this notice was given to you or mailed to you.  Claims may only be made  
30 against that portion of the contract price you have not yet paid to  
31 your prime contractor as of the time this notice was given to you or  
32 three days after this notice was mailed to you.  Review the back of  
33 this notice for more information and ways to avoid lien claims.

1 COMMERCIAL ((~~AND/OR NEW~~  
2 ~~RESIDENTIAL~~)) PROPERTY

3 We have or will be providing professional services, materials, or  
4 equipment for the improvement of your commercial ((~~or new residential~~))  
5 project. In the event you or your contractor fail to pay us, we may  
6 file a lien against your property. A lien may be claimed for all  
7 professional services, materials, or equipment furnished after a date  
8 that is sixty days before this notice was given to you or mailed to  
9 you(~~(, unless the improvement to your property is the construction of~~  
10 ~~a new single-family residence, then ten days before this notice was~~  
11 ~~given to you or mailed to you))~~).

12 Sender: . . . . .  
13 Address: . . . . .  
14 Telephone: . . . . .

15 Brief description of professional services, materials, or equipment  
16 provided or to be provided: . . . . .

17 IMPORTANT INFORMATION  
18 ON REVERSE SIDE

19 IMPORTANT INFORMATION  
20 FOR YOUR PROTECTION

21 This notice is sent to inform you that we have or will provide  
22 professional services, materials, or equipment for the improvement of  
23 your property. We expect to be paid by the person who ordered our  
24 services, but if we are not paid, we have the right to enforce our  
25 claim by filing a construction lien against your property.

26 LEARN more about the lien laws and the meaning of this notice by  
27 discussing them with your contractor, suppliers, Department of Labor  
28 and Industries, the firm sending you this notice, your lender, or your  
29 attorney.

30 COMMON METHODS TO AVOID CONSTRUCTION LIENS: There are several methods  
31 available to protect your property from construction liens. The  
32 following are two of the more commonly used methods.

33 DUAL PAYCHECKS (Joint Checks): When paying your contractor for  
34 services or materials, you may make checks payable jointly to  
35 the contractor and the firms furnishing you this notice.

1 LIEN RELEASES: You may require your contractor to provide lien  
2 releases signed by all the suppliers and subcontractors from  
3 whom you have received this notice. If they cannot obtain lien  
4 releases because you have not paid them, you may use the dual  
5 payee check method to protect yourself.

6 YOU SHOULD TAKE APPROPRIATE STEPS TO PROTECT YOUR PROPERTY FROM LIENS.  
7 YOUR PRIME CONTRACTOR AND YOUR CONSTRUCTION LENDER ARE REQUIRED BY LAW  
8 TO GIVE YOU WRITTEN INFORMATION ABOUT LIEN CLAIMS. IF YOU HAVE NOT  
9 RECEIVED IT, ASK THEM FOR IT.

10 \* \* \* \* \*

11 (5) Every potential lien claimant providing professional services  
12 where no improvement as defined in RCW 60.04.011(5) (a) or (b) has been  
13 commenced, and the professional services provided are not visible from  
14 an inspection of the real property may record in the real property  
15 records of the county where the property is located a notice which  
16 shall contain the professional service provider's name, address,  
17 telephone number, legal description of the property, the owner or  
18 reputed owner's name, and the general nature of the professional  
19 services provided. If such notice is not recorded, the lien claimed  
20 shall be subordinate to the interest of any subsequent mortgagee and  
21 invalid as to the interest of any subsequent purchaser if the mortgagee  
22 or purchaser acts in good faith and for a valuable consideration  
23 acquires an interest in the property prior to the commencement of an  
24 improvement as defined in RCW 60.04.011(5) (a) or (b) without notice of  
25 the professional services being provided. The notice described in this  
26 subsection shall be substantially in the following form:

27 NOTICE OF FURNISHING  
28 PROFESSIONAL SERVICES

29 That on the \_\_\_(day)\_\_\_ day of \_\_\_(month and year)\_\_\_, \_\_\_(name of  
30 provider)\_\_\_ began providing professional services upon or for the  
31 improvement of real property legally described as follows:

32 [Legal Description  
33 is mandatory]

34 The general nature of the professional services provided is . . .  
35 . . . . .



1 The owner or reputed owner of the real property is . . . . .  
 2 . . . . .  
 3 . . . . .  
 4 (Signature)  
 5 . . . . .  
 6 (Name of Claimant)  
 7 . . . . .  
 8 (Street Address)  
 9 . . . . .  
 10 (City, State, Zip Code)  
 11 . . . . .  
 12 (Phone Number)

13 (6) A lien authorized by this chapter shall not be enforced unless  
 14 the lien claimant has complied with the applicable provisions of this  
 15 section.

