

CHAPTER 91C

CONSTRUCTION CONTRACTORS

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91C.1 Definition — exemption.

1. As used in this chapter, unless the context otherwise requires, “contractor” means a person who engages in the business of construction, as the term “construction” is defined in the Iowa administrative code for purposes of the Iowa employment security law. However, a person who earns less than two thousand dollars annually or who performs work or has work performed on the person’s own property is not a contractor for purposes of this chapter. The state, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts, are not contractors for purposes of this chapter.

2. If a contractor’s registration application shows that the contractor is self-employed, does not pay more than two thousand dollars annually to employ other persons in the business, and does not work with or for other contractors in the same phases of construction, the contractor is exempt from the fee requirements under this chapter.

88 Acts, ch 1162, §2; 91 Acts, ch 136, §4; 97 Acts, ch 26, § 1; 2006 Acts, ch 1176, §21

91C.2 Registration required — conditions.

A contractor doing business in this state shall register with the labor commissioner and shall meet all of the following requirements as a condition of registration:

1. The contractor shall be in compliance with the laws of this state relating to workers’ compensation insurance and shall provide evidence of workers’ compensation insurance coverage annually, of relief from the insurance requirement pursuant to section 87.11, or a statement that the contractor is not required to carry workers’ compensation coverage. Notice of a policy’s cancellation shall be provided to the labor commissioner by the insurance company.

2. The contractor shall possess an employer account number or a special contractor number issued by the department of workforce development pursuant to the Iowa employment security law.

3. An out-of-state contractor shall either file a surety bond, as provided in section 91C.7, with the division of labor services in the amount of twenty-five thousand dollars for a one-year period or shall provide a statement to the division of labor services that the contractor is prequalified to bid on projects for the department of transportation pursuant to section 314.1.

88 Acts, ch 1162, §3; 90 Acts, ch 1136, §10; 96 Acts, ch 1186, §23; 2010 Acts, ch 1188, §26, 27

[T] Unnumbered paragraph 1 amended

[T] NEW subsection 3

91C.3 Application — information to be provided.

1. The registration application shall be in the form prescribed by the labor commissioner, shall be accompanied by the registration fee prescribed pursuant to section 91C.4, and shall contain information which is substantially complete and accurate. In addition to the information determined by the labor commissioner to be necessary for purposes of section 91C.2, the application shall include information as to each of the following:

- The name, principal place of business, address, and telephone number of the contractor.
- The name, address, telephone number, and position of each officer of the contractor, if the contractor is a corporation, or each owner if the contractor is not a corporation.
- A description of the business, including the principal products and services provided.

2. Any change in the information provided shall be reported promptly to the labor commissioner.

88 Acts, ch 1162, §4; 90 Acts, ch 1136, §11; 2008 Acts, ch 1032, §201

91C.4 Fees.

The labor commissioner shall prescribe the fee for registration, which fee shall not exceed fifty dollars every year.

88 Acts, ch 1162, §5; 90 Acts, ch 1136, §12; 2009 Acts, ch 179, §203

91C.5 Public registration number — records.

The labor commissioner shall issue to each registered contractor an identifying public registration number and shall compile records showing the names and public registration numbers of all contractors registered in the state. These records and the complete registration information provided by each contractor are public records and the labor commissioner shall take steps as necessary to facilitate access to the information by governmental agencies and the general public.

The labor commissioner shall revoke a registration number when the contractor fails to maintain compliance with the conditions necessary to obtain a registration. The labor commissioner shall provide a fact-finding interview to assure that the contractor is not in compliance before revoking any registration. Hearings on revocation of registrations shall be held in accordance with section 91C.8.

88 Acts, ch 1162, §6; 90 Acts, ch 1136, §13

91C.6 Rules.

The labor commissioner shall adopt rules, pursuant to chapter 17A, determined to be reasonably necessary for phasing in, administering, and enforcing the system of contractor registration established by this chapter.

88 Acts, ch 1162, §7; 90 Acts, ch 1136, §14

91C.7 Contracts — contractor's bond.

1. A contractor who is not registered with the labor commissioner as required by this chapter shall not be awarded a contract to perform work for the state or an agency of the state.

2. A surety bond filed pursuant to section 91C.2 shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until canceled by the surety with not less than thirty days' written notice to the contractor and to the division of labor services of the department of workforce development indicating the surety's desire to cancel the bond. The surety company shall not be liable under the bond for any contract commenced after the cancellation of the bond. The division of labor services of the department of workforce development may increase the bond amount after a hearing.

