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**Labor & Workplace Standards  
Committee**

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**HB 1534**

**Brief Description:** Strengthening protections for consumers in the construction industry.

**Sponsors:** Representatives Orwall, Berry and Fosse.

**Brief Summary of Bill**

- Raises the required bond amounts for contractor registration from \$12,000 to \$30,000 for general contractors and from \$6,000 to \$15,000 for specialty contractors.
- Requires the Department of Labor and Industries to deny an application for registration when the applicant is a successor to a business entity with an unsatisfied final judgment against it.
- Raises the fine for failure to register as a contractor from a range of \$1,000 to \$5,000 to a range of \$1,200 to \$6,000.
- Requires fines and penalties collected under the Contractor Registration Act to be deposited into the Homeowner Recovery Account.
- Establishes the Homeowner Recovery Program for eligible homeowners to receive recovery payments of up to \$25,000 from the Homeowner Recovery Account based on unsatisfied final judgments brought against registered contractors, subject to certain requirements and limitations.

**Hearing Date:** 2/7/23

**Staff:** Kelly Leonard (786-7147).

**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 part of the legislation nor does it constitute a statement of legislative intent.*

The Contractor Registration Act requires general and specialty contractors to register with the Department of Labor and Industries (L&I). A general contractor works in more than one building trade or craft upon a single job or project or under a single building permit, whereas 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.

*Contractor bonds.* The required 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. 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. If a residential homeowner prevails in a claim for breach of contract, the homeowner is entitled to costs, interest, and reasonable attorneys' fees.

*Applicants with prior judgments.* L&I is required to deny an application for registration under certain circumstances, including for example, when the applicant has an unsatisfied final judgment against him or her relating to work governed under the Contractor Registration Act or when the applicant owes L&I money for penalties resulting from a final judgment. Further, L&I 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 it determines that the applicant, or a previous registration of a corporate officer, owner, or partner of a current applicant, has had a final judgment involving a residential single-family dwelling on two or more different structures in the previous five years.

*Fees and penalties.* L&I is required to charge fees for issuance, renewal, and reinstatement of certificates of registration, among other transactions under the Contractor Registration Act. L&I sets the amount of the fees by rule. Revenues from those fees and other charges, excluding penalties, pertaining to contractor registration and other programs are deposited into the Construction Registration Inspection Account. Revenues from the Construction Registration Inspection Account are used for administering those related programs; however, until July 1, 2023, 7 percent of the revenues are transferred into the State General Fund.

Certain penalties apply for violations of the Contractor Registration Act. L&I must assess a fine of not less than \$1,000, nor more than \$5,000, for failure to register as a contractor. However, L&I may reduce the fine to \$500 for a first violation if the person registers within ten days of receiving notice. For other violations, L&I must assess a penalty of not less than \$200, nor more than \$5,000. This includes, for example, violations involving: advertising, offering to do work, submitting a bid, or performing any work as a contractor without being registered or with a suspended registration; transferring valid registration to an unregistered contractor or allowing an unregistered contractor to work under a registration issued to another contractor; or using an unregistered subcontractor. Revenues from penalties are deposited into the State General Fund.

### **Summary of Bill:**

*Contractor bonds.* For initial registrations and renewal contractor registrations occurring on or after July 1, 2024, the required bond amount is increased to \$30,000 for general contractors and \$15,000 for specialty contractors.

*Applicants with prior judgments.* L&I is required to deny an application for registration when the applicant is a successor to a business entity with an unsatisfied final judgment against it relating to work governed by the Contractor Registration Act, or a business entity that owes L&I money for penalties assessed or fees as a result of a final judgment. A "successor" means a contractor who acquires through sale, lease, gift, or any process, all or part of the operating assets of another business entity, where the contractor is under substantially common ownership, management, or control of the other business entity.

L&I is also required to deny an application for registration when the applicant is under 18 years old at the time of application.

*Fees and penalties.* The expiration date for the transfer of 7 percent of the revenues from the Construction Registration Inspection Account to the State General Fund is removed, thereby making that transfer ongoing.

Beginning July 1, 2024, the fine for failure to register as a contractor is increased to a range of \$1,200 to \$6,000. L&I may reduce the fee to no less than \$600 for a first violation if the person registers within ten days of receiving notice.

The Homeowner Recovery Account is established. Revenues from all fines and penalties collected by L&I under the Contractor Registration Act must be transferred into the Homeowner Recovery Account. Expenditures from the Homeowner Recovery Account may only be used for the Homeowner Recovery Program established in the bill.

*Homeowner Recovery Program.* Subject to a specific appropriation, the Homeowner Recovery Program (Program) is created and administered by L&I. Beginning July 1, 2026, a claimant is eligible to recover from the Program after making a claim, provided that each of the following

conditions is satisfied:

- the claimant has a final judgment in a court of competent jurisdiction against a registered contractor on the claimant's primary residence;
- the judgement specifies the actual damages suffered as a consequence of the claim;
- the claimant has proceeded against any existing bond covering the contractor;
- the judgment has not been satisfied in full; and
- the claim for recovery under the Program is made within 90 days after the conclusion of any civil action.

Payments for an eligible claim are made from the Homeowner Recovery Account. Payment is limited to actual damages awarded in a final judgment after recovery against the bond. Payments for other costs related to or pursuant to civil proceedings, such as attorneys' fees, court costs, or punitive damages, are prohibited. Payments may not exceed \$25,000 per contractor per parcel, or the amount unpaid on the judgment, whichever is less.

If a claimant is issued payment, the claimant must assign his or her right, title, and interest in any final judgment to L&I to the extent of such payment. L&I may pursue reimbursement from the contractor, the insurer, or any third party for the amount paid from the Homeowner Recovery Account. L&I may establish reimbursement payment plans up to 36 months, but any payment plan longer than 12 months must assess interest at a rate that is the prime rate plus two percent. L&I may also suspend or revoke registration based on missed payments. Reimbursements must be deposited into the Homeowner Recovery Account.

The priority of payment for eligible claims must be by the order of receipt by L&I. Total payments from the Homeowner Recovery Account for each fiscal year may not exceed 20 percent of the account balance at the end of that fiscal year. L&I must create and maintain a waitlist for any eligible claims unpaid due to insufficient funds in the Homeowner Recovery Account. The waitlist must preserve the order of receipt, and L&I may carry over a waitlist and authorize payments to eligible claims from previous fiscal years.

From 2024 through 2030, L&I must submit to the Legislature an annual report on the total applications to and payments made under the Program and the status of the Homeowner Recovery Account.

**Appropriation:** None.

**Fiscal Note:** Requested on February 1, 2023.

**Effective Date:** Sections 10 of the bill contain an emergency clause and takes effect June 30, 2023. The remainder of the bill contains multiple effective dates. Please see the bill.