

2SSB 5773 - S AMD 361
By Senator Fraser

ADOPTED 03/15/2005

1 On page 2, beginning on line 33, after "principals," strike all
2 material through "have" on line 34 and insert "and the employee with
3 the greatest executive,"

4 On page 2, line 28, after "section" strike "6" and insert "4"

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5 On page 3, line 1, after "the" strike "six" and insert "three"

6 On page 3, beginning on line 11, after "principals," strike all
7 material through "have" on line 12 and insert "and the employee with
8 the greatest executive,"

9 On page 3, at the beginning of line 16, after "the" strike "six"
10 and insert "three"

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11 On page 4, line 5, after "homeowner." insert "Nothing in this
12 section requires a contractor to create or maintain a separate account

1 for each homeowner."

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2 On page 5, line 27, after "against" insert "the prime residential
3 contractor or"

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4 On page 6, line 7, after "against" insert "the residential
5 subcontractor or"

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6 On page 7, line 4, after "the" strike "six" and insert "three"

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1 On page 8, line 8, after "Within" strike "fourteen" and insert
2 "thirty"

3 On page 8, line 10, after "within" strike "forty-two" and insert
4 "sixty"

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5 On page 10, line 6, after "perjury," insert "(a) a notarized
6 statement stating that the homeowner paid the contractor for all
7 amounts the contractor informed the homeowner were owed to the lien
8 claimant, and that the homeowner did not receive written notice from
9 the contractor, as provided under section 2(3)(b)(ii) of this act,
10 indicating the contractor did not intend to fully pay the lien
11 claimant; and (b)"

12 On page 10, line 17, after "filed." insert "The effective date of
13 the suspension shall be the date that the contractor completes work on
14 all construction projects in progress on the date of the notice from
15 the department as provided for under subsection (5) of this section."

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1 On page 21, line 16, after "other" strike "acknowledgement" and
2 insert "~~((acknowledgement))~~ acknowledgment"

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3 On page 27, line 4, after "of the" strike "six" and insert "three"

4 On page 27, beginning on line 9, after "principal," strike all
5 material through "physical" on line 10 and insert "and the employee
6 with the greatest executive, physical,"

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7 On page 32, beginning on line 8, after "principals," strike all
8 material through "physical" on line 9 and insert "and the employee with
9 the greatest executive, physical,"

EFFECT: (1) Clarifies that the employee with the greatest control over the contractor's accounting or disbursement of funds, and not certain other employees involved in the purchase and accounting

activities of the contractor, are among those personally liable for a contractor's failure to comply with its fiduciary duty, and must be identified to L&I;

(2) Reduces from six to three the number of the most highly compensated members of the contractor's business who are among those personally liable for a contractor's failure to comply with its fiduciary duty, and that must be identified to L&I;

(3) Clarifies that a residential contractor or subcontractor is not required to maintain a separate account for each homeowner;

(4) Clarifies that a contractor becomes personally liable when a lien is recorded against either the nonpaying contractor or the homeowner;

(5) Allows contractors to complete construction projects that are in progress at the time that the contractor violates its fiduciary duty;

(6) Provides more time for suppliers to work with nonpaying contractors before notifying homeowners, which begins a process that can result in a contractor being required to post additional security with L&I; and

(7) Clarifies the content of the notice the homeowner may file with L&I in order to require a contractor to post additional security.

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