

FEB 15 2006

COMMERCE, REGULATION & LABOR

HOUSE FILE 2372
BY WHITAKER

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

A BILL FOR

1 An Act to require bonding of home improvement contractors
2 including providing for the recovery of bond proceeds, and
3 making penalties applicable.

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

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HF 2372

1 Section 1. Section 91C.1, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. As used in this chapter, unless the context otherwise
4 requires, "contractor":

5 a. "Contractor" means a person who engages in the business
6 of construction, as the term "construction" is defined in the
7 Iowa administrative code for purposes of the Iowa employment
8 security law. However, a person who earns less than one
9 thousand dollars annually or who performs work or has work
10 performed on the person's own property is not a contractor for
11 purposes of this chapter. The state, its boards, commissions,
12 agencies, departments, and its political subdivisions
13 including school districts and other special purpose
14 districts, are not contractors for purposes of this chapter.

15 b. "Home improvement" includes but is not limited to the
16 repair, replacement, remodeling, alteration, conversion,
17 modernization, improvement, rehabilitation, or sandblasting
18 of, or addition to, any building, or land, if applicable, or
19 that portion thereof which is used or designed to be used as a
20 private residence, or the construction, replacement,
21 installation, or improvement of a driveway, swimming pool,
22 porch, garage, roof, siding, insulation, solar energy system,
23 heating system, central air conditioning, flooring, patio,
24 landscaping, fence, door, or window, and waterproofing in
25 connection with such building, or land, if applicable, or that
26 portion thereof which is used or designed to be used as a
27 private residence. "Home improvement" does not include any of
28 the following:

29 (1) The construction of a new home.

30 (2) The sale of goods or materials by a seller who neither
31 arranges to perform nor performs, directly or indirectly, any
32 work or labor in connection with the installation or
33 application of the goods or materials.

34 (3) The sale of goods or services furnished for commercial
35 or business use or for resale.

1 (4) The sale of appliances, including but not limited to
2 stoves, refrigerators, freezers, and room air conditioners,
3 which are designed for and are easily removable from the
4 premises without material alteration of the premises.

5 c. "Home improvement contract" means an agreement between
6 a contractor and a property owner for the performance of a
7 home improvement in which the total price for all work agreed
8 upon between the contractor and owner is three thousand
9 dollars or greater.

10 Sec. 2. Section 91C.8, subsection 2, Code 2005, is amended
11 by adding the following new paragraph:

12 NEW PARAGRAPH. d. The requirement that a contractor
13 offering or accepting a home improvement contract file a
14 surety bond with the division of labor services pursuant to
15 section 91C.9.

16 Sec. 3. NEW SECTION. 91C.9 HOME IMPROVEMENT CONTRACTOR
17 BONDING REQUIREMENT.

18 1. In addition to any other requirement of this chapter, a
19 contractor doing business in this state, before offering or
20 accepting a home improvement contract, shall file a surety
21 bond with the division of labor services of the department of
22 workforce development, executed by the contractor as principal
23 and executed by a corporate surety company licensed and
24 qualified to do business within this state. The bond shall
25 not be construed to require any surety to perform a home
26 improvement contract entered into by the principal on the
27 bond.

28 2. The bond shall be in a form approved by the labor
29 commissioner and shall be in the amount of forty thousand
30 dollars and for the indemnification of any owner who enters
31 into a home improvement contract with the contractor from any
32 loss or damage caused by the failure of the contractor to
33 comply with the provisions of this chapter, chapter 537, or
34 section 714.16, or any rules adopted thereunder. The
35 aggregate liability of the surety shall not exceed the amount

1 of the bond.

2 3. The attorney general may file an action in district
3 court to recover bond proceeds on behalf of owners who have
4 incurred loss or damage caused by the failure of a contractor,
5 required to furnish a bond pursuant to this section, to comply
6 with chapter 537 or section 714.16, or any rules adopted
7 thereunder.

8 4. An owner who has incurred loss or damage caused by the
9 failure of a contractor, required to furnish a bond pursuant
10 to this section, to comply with this chapter, chapter 537, or
11 section 714.16, or any rules adopted thereunder, may file an
12 action in district court to recover against the bond an amount
13 sufficient to recover such loss or damage.

14 5. The labor commissioner and the attorney general shall
15 adopt rules to administer and enforce this section.

16 EXPLANATION

17 This bill requires home improvement contractors to file a
18 bond with the division of labor services of the department of
19 workforce development. Prior to offering or accepting a home
20 improvement contract, as defined by the bill, a contractor
21 doing business in this state shall furnish a surety bond to
22 the division of labor services in the amount of \$40,000 for
23 the indemnification of an owner who enters into a home
24 improvement contract with the contractor from any loss or
25 damage caused by the failure of the contractor to comply with
26 Code chapter 91C, Code chapter 537, or Code section 714.16.
27 The attorney general may file a civil action to recover bond
28 proceeds for damages incurred by an owner for the contractor's
29 noncompliance with Code chapter 537 or Code section 714.16.
30 An owner who entered into a home improvement contract may file
31 a civil action against the contractor to recover bond proceeds
32 for the damages caused by the contractor.

33 The bill provides that the labor commissioner may issue a
34 citation to a contractor who fails to file a bond as required
35 by the bill. The citation penalty may be in an amount up to

1 \$500 for the first violation of Code chapter 91C and up to
2 \$5,000 for any second or subsequent violation of Code chapter
3 91C.

4 The labor commissioner and the attorney general may adopt
5 rules to administer and enforce the requirements of the bill.

6 The bill provides definitions for "home improvement" and
7 "home improvement contract".

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