16 (7) For the purposes of this section "commercial property" includes  
 17 residential property that is not owned by a residential homeowner.

18 **Sec. 12.** RCW 18.27.310 and 1993 c 454 s 10 are each amended to  
 19 read as follows:

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

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

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

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

5 **Sec. 13.** RCW 18.27.320 and 1993 c 454 s 11 are each amended to  
6 read as follows:

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

12 **Sec. 14.** RCW 18.27.340 and 1997 c 314 s 17 are each amended to  
13 read as follows:

14 (1) Except as otherwise provided in subsection (3) of this section,  
15 a contractor found to have committed an infraction under RCW 18.27.200  
16 shall be assessed a monetary penalty of not less than two hundred  
17 dollars and not more than five thousand dollars.

18 (2) The director may waive collection in favor of payment of  
19 restitution to a consumer complainant.

20 (3) A contractor found to have committed an infraction under RCW  
21 18.27.200 for failure to register shall be assessed a fine of not less  
22 than one thousand dollars, nor more than five thousand dollars. The  
23 director may reduce the penalty for failure to register, but in no case  
24 below five hundred dollars, if the person becomes registered within ten  
25 days of receiving a notice of infraction and the notice of infraction  
26 is for a first offense.

27 (~~((4) Monetary penalties collected under this chapter shall be~~  
28 ~~deposited in the general fund.))~~

29 NEW SECTION. **Sec. 15.** A new section is added to chapter 18.27 RCW  
30 to read as follows:

31 The department shall:

32 (1) Increase consumer awareness of the requirements of this chapter  
33 and the methods available to consumers to protect themselves against  
34 loss;

35 (2) Increase contractor awareness of the obligations imposed on  
36 contractors by this chapter;

1 (3) Use reasonable means to increase awareness, including but not  
2 limited to offering voluntary workshops, distributing brochures, and  
3 operating consumer and contractor internet and phone hotlines;

4 (4) Distribute model construction contracts and make them available  
5 to consumers and contractors; and

6 (5) Arrange for the airing of public service announcements on radio  
7 and television regarding consumer and contractor education services  
8 offered by the department.

9 NEW SECTION. **Sec. 16.** A new section is added to chapter 18.27 RCW  
10 to read as follows:

11 The contractor registration account is created in the state  
12 treasury. All receipts from registration, penalties, and other sources  
13 under this chapter must be deposited into the account. Moneys in the  
14 account may be spent only after appropriation. Expenditures from the  
15 account may be used only for the administration and enforcement of this  
16 chapter and to provide consumer education on issues related to this  
17 chapter and contractor education on contractor obligations under this  
18 chapter.

19 NEW SECTION. **Sec. 17.** A new section is added to chapter 18.27 RCW  
20 to read as follows:

21 (1) The legislature finds that unregistered contractors in  
22 Washington state harm the public, their workers, and contractors who  
23 have registered, and that it is contrary to public policy to allow  
24 unregistered contractors to continue doing business illegally.  
25 Unregistered contractors commonly fail to: Pay taxes which results in  
26 state taxpayers having to subsidize their illegal business activities;  
27 protect their workers with workers' compensation insurance; comply with  
28 worker safety and health laws; cover their workers with unemployment  
29 compensation; and comply with many other state laws and requirements.  
30 The legislature also finds that past coordinated efforts by agencies to  
31 identify unregistered contractors have demonstrated their effectiveness  
32 but have not been continued. It is the intention of the legislature  
33 that the department of labor and industries, the employment security  
34 department, and the department of revenue actively engage in  
35 cooperative enforcement efforts to reduce the number of unregistered  
36 contractors.

