

SENATE FILE 2457
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2237)

Passed Senate, ^(P.1344) Date 4-11-96 Passed House, Date _____
Vote: Ayes 44 Nays 6 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to single-family residential construction and by
2 establishing a mediation process providing consumer remedies,
3 and providing for related matters.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 2457

S-5706

1 Amend Senate File 2457 as follows:

2 1. By striking page 1, line 33, through page 2,
3 line 12, and inserting the following:

4 "Sec. ____ . NEW SECTION. 91C.16 GENERAL
5 CONTRACTOR AFFIDAVIT.

6 A general contractor shall provide to a purchaser
7 of a new home a signed affidavit stating that the cost
8 of all materials and labor associated with the
9 construction of the new home have been paid by the
10 general contractor. The affidavit shall be provided
11 to the purchaser at the time of, or prior to, the
12 closing of the financing agreement between the
13 mortgagee and the purchaser."

14 2. Page 2, line 13, by striking the word and
15 figure "through 91C.17" and inserting the following:
16 "and 91C.16".

17 3. By renumbering as necessary.

By TOM FLYNN

Adopted 4-11-96 (P.1344)
S-5706 FILED APRIL 10, 1996

S.F. 2457

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1 Section 1. Section 91C.4, Code 1995, is amended to read as
2 follows:

3 91C.4 FEES.

4 The labor commissioner shall ~~prescribe the~~ collect an
5 annual fee for registration, ~~which fee shall not exceed~~
6 ~~twenty-five dollars every two years. All fees collected shall~~
7 ~~be deposited in the general fund of the state~~ as follows:

8 1. Fifty dollars from every person who acts as a general
9 contractor, as defined in section 91C.15, engaged in the
10 business of new home construction. Of the amount collected
11 pursuant to this subsection, twenty-five dollars shall be
12 retained by the division of labor services to be used for
13 costs related to the administration of this chapter. The
14 division shall transfer the remaining twenty-five dollars to
15 the office of the attorney general to be used for costs
16 related to the administration of this chapter.

17 2. Thirty-five dollars from every other person engaged in
18 business as a contractor. Amounts collected pursuant to this
19 subsection shall be retained by the division of labor services
20 to be used for costs related to the administration of this
21 chapter.

22 Sec. 2. NEW SECTION. 91C.15 DEFINITIONS.

23 As used in this subchapter, unless the context otherwise
24 requires:

25 1. "General contractor" means a person who owns or
26 operates a new home construction business, or who offers to
27 undertake, or agrees to perform, the construction of a new
28 home. "General contractor" does not include a subcontractor
29 who contracts or subcontracts with a general contractor for
30 the provision of property, materials, or services for a new
31 home construction contract.

32 2. "Home" means a new single-family residence.

33 Sec. 3. NEW SECTION. 91C.16 MEDIATION PROCEDURE.

34 1. The attorney general shall adopt rules establishing a
35 mediation procedure for determining the validity of and

1 resolution of any dispute which arises between the general
2 contractor and a person entering into a contract with the
3 general contractor for the construction of a new home.

4 2. This section shall not be construed to limit any other
5 rights or duties of the general contractor or the home owner
6 provided by statute or common law.

7 Sec. 4. NEW SECTION. 91C.17 LIEN RELEASES.

8 A general contractor and a subcontractor shall provide to a
9 purchaser of a new home a release or waiver of any liens or
10 encumbrances on the property related to the construction of
11 such home at the time of, or prior to, the closing of the
12 financing agreement between the mortgagee and the purchaser.

13 Sec. 5. Sections 91C.15 through 91C.17, as enacted by this
14 Act, shall be codified as a separate subchapter in chapter
15 91C.

16 EXPLANATION

17 This bill establishes new sections relating to new home
18 construction. The bill establishes definitions for terms
19 including "general contractor" and "home". "Home" is defined
20 as a new single-family residence.

21 The bill provides that the labor commissioner is to collect
22 a fee of \$50 from every person acting as a general contractor
23 engaged in the business of new home construction. Twenty-five
24 dollars of the fee is to be retained by the division of labor
25 services and \$25 is to be transferred to the attorney general
26 to be used for costs related to the administration of the
27 chapter. The labor commissioner is also to collect a fee of
28 \$35 from every other person engaged in business as a
29 contractor which is to be retained by the division of labor.

30 The attorney general shall adopt rules establishing a
31 procedure for determining the validity of claims and the
32 amount, if any, to be paid to the injured home owner.

33 The bill also provides that a general contractor and a
34 subcontractor are to provide to a purchaser of a new home a
35 release of any liens or encumbrances on the property related

1 to the construction of such home at the time of, or prior to,
2 the closing of the financing agreement between the mortgagee
3 and the purchaser.

