

Senate Study Bill 2237

Conference Committee Text

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1 1 Section 1. Section [91C.4](#), Code 1995, is amended to read as
1 2 follows:
1 3 91C.4 FEES.
1 4 The labor commissioner shall

~~prescribe the~~
~~collect an~~
1 5 annual fee for registration

~~, which fee shall not exceed~~

1 6

~~twenty five dollars every two years. All fees collected shall~~

1 7

~~be deposited in the general fund of the state~~
~~as follows:~~

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

1 17 2. Thirty-five dollars from every other person engaged in
1 18 business as a contractor. Amounts collected pursuant to this
1 19 subsection shall be retained by the division of labor services
1 20 to be used for costs related to the administration of this
1 21 chapter.

1 22 Sec. 2. NEW SECTION. 91C.15 DEFINITIONS.

1 23 As used in this subchapter, unless the context otherwise
1 24 requires:

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

1 32 2. "Home" means a new single-family residence.

1 33 Sec. 3. NEW SECTION. 91C.16 GENERAL CONTRACTOR BONDS.

1 34 1. In addition to the bonding requirements of subchapter
1 35 1, a general contractor doing business in this state, before
2 1 offering or entering into a new home construction contract,
2 2 shall furnish a surety bond to the attorney general, executed
2 3 by the contractor as principal and executed by a surety
2 4 company licensed and qualified to do business in this state.

2 5 2. The bond shall be in a form approved by the attorney
2 6 general and shall be in the amount of fifty thousand dollars
2 7 and for the indemnification of any person who enters into a
2 8 new home construction contract with the general contractor
2 9 from any loss or damage caused by the failure of the general

2 10 contractor to comply with the provisions of this chapter,
2 11 chapter 537, or section 714.16, or rules adopted by the
2 12 attorney general under these provisions. The aggregate
2 13 liability of the surety shall not exceed the amount of the
2 14 bond.

2 15 3. The attorney general may file an action in district
2 16 court to recover bond proceeds on behalf of persons who have
2 17 incurred loss or damage caused by the failure of a general
2 18 contractor, required to furnish a bond pursuant to this
2 19 section, to comply with this chapter, chapter 537, or section
2 20 714.16.

2 21 4. A person who has incurred loss or damage caused by the
2 22 failure of a general contractor, required to furnish a bond
2 23 pursuant to this section, to comply with this chapter, chapter
2 24 537, or section 714.16, may file an action in district court
2 25 to recover against the bond an amount sufficient to recover
2 26 such loss or damage.

2 27 Sec. 4. NEW SECTION. 91C.17 ADDITIONAL GENERAL
2 28 CONTRACTOR BOND - DEPOSIT.

2 29 1. A general contractor, in addition to the bond
2 30 requirements under sections 91C.7 and 91C.16, shall maintain
2 31 as security, evidence of financial responsibility as approved
2 32 by the labor commissioner, in consultation with the attorney
2 33 general. The security shall be either a bond or cash deposit
2 34 in an amount which is equal to a minimum of two percent of the
2 35 total contract amount associated with the construction of a
3 1 new home. The labor commissioner shall approve the security
3 2 before commencement of construction by the general contractor.

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

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

3 21 4. The attorney general shall adopt rules establishing a
3 22 mediation procedure for determining the validity of claims and
3 23 the amount, if any, to be paid to the injured home owner.

3 24 5. This section shall not be construed to limit any other
3 25 rights or duties of the general contractor or the home owner
3 26 provided by statute or common law.

3 27 Sec. 5. NEW SECTION. 91C.18 LIEN RELEASES.

3 28 A general contractor and a subcontractor shall provide to a
3 29 purchaser of a new home a release or waiver of any liens or
3 30 encumbrances on the property related to the construction of
3 31 such home at the time of, or prior to, the closing of the
3 32 financing agreement between the mortgagee and the purchaser.

3 33 Sec. 6. Sections 91C.15 through 91C.18, as enacted by this
3 34 Act, shall be codified as a separate subchapter in chapter
3 35 91C.

4 1 EXPLANATION

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

4 6 The bill requires a general contractor doing business in

4 7 this state, before offering or entering into a new home
4 8 construction contract, to furnish a surety bond to the
4 9 attorney general, executed by the contractor as principal and
4 10 executed by a surety company licensed and qualified to do
4 11 business in this state, in the amount of \$50,000 and for the
4 12 indemnification of any person who enters into a new home
4 13 construction with the general contractor from any loss or
4 14 damage caused by the failure of the contractor to comply with
4 15 the provisions of chapter 91C, chapter 537, or section 714.16,
4 16 or rules adopted by the commissioner of labor or the attorney
4 17 general under these provisions. The aggregate liability of
4 18 the surety shall not exceed the amount of the bond.

4 19 An action for indemnification of an injured party may be
4 20 brought by the attorney general or the person who has incurred
4 21 loss or damage caused by the failure of a general contractor,
4 22 required to furnish a bond pursuant to this section, to comply
4 23 with chapter 91C, chapter 537, or section 714.16.

4 24 In addition to the bonding requirements of section 91C.16,
4 25 a general contractor doing business in this state, before
4 26 offering or entering into a new home construction contract, is
4 27 also to furnish a deposit or a surety bond to the attorney
4 28 general, executed by the contractor as principal and executed
4 29 by a surety company licensed and qualified to do business in
4 30 this state, which is equal to a minimum of 2 percent of the
4 31 value of the contract. The deposit or bond shall be
4 32 maintained for a period of one year after the completion of
4 33 the contract and available to compensate a new home owner who
4 34 incurs a loss or damage caused by the general contractor but
4 35 which is not discovered until after completion of the
5 1 contract.

5 2 The attorney general shall adopt rules establishing a
5 3 procedure for determining the validity of claims and the
5 4 amount, if any, to be paid to the injured home owner.

5 5 The bill also provides that a general contractor and a
5 6 subcontractor are to provide to a purchaser of a new home a
5 7 release of any liens or encumbrances on the property related
5 8 to the construction of such home at the time of, or prior to,
5 9 the closing of the financing agreement between the mortgagee
5 10 and the purchaser.

5 11 LSB 4300SC 76

5 12 mj/jj/8