

SSB 5067 - H COMM AMD

By Committee on Labor & Workforce Development

ADOPTED 04/07/2011

1 On page 3, after line 10 insert the following:

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3 **"Sec. 3.** RCW 18.27.370 and 2001 c 159 s 6 are each amended to  
4 read as follows:

5 (1) If an unregistered contractor defaults in a payment, penalty,  
6 or fine due to the department, the director or the director's designee  
7 may issue a notice of assessment certifying the amount due. The  
8 notice must be served upon the unregistered contractor by mailing the  
9 notice to the unregistered contractor by certified mail to the  
10 unregistered contractor's last known address or served in the manner  
11 prescribed for the service of a summons in a civil action.

12 (2) A notice of assessment becomes final thirty days from the date  
13 the notice was served upon the unregistered contractor unless a  
14 written request for reconsideration is filed with the department or an  
15 appeal is filed in a court of competent jurisdiction in the manner  
16 specified in RCW 34.05.510 through 34.05.598. The request for  
17 reconsideration must set forth with particularity the reason for the  
18 unregistered contractor's request. The department, within thirty days  
19 after receiving a written request for reconsideration, may modify or  
20 reverse a notice of assessment, or may hold a notice of assessment in  
21 abeyance pending further investigation. If a final decision of a  
22 court in favor of the department is not appealed within the time  
23 allowed by law, then the amount of the unappealed assessment, or such  
24 amount of the assessment as is found due by the final decision of the  
25 court, is final.

26 (3) The director or the director's designee may file with the  
27 clerk of any county within the state, a warrant in the amount of the

1 notice of assessment, plus interest, penalties, and a filing fee of  
2 twenty dollars. The clerk of the county in which the warrant is filed  
3 shall immediately designate a superior court cause number for the  
4 warrant, and the clerk shall cause to be entered in the judgment  
5 docket under the superior court cause number assigned to the warrant,  
6 the name of the unregistered contractor mentioned in the warrant, the  
7 amount of payment, penalty, fine due on it, or filing fee, and the  
8 date when the warrant was filed. The aggregate amount of the warrant  
9 as docketed shall become a lien upon the title to, and interest in,  
10 all real and personal property of the unregistered contractor against  
11 whom the warrant is issued, the same as a judgment in a civil case  
12 docketed in the office of the clerk. The sheriff shall proceed upon  
13 the warrant in all respects and with like effect as prescribed by law  
14 with respect to execution or other process issued against rights or  
15 property upon judgment in a court of competent jurisdiction. The  
16 warrant so docketed is sufficient to support the issuance of writs of  
17 garnishment in favor of the state in a manner provided by law in case  
18 of judgment, wholly or partially unsatisfied. The clerk of the court  
19 is entitled to a filing fee which will be added to the amount of the  
20 warrant. A copy of the warrant shall be mailed to the unregistered  
21 contractor within three days of filing with the clerk.

22 (4) The director or the director's designee may issue to any  
23 person, firm, corporation, other entity, municipal corporation,  
24 political subdivision of the state, a public corporation, or any  
25 agency of the state, a notice and order to withhold and deliver  
26 property of any kind whatsoever when he or she has reason to believe  
27 that there is in the possession of the person, firm, corporation,  
28 other entity, municipal corporation, political subdivision of the  
29 state, public corporation, or agency of the state, property that is or  
30 will become due, owing, or belonging to an unregistered contractor  
31 upon whom a notice of assessment has been served by the department for  
32 payments, penalties, or fines due to the department. The effect of a  
33 notice and order is continuous from the date the notice and order is  
34 first made until the liability out of which the notice and order arose

1 is satisfied or becomes unenforceable because of lapse of time. The  
2 department shall release the notice and order when the liability out  
3 of which the notice and order arose is satisfied or becomes  
4 unenforceable by reason of lapse of time and shall notify the person  
5 against whom the notice and order was made that the notice and order  
6 has been released.

7 The notice and order to withhold and deliver must be served by the  
8 sheriff of the county or by the sheriff's deputy, (~~by certified mail,~~  
9 ~~return receipt requested~~) using a method by which the mailing can be  
10 tracked or the delivery can be confirmed, or by an authorized  
11 representative of the director. A person, firm, corporation, other  
12 entity, municipal corporation, political subdivision of the state,  
13 public corporation, or agency of the state upon whom service has been  
14 made shall answer the notice within twenty days exclusive of the day  
15 of service, under oath and in writing, and shall make true answers to  
16 the matters inquired of in the notice and order. Upon service of the  
17 notice and order, if the party served possesses any property that may  
18 be subject to the claim of the department, the party shall promptly  
19 deliver the property to the director or the director's authorized  
20 representative. The director shall hold the property in trust for  
21 application on the unregistered contractor's indebtedness to the  
22 department, or for return without interest, in accordance with a final  
23 determination of a petition for review. In the alternative, the party  
24 shall furnish a good and sufficient surety bond satisfactory to the  
25 director conditioned upon final determination of liability. If a  
26 party served and named in the notice fails to answer the notice within  
27 the time prescribed in this section, the court may render judgment by  
28 default against the party for the full amount claimed by the director  
29 in the notice, together with costs. If a notice is served upon an  
30 unregistered contractor and the property subject to it is wages, the  
31 unregistered contractor may assert in the answer all exemptions  
32 provided for by chapter 6.27 RCW to which the wage earner is entitled.

33 (5) In addition to the procedure for collection of a payment,  
34 penalty, or fine due to the department as set forth in this section,

1 the department may recover civil penalties imposed under this chapter  
2 in a civil action in the name of the department brought in a court of  
3 competent jurisdiction of the county where the violation is alleged to  
4 have occurred."

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6       Renumber the remaining sections consecutively and correct any  
7 internal references accordingly.

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9       Correct the title.

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EFFECT: Changes an additional mailing method (certified mail, return receipt, for notice to hold and deliver property belonging to an unregistered contractor assessed payments, penalties, and fines by the Department of Labor and Industries) to a method by which the mailing can be tracked or delivery confirmed.

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