1 (2) The department of labor and industries, the employment security  
2 department, and the department of revenue shall establish an  
3 unregistered contractors enforcement team. The team shall develop a  
4 written plan to coordinate the activities of the participating agencies  
5 to enforce the state's contractor registration laws and rules, workers'  
6 compensation laws and rules, unemployment compensation laws and rules,  
7 sales tax laws and rules, excise tax laws and rules, as well as any  
8 other state laws and rules deemed appropriate by the team. In  
9 developing the plan, the team shall seek the input and advice of  
10 interested stakeholders who support the work of the team. The plan  
11 shall set out mechanisms to:

12 (a) Identify unregistered contractors doing business in Washington  
13 state; cite unregistered contractors for any violations of this chapter  
14 and other business and employer requirements; and apply the appropriate  
15 sanctions;

16 (b) Refer unregistered contractors for audit and assessment for all  
17 unpaid taxes, workers' compensation premiums, state unemployment  
18 contributions, and associated interest and penalties; and

19 (c) Ensure that unregistered contractors either cease doing  
20 business or make a good faith effort to comply with the laws of the  
21 state of Washington for those doing construction contracting.

22 The team's plan shall include provisions to minimize the time and  
23 costs imposed on registered contractors in determining if they are  
24 properly registered under this chapter.

25 The team shall also develop annual reports to the legislature on  
26 unregistered contractor enforcement activities and, by January 1st of  
27 each year, forward those reports in writing to the appropriate standing  
28 committees of the legislature and to the departments that contribute  
29 members to the team.

30 (3) By September 1, 2001, the director or the director's designee  
31 shall call the initial meeting of the unregistered contractors  
32 enforcement team. The team shall complete its first plan by December  
33 1, 2001, and begin implementation by January 1, 2002. The team may  
34 make revisions to its plan as the team deems necessary to assure the  
35 maximum effectiveness of the team's efforts.

36 (4) The team shall, on a quarterly basis, aggregate data on its  
37 efforts. The data shall include but not be limited to: The number of  
38 contractors contacted as a part of implementing the team's plan; the  
39 number of citations or other actions taken against contractors for

1 violations of this chapter or other laws or regulations; and the number  
2 of contractors referred for audit. For each set of numbers the team  
3 shall specify whether the contractors were registered or unregistered.  
4 The team shall make the quarterly data available to interested parties  
5 who request to receive the updates.

6 (5) The director shall provide the necessary administrative support  
7 for the team's meetings and activities.

8 (6) This section expires July 1, 2005.

9 NEW SECTION. **Sec. 18.** A new section is added to chapter 82.01 RCW  
10 to read as follows:

11 The director shall designate at least one individual from the  
12 department who has experience in identifying unregistered businesses  
13 and assessing such businesses for unpaid taxes to participate in the  
14 unregistered contractors enforcement team established in section 17 of  
15 this act. The director shall, each fiscal year, allocate a minimum of  
16 one-half full-time employees and necessary support from the  
17 department's budget to implement the plan of the team to identify  
18 unregistered contractors, impose appropriate sanctions for violations  
19 of this chapter, and refer them for appropriate audits and assessments.

20 This section expires July 1, 2005.

21 NEW SECTION. **Sec. 19.** A new section is added to chapter 50.08 RCW  
22 to read as follows:

23 The commissioner shall designate at least one individual from the  
24 employment security department who has experience in identifying  
25 businesses that fail to meet their unemployment compensation  
26 contribution requirements and assessing such businesses for unpaid  
27 contributions to participate on the unregistered contractors  
28 enforcement team established in section 17 of this act. The  
29 commissioner shall, each fiscal year, allocate a minimum of one-half  
30 full-time employees and necessary support from the employment security  
31 department's budget to implement the plan of the team to identify  
32 unregistered contractors, impose appropriate sanctions for violations  
33 of this chapter, and refer them for appropriate audits and assessments.

34 This section expires July 1, 2005.

35 NEW SECTION. **Sec. 20.** A new section is added to chapter 43.22 RCW  
36 to read as follows:

1       The director of labor and industries shall designate at least one  
2 individual from the department of labor and industries' programs to  
3 enforce chapter 18.27 RCW who has experience in identifying  
4 unregistered contractors and enforcing the requirements of this chapter  
5 on such individuals, and at least one individual from the department's  
6 programs to implement Title 51 RCW who has experience in identifying  
7 businesses that fail to meet their state industrial insurance  
8 contribution requirements and assessing such businesses for unpaid  
9 premiums to participate on the unregistered contractors enforcement  
10 team established in section 17 of this act. The director of labor and  
11 industries shall, each fiscal year, allocate a minimum of one-half  
12 full-time employees and necessary support from the department of labor  
13 and industries' budget from each division to implement the plan of the  
14 team to identify unregistered contractors and refer them for audit and  
15 assessment. The director shall authorize individuals from any agency  
16 who are implementing the team's plan to issue violations and citations  
17 authorized by this act for failing to be a registered contractor.

