

# HOUSE BILL REPORT

## SB 5795

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### As Passed House:

April 12, 2019

**Title:** An act relating to construction contractors but only with respect to providing financial recourse to harmed consumers not to include a warranty and creating a work group.

**Brief Description:** Increasing contractor bonding requirements.

**Sponsors:** Senators Zeiger and Saldaña; by request of Department of Labor & Industries.

### Brief History:

#### Committee Activity:

Labor & Workplace Standards: 3/18/19, 3/21/19 [DP].

#### Floor Activity:

Passed House: 4/12/19, 96-0.

### Brief Summary of Bill

- Allows the Director of the Department of Labor and Industries (Department) to increase a contractor's bond amount by up to three times the normal amount if the applicant has had in the past five years one, rather than three, judgments involving a single-family dwelling.
- Requires the Department to convene a work group to consider additional consumer safeguards including bond amounts, additional criteria for contractors, changes to options for consumer recovery, and other matters.

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## HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass. Signed by 7 members: Representatives Sells, Chair; Chapman, Vice Chair; Mosbrucker, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Gregerson, Hoff and Ormsby.

**Staff:** Joan Elgee (786-7106).

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

General and specialty contractors must register with the Department of Labor and Industries (Department). A general contractor works in more than one building trade or craft upon a single job or project or under a single building permit. A specialty contractor works in one trade or craft. To register as a general or specialty contractor, an applicant must file a bond and proof of insurance and pay a fee with the submission of the application.

The bond amount is \$12,000 for a general contractor and \$6,000 for a specialty contractor. The bond is conditioned upon the contractor paying: persons performing labor for the contractor, persons furnishing material or renting or supplying equipment to the contractor, amounts adjudged against the contractor for breach of contract, and taxes due to the state. A contractor may file an assigned savings account in lieu of a bond.

A person with a claim against a contractor may bring a lawsuit against the contractor and the bond in superior court. The surety must be named as a party and service of process is by serving the Department. If claims exceed the amount of the bond, the claims are satisfied in the following order:

1. employee labor;
2. breach of contract;
3. subcontractors, material, and equipment;
4. taxes; and
5. any court costs, interest, and attorneys' fees.

One-half of the bond amount is protected for residential homeowners. For a claim against a specialty contractor, the protected amount is one-half the bond amount or \$4,000, whichever is greater.

The Director of the Department (Director) may require an applicant applying to renew, reinstate, or apply for a new registration to file a bond of up to three times the normal amount if the Director determines that the applicant, or a previous registration of a corporate officer, owner, or partner of a current applicant, has had in the past five years three final judgments involving a residential single-family dwelling on two or more different structures.

### **Summary of Bill:**

The Director's authority to require a higher bond amount is modified to allow the Director to require up to three times the normal bond amount if there has been one judgment against the contractor involving a residential single-family dwelling.

The Department must convene a work group by August 1, 2019, to consider additional safeguards for consumers who engage contractors. The work group participants must include:

- Department staff;
- large and small contractors that primarily contract with residential homeowners, contractors that build new and rehabilitate residences, and other interested contractors;
- surety bond companies;
- realtors or their representatives;
- workers and/or their representatives;

- representatives from the consumer protection division of the Office of the Attorney General;
- consumers and/or consumer advocates; and
- local building officials.

The work group must submit a report with recommendations to the Department and, if applicable, to the appropriate committees of the Legislature by June 30, 2020. The report must address whether:

- bond amounts are sufficient and appropriate to protect consumers, workers, and suppliers, and meet tax obligations;
- additional criteria for contractors would provide a greater level of protection;
- strategies to discourage the transfer of a business to a different entity to evade penalties or judgements should be implemented;
- any other registration requirements or options for consumer recovery should be changed to increase protections for consumers; and
- incentives to adopt industry best practices would increase consumer protection.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) There is little legal accountability for contractors who do shoddy work. The bill will increase consumer protection by giving the Department the discretion to increase the bond amount by up to three times if the superior court issues a judgment against the contractor. Consumers will be able to recoup more money. The consensus-based work group is a good idea. Best practices for contractors will improve the built environment.

(Opposed) None.

(Other) The work group is supported. The bill takes the right approach of penalizing the bad actors but having two judgments, rather than one, should be required.

**Persons Testifying:** (In support) Senator Zeiger, prime sponsor; Tammy Fellin, Department of Labor and Industries; and Lee Kranz, Washington Association of Building Officials.

(Other) Tom Kwieciak, Building Industry Association of Washington.

**Persons Signed In To Testify But Not Testifying:** None.