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3 91C.4 FEES.

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5 annual fee for registration, ~~which fee shall not exceed~~
6 ~~twenty-five dollars every two years. All fees collected shall~~
7 ~~be deposited in the general fund of the state~~ as follows:

8 1. Fifty dollars from every person who acts as a general
9 contractor, as defined in section 91C.15, engaged in the
10 business of new home construction. Of the amount collected
11 pursuant to this subsection, twenty-five dollars shall be
12 retained by the division of labor services to be used for
13 costs related to the administration of this chapter. The
14 division shall transfer the remaining twenty-five dollars to
15 the office of the attorney general to be used for costs
16 related to the administration of this chapter.

17 2. Thirty-five dollars from every other person engaged in
18 business as a contractor. Amounts collected pursuant to this
19 subsection shall be retained by the division of labor services
20 to be used for costs related to the administration of this
21 chapter.

22 Sec. 2. NEW SECTION. 91C.15 DEFINITIONS.

23 As used in this subchapter, unless the context otherwise
24 requires:

25 1. "General contractor" means a person who owns or
26 operates a new home construction business, or who offers to
27 undertake, or agrees to perform, the construction of a new
28 home. "General contractor" does not include a subcontractor
29 who contracts or subcontracts with a general contractor for
30 the provision of property, materials, or services for a new
31 home construction contract.

32 2. "Home" means a new single-family residence.

33 Sec. 3. NEW SECTION. 91C.16 GENERAL CONTRACTOR
34 AFFIDAVIT.

35 A general contractor shall provide to a purchaser of a new

1 home a signed affidavit stating that the cost of all materials
2 and labor associated with the construction of the new home
3 have been paid by the general contractor. The affidavit shall
4 be provided to the purchaser at the time of, or prior to, the
5 closing of the financing agreement between the mortgagee and
6 the purchaser.

7 Sec. 4. Sections 91C.15 and 91C.16, as enacted by this
8 Act, shall be codified as a separate subchapter in chapter
9 91C.

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Palmer
Connolly
Vilsack
Iverson, Jr
Hedge

SSB 2237

Ways & Means
Acceded By
SF/HF 2457

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON PALMER)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to single-family residential construction and by
2 requiring a bond and a cash set aside, providing consumer
3 remedies, providing for related matters, and providing for the
4 applicability of the Act.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 91C.4, Code 1995, is amended to read as
2 follows:

3 91C.4 FEES.

4 The labor commissioner shall ~~prescribe-the~~ collect an
5 annual fee for registration, which fee shall not exceed
6 twenty-five dollars every two years.--All fees collected shall
7 be deposited in the general fund of the state as follows:

8 1. Fifty dollars from every person who acts as a general
9 contractor, as defined in section 91C.15, engaged in the
10 business of new home construction. Of the amount collected
11 pursuant to this subsection, twenty-five dollars shall be
12 retained by the division of labor services to be used for
13 costs related to the administration of this chapter. The
14 division shall transfer the remaining twenty-five dollars to
15 the office of the attorney general to be used for costs
16 related to the administration of this chapter.

17 2. Thirty-five dollars from every other person engaged in
18 business as a contractor. Amounts collected pursuant to this
19 subsection shall be retained by the division of labor services
20 to be used for costs related to the administration of this
21 chapter.

22 Sec. 2. NEW SECTION. 91C.15 DEFINITIONS.

23 As used in this subchapter, unless the context otherwise
24 requires:

25 1. "General contractor" means a person who owns or
26 operates a new home construction business, or who offers to
27 undertake, or agrees to perform, the construction of a new
28 home. "General contractor" does not include a subcontractor
29 who contracts or subcontracts with a general contractor for
30 the provision of property, materials, or services for a new
31 home construction contract.

32 2. "Home" means a new single-family residence.

33 Sec. 3. NEW SECTION. 91C.16 GENERAL CONTRACTOR BONDS.

34 1. In addition to the bonding requirements of subchapter
35 1, a general contractor doing business in this state, before

1 offering or entering into a new home construction contract,
2 shall furnish a surety bond to the attorney general, executed
3 by the contractor as principal and executed by a surety
4 company licensed and qualified to do business in this state.

5 2. The bond shall be in a form approved by the attorney
6 general and shall be in the amount of fifty thousand dollars
7 and for the indemnification of any person who enters into a
8 new home construction contract with the general contractor
9 from any loss or damage caused by the failure of the general
10 contractor to comply with the provisions of this chapter,
11 chapter 537, or section 714.16, or rules adopted by the
12 attorney general under these provisions. The aggregate
13 liability of the surety shall not exceed the amount of the
14 bond.