18       This section expires July 1, 2005.

19       **Sec. 21.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 5 are each amended  
20 to read as follows:

21       (1) All earnings of investments of surplus balances in the state  
22 treasury shall be deposited to the treasury income account, which  
23 account is hereby established in the state treasury.

24       (2) The treasury income account shall be utilized to pay or receive  
25 funds associated with federal programs as required by the federal cash  
26 management improvement act of 1990. The treasury income account is  
27 subject in all respects to chapter 43.88 RCW, but no appropriation is  
28 required for refunds or allocations of interest earnings required by  
29 the cash management improvement act. Refunds of interest to the  
30 federal treasury required under the cash management improvement act  
31 fall under RCW 43.88.180 and shall not require appropriation. The  
32 office of financial management shall determine the amounts due to or  
33 from the federal government pursuant to the cash management improvement  
34 act. The office of financial management may direct transfers of funds  
35 between accounts as deemed necessary to implement the provisions of the  
36 cash management improvement act, and this subsection. Refunds or  
37 allocations shall occur prior to the distributions of earnings set  
38 forth in subsection (4) of this section.

1 (3) Except for the provisions of RCW 43.84.160, the treasury income  
2 account may be utilized for the payment of purchased banking services  
3 on behalf of treasury funds including, but not limited to, depository,  
4 safekeeping, and disbursement functions for the state treasury and  
5 affected state agencies. The treasury income account is subject in all  
6 respects to chapter 43.88 RCW, but no appropriation is required for  
7 payments to financial institutions. Payments shall occur prior to  
8 distribution of earnings set forth in subsection (4) of this section.

9 (4) Monthly, the state treasurer shall distribute the earnings  
10 credited to the treasury income account. The state treasurer shall  
11 credit the general fund with all the earnings credited to the treasury  
12 income account except:

13 (a) The following accounts and funds shall receive their  
14 proportionate share of earnings based upon each account's and fund's  
15 average daily balance for the period: The capitol building  
16 construction account, the Cedar River channel construction and  
17 operation account, the Central Washington University capital projects  
18 account, the charitable, educational, penal and reformatory  
19 institutions account, the common school construction fund, the  
20 contractor registration account, the county criminal justice assistance  
21 account, the county sales and use tax equalization account, the data  
22 processing building construction account, the deferred compensation  
23 administrative account, the deferred compensation principal account,  
24 the department of retirement systems expense account, the drinking  
25 water assistance account, the Eastern Washington University capital  
26 projects account, the education construction fund, the emergency  
27 reserve fund, the federal forest revolving account, the health services  
28 account, the public health services account, the health system capacity  
29 account, the personal health services account, the state higher  
30 education construction account, the higher education construction  
31 account, the highway infrastructure account, the industrial insurance  
32 premium refund account, the judges' retirement account, the judicial  
33 retirement administrative account, the judicial retirement principal  
34 account, the local leasehold excise tax account, the local real estate  
35 excise tax account, the local sales and use tax account, the medical  
36 aid account, the mobile home park relocation fund, the multimodal  
37 transportation account, the municipal criminal justice assistance  
38 account, the municipal sales and use tax equalization account, the  
39 natural resources deposit account, the perpetual surveillance and

