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HOUSE BILL 1055

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Hudgins, Green, McCoy, Eddy, Kenney, and Reykdal;  
by request of Department of Labor & Industries

Prefiled 01/03/11. Read first time 01/10/11. Referred to Committee on  
Labor & Workforce Development.

1 AN ACT Relating to streamlining contractor appeals; and amending  
2 RCW 18.27.370.

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

4 **Sec. 1.** RCW 18.27.370 and 2001 c 159 s 6 are each amended to read  
5 as follows:

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

15 (2) A notice of ~~((assessment))~~ infraction becomes final ~~((thirty))~~  
16 twenty days from the date ~~((the notice was))~~ it is served upon the  
17 ~~((unregistered))~~ contractor, individual, or business unless ~~((a written~~  
18 ~~request for reconsideration is filed with the department or an appeal~~  
19 ~~is filed in a court of competent jurisdiction in the manner specified~~

1 in RCW ~~34.05.510 through 34.05.598.~~ The request for reconsideration  
2 must set forth with particularity the reason for the unregistered  
3 contractor's request. The department, within thirty days after  
4 receiving a written request for reconsideration, may modify or reverse  
5 a notice of assessment, or may hold a notice of assessment in abeyance  
6 pending further investigation. If a final decision of a court in favor  
7 of the department is not appealed within the time allowed by law, then  
8 the amount of the unappealed assessment, or such amount of the  
9 assessment as is found due by the final decision of the court, is  
10 final)) a timely appeal of the infraction is received as provided in  
11 RCW 18.27.270.

12 (3) When a notice of infraction becomes final, the director or the  
13 director's designee may file with the clerk of any county within the  
14 state, a warrant in the amount of the notice of ((~~assessment~~))  
15 infraction, plus interest, penalties, and a filing fee of twenty  
16 dollars. The clerk of the county in which the warrant is filed shall  
17 immediately designate a superior court cause number for the warrant,  
18 and the clerk shall cause to be entered in the judgment docket under  
19 the superior court cause number assigned to the warrant, the name of  
20 the ((~~unregistered~~)) individual, business, or contractor mentioned in  
21 the warrant, the amount of payment, penalty, fine due on it, or filing  
22 fee, and the date when the warrant was filed. The aggregate amount of  
23 the warrant as docketed shall become a lien upon the title to, and  
24 interest in, all real and personal property of ((~~the unregistered~~  
25 ~~contractor~~)) those named against whom the warrant is issued, the same  
26 as a judgment in a civil case docketed in the office of the clerk. The  
27 sheriff shall proceed upon the warrant in all respects and with like  
28 effect as prescribed by law with respect to execution or other process  
29 issued against rights or property upon judgment in a court of competent  
30 jurisdiction. The warrant so docketed is sufficient to support the  
31 issuance of writs of garnishment in favor of the state in a manner  
32 provided by law in case of judgment, wholly or partially unsatisfied.  
33 The clerk of the court is entitled to a filing fee which will be added  
34 to the amount of the warrant. A copy of the warrant shall be mailed to  
35 ((~~the unregistered contractor~~)) those named within three days of filing  
36 with the clerk.

37 (4) The director or the director's designee may issue to any  
38 person, firm, corporation, other entity, municipal corporation,

1 political subdivision of the state, a public corporation, or any agency  
2 of the state, a notice and order to withhold and deliver property of  
3 any kind whatsoever when he or she has reason to believe that there is  
4 in the possession of the person, firm, corporation, other entity,  
5 municipal corporation, political subdivision of the state, public  
6 corporation, or agency of the state, property that is or will become  
7 due, owing, or belonging to ((~~an unregistered contractor~~)) those named  
8 upon whom a notice of ((~~assessment~~)) infraction has been served by the  
9 department for payments, penalties, or fines due to the department.  
10 The effect of a notice and order is continuous from the date the notice  
11 and order is first made until the liability out of which the notice and  
12 order arose is satisfied or becomes unenforceable because of lapse of  
13 time. The department shall release the notice and order when the  
14 liability out of which the notice and order arose is satisfied or  
15 becomes unenforceable by reason of lapse of time and shall notify the  
16 person against whom the notice and order was made that the notice and  
17 order has been released.

18 The notice and order to withhold and deliver must be served by the  
19 sheriff of the county or by the sheriff's deputy, by certified mail,  
20 return receipt requested, or by an authorized representative of the  
21 director. A person, firm, corporation, other entity, municipal  
22 corporation, political subdivision of the state, public corporation, or  
23 agency of the state upon whom service has been made shall answer the  
24 notice within twenty days exclusive of the day of service, under oath  
25 and in writing, and shall make true answers to the matters inquired of  
26 in the notice and order. Upon service of the notice and order, if the  
27 party served possesses any property that may be subject to the claim of  
28 the department, the party shall promptly deliver the property to the  
29 director or the director's authorized representative. The director  
30 shall hold the property in trust for application on the ((~~unregistered~~  
31 ~~contractor's~~)) individual or business indebtedness to the department,  
32 or for return without interest, in accordance with a final  
33 determination of a petition for review. In the alternative, the party  
34 shall furnish a good and sufficient surety bond satisfactory to the  
35 director conditioned upon final determination of liability. If a party  
36 served and named in the notice fails to answer the notice within the  
37 time prescribed in this section, the court may render judgment by  
38 default against the party for the full amount claimed by the director

1 in the notice, together with costs. If a notice and order to withhold  
2 and deliver wages is served upon ((~~an unregistered~~)) a contractor ((~~and~~  
3 ~~the property subject to it is wages~~)), individual, or business upon  
4 whom a notice of infraction has been served, the ((~~unregistered~~))  
5 contractor, individual, or business may assert in the answer all  
6 exemptions provided for by chapter 6.27 RCW to which the wage earner is  
7 entitled.

8 (5) In addition to the procedure for collection of a payment,  
9 penalty, or fine due to the department as set forth in this section,  
10 the department may recover civil penalties imposed under this chapter  
11 in a civil action in the name of the department brought in a court of  
12 competent jurisdiction of the county where the violation is alleged to  
13 have occurred.

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