15 3. The attorney general may file an action in district
16 court to recover bond proceeds on behalf of persons who have
17 incurred loss or damage caused by the failure of a general
18 contractor, required to furnish a bond pursuant to this
19 section, to comply with this chapter, chapter 537, or section
20 714.16.

21 4. A person who has incurred loss or damage caused by the
22 failure of a general contractor, required to furnish a bond
23 pursuant to this section, to comply with this chapter, chapter
24 537, or section 714.16, may file an action in district court
25 to recover against the bond an amount sufficient to recover
26 such loss or damage.

27 Sec. 4. NEW SECTION. 91C.17 ADDITIONAL GENERAL
28 CONTRACTOR BOND -- DEPOSIT.

29 1. A general contractor, in addition to the bond
30 requirements under sections 91C.7 and 91C.16, shall maintain
31 as security, evidence of financial responsibility as approved
32 by the labor commissioner, in consultation with the attorney
33 general. The security shall be either a bond or cash deposit
34 in an amount which is equal to a minimum of two percent of the
35 total contract amount associated with the construction of a

1 new home. The labor commissioner shall approve the security
2 before commencement of construction by the general contractor.

3 2. A surety who issues a bond must be approved by the
4 labor commissioner. A copy of the bond shall be filed in a
5 manner and according to procedures approved by the labor
6 commissioner. A cash deposit shall be filed with the
7 treasurer of state in a manner and according to procedures
8 approved by the treasurer of state in consultation with the
9 labor commissioner and the attorney general. The treasurer of
10 state shall not refund a deposit until notified by the
11 attorney general that the general contractor has satisfied the
12 requirements of this chapter related to the deposit, a bond
13 has been filed with the commissioner in compliance with this
14 section, or after one year, whichever occurs first.

15 3. The security shall be in favor of the state for the
16 benefit of any person entering into a contract with the
17 general contractor for the construction of a new home and who
18 incurs a loss or damage caused by the general contractor but
19 which is not discovered until after completion of the
20 contract.

21 4. The attorney general shall adopt rules establishing a
22 mediation procedure for determining the validity of claims and
23 the amount, if any, to be paid to the injured home owner.

24 5. This section shall not be construed to limit any other
25 rights or duties of the general contractor or the home owner
26 provided by statute or common law.

27 Sec. 5. NEW SECTION. 91C.18 LIEN RELEASES.

28 A general contractor and a subcontractor shall provide to a
29 purchaser of a new home a release or waiver of any liens or
30 encumbrances on the property related to the construction of
31 such home at the time of, or prior to, the closing of the
32 financing agreement between the mortgagee and the purchaser.

33 Sec. 6. Sections 91C.15 through 91C.18, as enacted by this
34 Act, shall be codified as a separate subchapter in chapter
35 91C.

1 EXPLANATION

2 This bill establishes new sections relating to new home
3 construction. The bill establishes definitions for terms
4 including "general contractor" and "home". "Home" is defined
5 as a new single-family residence.

6 The bill requires a general contractor doing business in
7 this state, before offering or entering into a new home
8 construction contract, to furnish a surety bond to the
9 attorney general, executed by the contractor as principal and
10 executed by a surety company licensed and qualified to do
11 business in this state, in the amount of \$50,000 and for the
12 indemnification of any person who enters into a new home
13 construction with the general contractor from any loss or
14 damage caused by the failure of the contractor to comply with
15 the provisions of chapter 91C, chapter 537, or section 714.16,
16 or rules adopted by the commissioner of labor or the attorney
17 general under these provisions. The aggregate liability of
18 the surety shall not exceed the amount of the bond.

19 An action for indemnification of an injured party may be
20 brought by the attorney general or the person who has incurred
21 loss or damage caused by the failure of a general contractor,
22 required to furnish a bond pursuant to this section, to comply
23 with chapter 91C, chapter 537, or section 714.16.

24 In addition to the bonding requirements of section 91C.16,
25 a general contractor doing business in this state, before
26 offering or entering into a new home construction contract, is
27 also to furnish a deposit or a surety bond to the attorney
28 general, executed by the contractor as principal and executed
29 by a surety company licensed and qualified to do business in
30 this state, which is equal to a minimum of 2 percent of the
31 value of the contract. The deposit or bond shall be
32 maintained for a period of one year after the completion of
33 the contract and available to compensate a new home owner who
34 incurs a loss or damage caused by the general contractor but
35 which is not discovered until after completion of the

1 contract.

2 The attorney general shall adopt rules establishing a
3 procedure for determining the validity of claims and the
4 amount, if any, to be paid to the injured home owner.

5 The bill also provides that a general contractor and a
6 subcontractor are to provide to a purchaser of a new home a
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8 to the construction of such home at the time of, or prior to,
9 the closing of the financing agreement between the mortgagee
10 and the purchaser.

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