1 maintenance account, the public employees' retirement system plan 1  
2 account, the public employees' retirement system plan 2 account, the  
3 Puyallup tribal settlement account, the resource management cost  
4 account, the site closure account, the special wildlife account, the  
5 state employees' insurance account, the state employees' insurance  
6 reserve account, the state investment board expense account, the state  
7 investment board commingled trust fund accounts, the supplemental  
8 pension account, the teachers' retirement system plan 1 account, the  
9 teachers' retirement system combined plan 2 and plan 3 account, the  
10 tobacco prevention and control account, the tobacco settlement account,  
11 the transportation infrastructure account, the tuition recovery trust  
12 fund, the University of Washington bond retirement fund, the University  
13 of Washington building account, the volunteer fire fighters' and  
14 reserve officers' relief and pension principal fund, the volunteer fire  
15 fighters' and reserve officers' administrative fund, the Washington  
16 judicial retirement system account, the Washington law enforcement  
17 officers' and fire fighters' system plan 1 retirement account, the  
18 Washington law enforcement officers' and fire fighters' system plan 2  
19 retirement account, the Washington school employees' retirement system  
20 combined plan 2 and 3 account, the Washington state health insurance  
21 pool account, the Washington state patrol retirement account, the  
22 Washington State University building account, the Washington State  
23 University bond retirement fund, the water pollution control revolving  
24 fund, and the Western Washington University capital projects account.  
25 Earnings derived from investing balances of the agricultural permanent  
26 fund, the normal school permanent fund, the permanent common school  
27 fund, the scientific permanent fund, and the state university permanent  
28 fund shall be allocated to their respective beneficiary accounts. All  
29 earnings to be distributed under this subsection (4)(a) shall first be  
30 reduced by the allocation to the state treasurer's service fund  
31 pursuant to RCW 43.08.190.

32 (b) The following accounts and funds shall receive eighty percent  
33 of their proportionate share of earnings based upon each account's or  
34 fund's average daily balance for the period: The aeronautics account,  
35 the aircraft search and rescue account, the county arterial  
36 preservation account, the department of licensing services account, the  
37 essential rail assistance account, the ferry bond retirement fund, the  
38 grade crossing protective fund, the high capacity transportation  
39 account, the highway bond retirement fund, the highway safety account,



1 the motor vehicle fund, the motorcycle safety education account, the  
2 pilotage account, the public transportation systems account, the Puget  
3 Sound capital construction account, the Puget Sound ferry operations  
4 account, the recreational vehicle account, the rural arterial trust  
5 account, the safety and education account, the special category C  
6 account, the state patrol highway account, the transportation equipment  
7 fund, the transportation fund, the transportation improvement account,  
8 the transportation improvement board bond retirement account, and the  
9 urban arterial trust account.

10 (5) In conformance with Article II, section 37 of the state  
11 Constitution, no treasury accounts or funds shall be allocated earnings  
12 without the specific affirmative directive of this section.

13 **Sec. 22.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 6 are each amended  
14 to read as follows:

15 (1) All earnings of investments of surplus balances in the state  
16 treasury shall be deposited to the treasury income account, which  
17 account is hereby established in the state treasury.

18 (2) The treasury income account shall be utilized to pay or receive  
19 funds associated with federal programs as required by the federal cash  
20 management improvement act of 1990. The treasury income account is  
21 subject in all respects to chapter 43.88 RCW, but no appropriation is  
22 required for refunds or allocations of interest earnings required by  
23 the cash management improvement act. Refunds of interest to the  
24 federal treasury required under the cash management improvement act  
25 fall under RCW 43.88.180 and shall not require appropriation. The  
26 office of financial management shall determine the amounts due to or  
27 from the federal government pursuant to the cash management improvement  
28 act. The office of financial management may direct transfers of funds  
29 between accounts as deemed necessary to implement the provisions of the  
30 cash management improvement act, and this subsection. Refunds or  
31 allocations shall occur prior to the distributions of earnings set  
32 forth in subsection (4) of this section.

33 (3) Except for the provisions of RCW 43.84.160, the treasury income  
34 account may be utilized for the payment of purchased banking services  
35 on behalf of treasury funds including, but not limited to, depository,  
36 safekeeping, and disbursement functions for the state treasury and  
37 affected state agencies. The treasury income account is subject in all  
38 respects to chapter 43.88 RCW, but no appropriation is required for

1 payments to financial institutions. Payments shall occur prior to  
2 distribution of earnings set forth in subsection (4) of this section.

