

---

**SUBSTITUTE SENATE BILL 5066**

---

**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Conway, Kohl-Welles, and Kline; by request of Department of Labor & Industries)

READ FIRST TIME 01/25/11.

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

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

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

36 (4) The director or the director's designee may issue to any  
37 person, firm, corporation, other entity, municipal corporation,  
38 political subdivision of the state, a public corporation, or any agency

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

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

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

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

--- END ---