3. Release of the bond shall be conditioned upon the payment of all taxes, including contributions due under the unemployment compensation insurance system, penalties, interest, and related fees, which may accrue to the state of Iowa. If at any time during the term of the bond, the department of revenue or the department of workforce development determines that the amount of the bond is not sufficient to cover the tax liabilities accruing to the state of Iowa, the labor commissioner shall require the bond to be increased by an amount the labor commissioner deems sufficient to cover the tax liabilities accrued and accruing.

4. The department of revenue and the department of workforce development shall adopt rules for the collection of the forfeiture. Notice shall be provided to the surety and to the contractor. Notice to the contractor shall be mailed to the contractor's last known address and to the contractor's registered agent for service of process, if any, within the state. The contractor or surety shall have the opportunity to apply to the director of revenue for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the department of revenue or the department of workforce development finds that the contractor

has failed to pay the total of all taxes payable, the department of revenue or the department of workforce development shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond, whichever is less. For purposes of this section “taxes payable” means all tax, penalties, interest, and fees that the department of revenue has previously determined to be due to the state by assessment or in an appeal of an assessment, including contributions to the unemployment compensation insurance system.

5. If it is determined that this section may cause denial of federal funds which would otherwise be available, or is otherwise inconsistent with requirements of federal law, this section shall be suspended, but only to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

6. The bond required by this section may be attached by the commissioner for collection of fees and penalties due to the division.

88 Acts, ch 1162, §8; 89 Acts, ch 254, §1; 91 Acts, ch 136, §5; 96 Acts, ch 1186, §23; 97 Acts, ch 26, §2; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §201; 2009 Acts, ch 179, §204; 2010 Acts, ch 1188, §28

[T] Subsection 2 amended

91C.8 Investigations — enforcement — administrative penalties.

1. The labor commissioner and inspectors of the division of labor services of the department of workforce development have jurisdiction for investigation and enforcement in cases where contractors may be in violation of the requirements of this chapter or rules adopted pursuant to this chapter.

2. If, upon investigation, the labor commissioner or the commissioner’s authorized representative believes that a contractor has violated any of the following, the commissioner shall with reasonable promptness issue a citation to the contractor:

- a. The requirement that a contractor be registered.
- b. The requirement that the contractor’s registration information be substantially complete and accurate.
- c. The requirement that an out-of-state contractor file a bond with the division of labor services.

3. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the statute alleged to have been violated.

4. If a citation is issued, the commissioner shall, within seven days, notify the contractor by service in the same manner as an original notice or by certified mail of the administrative penalty, if any, proposed to be assessed and that the contractor has fifteen working days within which to notify the commissioner that the contractor wishes to contest the citation or proposed assessment of penalty.

5. The administrative penalties which may be imposed under this section shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars for each violation in the case of a second or subsequent violation. All administrative penalties collected pursuant to this chapter shall be deposited in the general fund of the state.

6. If, within fifteen working days from the receipt of the notice, the contractor fails to notify the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the citation and the assessment, as proposed, shall be deemed a final order of the employment appeal board and not subject to review by any court or agency.

7. If the contractor notifies the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the commissioner shall immediately advise the employment appeal board established by section 10A.601. The employment appeal board shall review the action of the commissioner and shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the commissioner’s citation or proposed penalty or directing other appropriate relief, and the order shall become final sixty days after its issuance.

8. The labor commissioner shall notify the department of revenue upon final agency action regarding the citation and assessment of penalty against a registered contractor.

9. Judicial review of any order of the employment appeal board issued pursuant to this section may be sought in accordance with the terms of chapter 17A. If no petition for

judicial review is filed within sixty days after service of the order of the employment appeal board, the appeal board's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of the sixty-day period. In any such case, the clerk of court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of the decree to the employment appeal board and the contractor named in the petition.

88 Acts, ch 1162, §9; 89 Acts, ch 254, §2, 3; 96 Acts, ch 1186, §23; 99 Acts, ch 68, §19; 2000 Acts, ch 1154, §11; 2003 Acts, ch 145, §286

91C.9 Registration fund.

1. A contractor registration revolving fund is created in the state treasury. The revolving fund shall be administered by the commissioner and shall consist of moneys collected by the commissioner as fees. The commissioner shall remit all fees collected pursuant to this chapter to the revolving fund. The moneys in the revolving fund are appropriated to and shall be used by the commissioner to pay the actual costs and expenses necessary to perform the duties of the commissioner and the division of labor as described in this chapter. All salaries and expenses properly chargeable to the revolving fund shall be paid from the revolving fund.

2. Section 8.33 does not apply to any moneys in the revolving fund. Notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the fund shall be credited to the revolving fund.

2009 Acts, ch 179, §205