

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2510**

Chapter 97, Laws of 2004

58th Legislature  
2004 Regular Session

TAX DELINQUENCY ASSESSMENTS--SUCCESSOR EMPLOYEES

EFFECTIVE DATE: 6/10/04

Passed by the House February 12, 2004  
Yeas 96 Nays 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate March 11, 2004  
Yeas 49 Nays 0

BRAD OWEN

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**President of the Senate**

Approved March 24, 2004.

GARY F. LOCKE

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**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2510** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

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**Chief Clerk**

FILED

March 24, 2004 - 2:12 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2510**

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Passed Legislature - 2004 Regular Session

**State of Washington                      58th Legislature                      2004 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Conway, McCoy, Condotta, McMorris and Chase; by request of Employment Security Department)

READ FIRST TIME 02/04/04.

1            AN ACT Relating to tax delinquency assessments for successor  
2 employers; and amending RCW 50.12.220.

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

4            **Sec. 1.** RCW 50.12.220 and 2003 2nd sp.s. c 4 s 22 are each amended  
5 to read as follows:

6            (1)(a) If an employer fails to file in a timely and complete manner  
7 a report required by RCW 50.12.070, or the rules adopted pursuant  
8 thereto, the employer shall be subject to a penalty to be determined by  
9 the commissioner, but not to exceed two hundred fifty dollars or ten  
10 percent of the quarterly contributions for each such offense, whichever  
11 is less.

12            (b) If an employer knowingly misrepresents to the employment  
13 security department the amount of his or her payroll upon which  
14 contributions under this title are based, the employer shall be liable  
15 to the state for up to ten times the amount of the difference in  
16 contributions paid, if any, and the amount the employer should have  
17 paid and for the reasonable expenses of auditing his or her books and  
18 collecting such sums. Such liability may be enforced in the name of  
19 the department.

1 (c) If any part of a delinquency for which an assessment is made  
2 under this title is due to an intent to evade the successorship  
3 provisions of RCW 50.29.062, then for the calendar year in which the  
4 commissioner makes the determination under this subsection, the  
5 commissioner shall assign to the employer, and to any business found to  
6 be promoting the evasion of such provisions, the ~~((tax))~~ contribution  
7 rate determined for that calendar year under RCW 50.29.025, including  
8 the solvency surcharge, if any, for rate class 20 or rate class 40, as  
9 applicable, ~~((for five consecutive calendar quarters, beginning with~~  
10 ~~the calendar quarter in which the intent to evade such provision is~~  
11 ~~found))~~ plus two percent.

12 (2) If contributions are not paid on the date on which they are due  
13 and payable as prescribed by the commissioner, there shall be assessed  
14 a penalty of five percent of the amount of the contributions for the  
15 first month or part thereof of delinquency; there shall be assessed a  
16 total penalty of ten percent of the amount of the contributions for the  
17 second month or part thereof of delinquency; and there shall be  
18 assessed a total penalty of twenty percent of the amount of the  
19 contributions for the third month or part thereof of delinquency. No  
20 penalty so added shall be less than ten dollars. These penalties are  
21 in addition to the interest charges assessed under RCW 50.24.040.

22 (3) Penalties shall not accrue on contributions from an estate in  
23 the hands of a receiver, executor, administrator, trustee in  
24 bankruptcy, common law assignee, or other liquidating officer  
25 subsequent to the date when such receiver, executor, administrator,  
26 trustee in bankruptcy, common law assignee, or other liquidating  
27 officer qualifies as such, but contributions accruing with respect to  
28 employment of persons by a receiver, executor, administrator, trustee  
29 in bankruptcy, common law assignee, or other liquidating officer shall  
30 become due and shall be subject to penalties in the same manner as  
31 contributions due from other employers.

32 (4) Where adequate information has been furnished to the department  
33 and the department has failed to act or has advised the employer of no  
34 liability or inability to decide the issue, penalties shall be waived  
35 by the commissioner. Penalties may also be waived for good cause if  
36 the commissioner determines that the failure to timely file reports or  
37 pay contributions was not due to the employer's fault.

1           (5) Any decision to assess a penalty as provided by this section  
2 shall be made by the chief administrative officer of the tax branch or  
3 his or her designee.

4           (6) Nothing in this section shall be construed to deny an employer  
5 the right to appeal the assessment of any penalty. Such appeal shall  
6 be made in the manner provided in RCW 50.32.030.

Passed by the House February 12, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 24, 2004.

Filed in Office of Secretary of State March 24, 2004.