

CHAPTER 153

[Engrossed Senate Bill No. 2544]

CONTRACTORS--REGISTRATION, REGULATION--
DEPARTMENT OF LABOR AND INDUSTRIES

AN ACT Relating to the registration and regulation of contractors; amending section 1, chapter 77, Laws of 1963 as last amended by section 1, chapter 118, Laws of 1972 ex. sess. and RCW 18.27.010; amending section 2, chapter 77, Laws of 1963 and RCW 18.27.020; amending section 3, chapter 77, Laws of 1963 and RCW 18.27.030; amending section 4, chapter 77, Laws of 1963 as last amended by section 2, chapter 118, Laws of 1972 ex. sess. and RCW 18.27.040; amending section 7, chapter 77, Laws of 1963 as amended by section 2, chapter 126, Laws of 1967 and RCW 18.27.070; amending section 9, chapter 77, Laws of 1963 as last amended by section 3, chapter 126, Laws of 1967 and RCW 18.27.090; amending section 5, chapter 118, Laws of 1972 ex. sess. and RCW 18.27.120; amending section 43.22.010, chapter 8, Laws of 1965 as last amended by section 2, chapter 66, Laws of 1971 and RCW 43.22.010; and prescribing penalties.

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

Section 1. Section 1, chapter 77, Laws of 1963 as last amended by section 1, chapter 118, Laws of 1972 ex. sess. and RCW 18.27.010 are each amended to read as follows:

A "contractor" as used in this chapter is any person, firm or corporation who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish, for another, any building, highway, road, railroad, excavation or other structure, project, development, or improvement attached to real estate or to do any part thereof including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works in connection therewith or who installs or repairs roofing or siding; or, who, to do similar work upon his own property, employs members of more than one trade upon a single job or project or under a single building permit except as otherwise provided herein. A "general contractor" is a contractor whose business operations require the use of more than two unrelated building trades or crafts whose work the contractor shall superintend or do in whole or in part; the term "general contractor" shall not include an individual who does all work personally without employees or other "specialty contractors" as defined herein. The terms "general contractor" and "builder" are synonymous. A "specialty contractor" is a contractor whose operations as such do not fall within the foregoing definition of "general contractor".

"Department" as used in this chapter means the department of labor and industries.

"Director" as used in this chapter means the director of the department of labor and industries.

Sec. 2. Section 2, chapter 77, Laws of 1963 and RCW 18.27.020 are each amended to read as follows:

(1) It shall be unlawful for any person to submit any bid or do any work as a contractor until such person shall have been issued a certificate of registration by the state department of ((licenses)) labor and industries. A partnership or joint venture shall be deemed registered if any one of the general partners or venturers whose name appears in the name under which the partnership or venture does business shall be registered. A violation of this section shall be a misdemeanor.

(2) In addition to any criminal penalties which may be imposed under the provisions of subsection (1) of this section, any person who is found to be in violation of this section by the director at a hearing held in accordance with the Administrative Procedure Act, chapter 34.04 RCW, shall be required to pay a late registration penalty of not more than one hundred dollars, such amount to be set by the director, in addition to the registration fee provided in RCW 18.27.070, as now or hereafter amended.

Sec. 3. Section 3, chapter 77, Laws of 1963 and RCW 18.27.030 are each amended to read as follows:

An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director ((of licenses)) and which shall include the following information pertaining to the applicant((+)) :

- (1) Employer social security number.
- (2) Industrial insurance number.
- (3) Employment security department number.
- (4) State excise tax registration number.
- (5) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.
- (6) The name and address of each partner if the applicant be a firm or partnership, or the name and address of the owner if the applicant be an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant be a corporation. The information contained in such application shall be a matter of public record and open to public inspection.

Sec. 4. Section 4, chapter 77, Laws of 1963 as last amended by section 2, chapter 118, Laws of 1972 ex. sess. and RCW 18.27.040 are each amended to read as follows:

Each applicant shall, at the time of applying for a certificate of registration, file with the department ((of motor

vehicles)) a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in a form acceptable to the department ((of motor vehicles)) running to the state of Washington if a general contractor, in the sum of ((two)) two thousand dollars; if a specialty contractor, in the sum of ((one)) one thousand dollars, conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing labor or material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of negligent or improper work or breach of contract in the conduct of the contracting business. Any person having a claim against the contractor for any of the items referred to in this section may bring suit upon such bond in the superior court of the county in which the work is done or of any county in which jurisdiction of the contractor may be had. Action upon such bond or deposit shall be commenced by serving and filing of the complaint within one year from the date of expiration of the certificate of registration in force at the time the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was completed. Three copies of the complaint shall be served by registered or certified mail upon the department ((of motor vehicles)) at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Such service shall constitute service on the registrant and the surety for suit upon the bond and the department shall transmit the complaint or a copy thereof to the registrant at the address listed in his application and to the surety within forty-eight hours after it shall have been received. The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and pending at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

- (1) Labor, including employee benefits;
- (2) Claims for breach of contract by a party to the construction contract;
- (3) Material and equipment;
- (4) Taxes and contributions due the state of Washington;

(5) Any court costs, interest, and attorney's fees plaintiff may be entitled to recover.

In the event that any final judgment shall impair the liability of the surety upon the bond so furnished that there shall not be in effect a bond undertaking in the full amount prescribed in this section, the department shall suspend the registration of such contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims shall have been furnished.

