

(11) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed, if such there be.

(12) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

(13) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

(14) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his usual abode with some person of suitable age and discretion then resident therein.

Service made in the modes provided in this section shall be taken and held to be personal service.

Passed the House April 21, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

CHAPTER 362

[Engrossed Substitute Senate Bill No. 5024]

CONTRACTORS—REGISTRATION CONDITIONS AND REQUIREMENTS— ADVERTISING

AN ACT Relating to registration of contractors; amending RCW 18.27.020, 18.27.030, 18.27.100, and 18.27.040; and adding new sections to chapter 18.27 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 77, Laws of 1963 as last amended by section 1, chapter 197, Laws of 1986 and RCW 18.27.020 are each amended to read as follows:

(1) Every contractor shall register with the department.

(2) It is a misdemeanor for any contractor having knowledge of the registration requirements of this chapter to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended; or

(c) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor.

(3) All misdemeanor actions under this chapter shall be prosecuted in the county where the infraction occurs.

Sec. 2. Section 3, chapter 77, Laws of 1963 as amended by section 3, chapter 153, Laws of 1973 1st ex. sess. 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 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.

Registration shall be denied if the applicant has been previously registered as a sole proprietor, partnership or corporation, and was a principal or officer of the corporation, and if the applicant has unsatisfied final judgments or summons and complaints not dismissed that were filed pursuant to RCW 18.27.040, and that were incurred during a previous registration under this chapter.

Sec. 3. Section 10, chapter 77, Laws of 1963 as last amended by section 1, chapter 68, Laws of 1980 and RCW 18.27.100 are each amended to read as follows:

Except as provided in RCW 18.27.020 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity of a contractor under any other name unless such name also is registered hereunder. All advertising and all contracts, correspondence, cards, signs, posters, papers, and documents (~~((prepared by a contractor))~~) which show a contractor's name or address shall show the contractor's name or address as registered hereunder. The alphabetized listing of contractors appearing in the advertising section of telephone books or other directories and all advertising (~~((prepared by a contractor))~~), including by airwave transmission, which shows or announces the contractor's name or address shall show or announce the contractor's current registration number: PROVIDED, That signs on motor vehicles subject to RCW 46.16.010 and on-premise signs shall not constitute advertising as provided in this section. All materials (~~((prepared by a contractor and))~~) used to directly solicit business from retail customers who are not businesses shall show the contractor's current registration number. No contractor shall advertise that he is bonded and insured

because of the bond required to be filed and sufficiency of insurance as provided in this chapter. A contractor shall not falsify a registration number and use it in connection with any solicitation or identification as a contractor. All individual contractors and all partners, associates, agents, salesmen, solicitors, officers, and employees of contractors shall use their true names and addresses at all times while engaged in the business or capacity of a contractor or activities related thereto. 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 penalty of not more than ((one)) five thousand dollars as determined by the director. However, the penalty under this section shall not apply to a violation determined to be an inadvertent error.

NEW SECTION. Sec. 4. A new section is added to chapter 18.27 RCW to read as follows:

When determining a violation of RCW 18.27.100, the director and administrative law judge shall hold responsible the person who purchased the advertising.

NEW SECTION. Sec. 5. A new section is added to chapter 18.27 RCW to read as follows:

(1) If, upon investigation, the director or the director's designee has probable cause to believe that a person holding a registration, an applicant for registration, or an unregistered person acting in the capacity of a contractor who is not otherwise exempted from this chapter, has violated RCW 18.27.100 by unlawfully advertising for work covered by this chapter in an alphabetical or classified directory, the department may issue a citation under chapter 34.04 RCW containing an order of correction. Such order shall require the violator to cease the unlawful advertising.

(2) If the person to whom a citation is issued under subsection (1) of this section notifies the department in writing that he or she contests the citation, the department shall afford an opportunity for a hearing, under chapter 34.04 RCW, within thirty days after receiving the notification.

Sec. 6. Section 4, chapter 77, Laws of 1963 as last amended by section 18, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.040 are each amended to read as follows:

(1) Each applicant shall, at the time of applying for or renewing a certificate of registration, file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in a form acceptable to the department running to the state of Washington if a general contractor, in the sum of six thousand dollars; if a specialty contractor, in the sum of four 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. A change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) Any contractor registered as of the effective date of this 1983 act who maintains such registration in accordance with this chapter shall be in compliance with this chapter until the next annual renewal of the contractor's certificate of registration. At that time, the contractor shall provide a bond, cash deposit, or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall renew the contractor's certificate of registration.

(3) Any person, firm, or corporation 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. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon such bond or deposit shall be commenced by filing the complaint with the clerk of the appropriate superior court 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. Service of process in an action upon such bond shall be exclusively by service upon the department. Three copies of the complaint and a fee of ten dollars to cover the handling costs shall be served by registered or certified mail upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the ten-dollar fee and three copies of the complaint. 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.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. 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:

- (a) Labor, including employee benefits;
- (b) Claims for breach of contract by a party to the construction contract;
- (c) Material and equipment;
- (d) Taxes and contributions due the state of Washington;
- (e) Any court costs, interest, and attorney's fees plaintiff may be entitled to recover.

(5) 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. If such bond becomes fully impaired, a new bond must be furnished at the increased rates prescribed by this section as now or hereafter amended.

(6) 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.

(7) 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.

(8) The director may promulgate rules necessary for the proper administration of the security.

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