3 (4) Monthly, the state treasurer shall distribute the earnings  
4 credited to the treasury income account. The state treasurer shall  
5 credit the general fund with all the earnings credited to the treasury  
6 income account except:

7 (a) The following accounts and funds shall receive their  
8 proportionate share of earnings based upon each account's and fund's  
9 average daily balance for the period: The capitol building  
10 construction account, the Cedar River channel construction and  
11 operation account, the Central Washington University capital projects  
12 account, the charitable, educational, penal and reformatory  
13 institutions account, the common school construction fund, the  
14 contractor registration account, the county criminal justice assistance  
15 account, the county sales and use tax equalization account, the data  
16 processing building construction account, the deferred compensation  
17 administrative account, the deferred compensation principal account,  
18 the department of retirement systems expense account, the drinking  
19 water assistance account, the Eastern Washington University capital  
20 projects account, the education construction fund, the emergency  
21 reserve fund, the federal forest revolving account, the health services  
22 account, the public health services account, the health system capacity  
23 account, the personal health services account, the state higher  
24 education construction account, the higher education construction  
25 account, the highway infrastructure account, the industrial insurance  
26 premium refund account, the judges' retirement account, the judicial  
27 retirement administrative account, the judicial retirement principal  
28 account, the local leasehold excise tax account, the local real estate  
29 excise tax account, the local sales and use tax account, the medical  
30 aid account, the mobile home park relocation fund, the multimodal  
31 transportation account, the municipal criminal justice assistance  
32 account, the municipal sales and use tax equalization account, the  
33 natural resources deposit account, the perpetual surveillance and  
34 maintenance account, the public employees' retirement system plan 1  
35 account, the public employees' retirement system combined plan 2 and  
36 plan 3 account, the Puyallup tribal settlement account, the resource  
37 management cost account, the site closure account, the special wildlife  
38 account, the state employees' insurance account, the state employees'  
39 insurance reserve account, the state investment board expense account,

1 the state investment board commingled trust fund accounts, the  
2 supplemental pension account, the teachers' retirement system plan 1  
3 account, the teachers' retirement system combined plan 2 and plan 3  
4 account, the tobacco prevention and control account, the tobacco  
5 settlement account, the transportation infrastructure account, the  
6 tuition recovery trust fund, the University of Washington bond  
7 retirement fund, the University of Washington building account, the  
8 volunteer fire fighters' and reserve officers' relief and pension  
9 principal fund, the volunteer fire fighters' and reserve officers'  
10 administrative fund, the Washington judicial retirement system account,  
11 the Washington law enforcement officers' and fire fighters' system plan  
12 1 retirement account, the Washington law enforcement officers' and fire  
13 fighters' system plan 2 retirement account, the Washington school  
14 employees' retirement system combined plan 2 and 3 account, the  
15 Washington state health insurance pool account, the Washington state  
16 patrol retirement account, the Washington State University building  
17 account, the Washington State University bond retirement fund, the  
18 water pollution control revolving fund, and the Western Washington  
19 University capital projects account. Earnings derived from investing  
20 balances of the agricultural permanent fund, the normal school  
21 permanent fund, the permanent common school fund, the scientific  
22 permanent fund, and the state university permanent fund shall be  
23 allocated to their respective beneficiary accounts. All earnings to be  
24 distributed under this subsection (4)(a) shall first be reduced by the  
25 allocation to the state treasurer's service fund pursuant to RCW  
26 43.08.190.

27 (b) The following accounts and funds shall receive eighty percent  
28 of their proportionate share of earnings based upon each account's or  
29 fund's average daily balance for the period: The aeronautics account,  
30 the aircraft search and rescue account, the county arterial  
31 preservation account, the department of licensing services account, the  
32 essential rail assistance account, the ferry bond retirement fund, the  
33 grade crossing protective fund, the high capacity transportation  
34 account, the highway bond retirement fund, the highway safety account,  
35 the motor vehicle fund, the motorcycle safety education account, the  
36 pilotage account, the public transportation systems account, the Puget  
37 Sound capital construction account, the Puget Sound ferry operations  
38 account, the recreational vehicle account, the rural arterial trust  
39 account, the safety and education account, the special category C

1 account, the state patrol highway account, the transportation equipment  
2 fund, the transportation fund, the transportation improvement account,  
3 the transportation improvement board bond retirement account, and the  
4 urban arterial trust account.

5 (5) In conformance with Article II, section 37 of the state  
6 Constitution, no treasury accounts or funds shall be allocated earnings  
7 without the specific affirmative directive of this section.

8 **Sec. 23.** RCW 18.27.075 and 1983 c 74 s 2 are each amended to read  
9 as follows:

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

16 NEW SECTION. **Sec. 24.** Section 21 of this act expires March 1,  
17 2002.

18 NEW SECTION. **Sec. 25.** Section 22 of this act takes effect March  
19 1, 2002.

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