In lieu of the surety bond required by this section the contractor may file with the department a deposit consisting of cash or other security acceptable to the department.

Any person having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

The director may promulgate rules and regulations necessary for the proper administration of the security.

Sec. 5. Section 7, chapter 77, Laws of 1963 as amended by section 2, chapter 126, Laws of 1967 and RCW 18.27.070 are each amended to read as follows:

The applicant shall pay to the director ((of licenses)) a registration or renewal fee of, if a general contractor, or if a specialty contractor, fifteen dollars.

Sec. 6. Section 9, chapter 77, Laws of 1963 as last amended by section 3, chapter 126, Laws of 1967 and RCW 18.27.090 are each amended to read as follows:

This chapter shall not apply to:

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

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

(3) Public utilities operating under the regulations of the public service commission in construction, maintenance, or development work incidental to their own business;

(4) Any construction, repair, or operation incidental to the

discovering or producing of petroleum or gas, or the drilling, testing, abandoning, or other operation of any petroleum or gas well or any surface or underground mine or mineral deposit when performed by an owner or lessee;

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

(6) Any construction, alteration, improvement, or repair of personal property;

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

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

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

(10) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts or reclamation districts; or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising; or to clearing or other work upon land in rural districts for fire prevention purposes; except when any of the above work is performed by a registered contractor;

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

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

the improved property;

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

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

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

(16) Contractors on highway projects who have been prequalified as required by chapter 13 of the Laws of 1961, RCW 47.28.070, with the highway department to perform highway construction, reconstruction, or maintenance work.

Sec. 7. Section 5, chapter 118, Laws of 1972 ex. sess. and RCW 18.27.120 are each amended to read as follows:

The department ((of motor vehicles)) shall annually, starting July 1, 1973, compile a list of all contractors registered pursuant to the provisions of this chapter and update such list at least bimonthly. Such list shall be considered as public record information and shall be available to the public upon request: PROVIDED, That the department may charge a reasonable reproduction fee.

Sec. 8. Section 43.22.010, chapter 8, Laws of 1965 as last amended by section 2, chapter 66, Laws of 1971 and RCW 43.22.010 are each amended to read as follows:

The department of labor and industries shall be organized into six divisions, to be known as, (1) the division of industrial insurance, (2) the division of safety, (3) the division of mining safety, (4) the division of industrial relations, (5) the division of apprenticeship, and (6) the division of building and construction safety inspection services, which ((last mentioned)) division shall have responsibility for electrical inspection, mobile home inspection, elevator inspection, except as otherwise provided in RCW 70.87.030, boiler inspection, and ((hotel inspection)) registration and regulation of contractors. The director may appoint such clerical and other assistants as may be necessary for the general

administration of the department.

Passed the Senate April 11, 1973.

Passed the House April 10, 1973.

Approved by the Governor April 24, 1973.

Filed in Office of Secretary of State April 25, 1973.

CHAPTER 154

[Engrossed Senate Bill No. 2502]

EQUAL RIGHTS

AN ACT Relating to equal rights; amending section 3, chapter 229, Laws of 1937 as last amended by section 5, chapter 30, Laws of 1971 and RCW 2.12.030; amending section 2, chapter 123, Laws of 1917 and RCW 4.20.020; amending section 495, page 220, Laws of 1854 as last amended by section 1, chapter 156, Laws of 1927 and RCW 4.20.060; amending section 9, page 4, Laws of 1869 as last amended by section 1, chapter 81, Laws of 1967 ex. sess. and RCW 4.24.010; amending section 10, page 4, Laws of 1869 as last amended by section 10, Code of 1881 and RCW 4.24.020; amending section 2, chapter 64, Laws of 1895 and RCW 6.12.020; amending section 3, chapter 64, Laws of 1895 and RCW 6.12.030; amending section 30, chapter 64, Laws of 1895 and RCW 6.12.040; amending section 31, chapter 64, Laws of 1895 and RCW 6.12.060; amending section 21, chapter 64, Laws of 1895 and RCW 6.12.260; amending section 25, chapter 64, Laws of 1895 as last amended by section 5, chapter 292, Laws of 1971 ex. sess. and RCW 6.12.290; amending section 2, chapter 57, Laws of 1897 as amended by section 6, chapter 292, Laws of 1971 ex. sess. and RCW 6.16.010; amending section 253, page 178, Laws of 1854 as last amended by section 1, chapter 89, Laws of 1965 and RCW 6.16.020; amending section 252, page 178, Laws of 1854 as last amended by section 341, Code of 1881 and RCW 6.16.070; amending section 346, page 88, Laws of 1869 as last amended by section 349, Code of 1881 and RCW 6.16.090; amending section 2, page 39, Laws of 1886 as amended by section 1, chapter 159, Laws of 1923 and RCW 7.12.020; amending section 456, page 214, Laws of 1854 as last amended by section 688, Code of 1881 and RCW 7.36.020; amending section 13, page 81, Laws of 1875 as amended by section 1247, Code of 1881 and RCW 7.48.240; amending section 38, page 108, Laws of 1854 as last amended by section 1931, Code of 1881 and RCW 10.16.150; amending section 33, page 80, Laws of 1854 as last amended by section 183, chapter 249, Laws of 1909 and RCW