

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 420

BY BUSINESS COMMITTEE

AN ACT

RELATING TO CONTRACTOR REGISTRATION; AMENDING SECTION 54-5211, IDAHO CODE,
TO PROVIDE FOR INACTIVE REGISTRATION AND TO MAKE TECHNICAL CORRECTIONS;
AND AMENDING SECTION 54-5215, IDAHO CODE, TO REMOVE A PROVISION REGARD-
ING GROSS NEGLIGENCE AND RECKLESS CONDUCT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-5211, Idaho Code, be, and the same is hereby
amended to read as follows:

54-5211. REGISTRATION -- INACTIVE STATUS -- RENEWAL. (1) A registra-
tion shall be issued for a period of not less than one (1) year nor more than
five (5) years, as determined by the board. Each registration shall set
forth its expiration date on the face of the certificate. No less than thirty
(30) days prior to the expiration of such registration, the board shall no-
tify a registered contractor that such registration is set to expire.

(2) A registered contractor in this state who is not engaging in busi-
ness as a contractor as defined in this chapter may be issued an inactive reg-
istration. The registered contractor must submit the fee set by board rule
and a written request for an inactive registration. Each inactive registra-
tion shall be issued for a period of one (1) year. A registered contractor
holding an inactive registration may not engage in business as a contrac-
tor in this state and does not need to keep current insurance coverage as re-
quired by this chapter. A registered contractor wishing to convert an in-
active registration to an active registration must pay the fee as defined
by board rule and provide proof of current insurance coverage as required by
this chapter.

(3) Reinstatement of a lapsed registration shall require the payment
of a renewal fee and reinstatement fee in accordance with the administrative
rules adopted by the board. The failure of any registered contractor to re-
new his registration as required herein and by the administrative rules of
the board shall not deprive such person of the right to renewal upon subse-
quent application for registration and payment of the required board fees.

SECTION 2. That Section 54-5215, Idaho Code, be, and the same is hereby
amended to read as follows:

54-5215. AUTHORITY TO INVESTIGATE AND DISCIPLINE -- SUSPENSION OR RE-
VOCATION OF REGISTRATION. (1) The board may investigate any person engaged
in contracting within the state of Idaho or any person believed to have acted
as a contractor without being duly registered as required by this chapter.
Upon receipt of a written complaint from a person who claims to have been in-
jured or defrauded by such person, or upon information received by the board,
the board shall perform an investigation of the facts alleged against such

1 person. If the board investigation reveals that the facts alleged or re-
 2 ceived are sufficient to proceed with a formal action, the board may autho-
 3 rize the filing of an administrative complaint against such person and may
 4 seek injunctive relief prohibiting such person from engaging in construc-
 5 tion.

6 (2) The board shall have the authority to issue informal letters of rep-
 7 rimand, suspend or revoke a registration, impose a civil penalty in an amount
 8 not to exceed one thousand dollars (\$1,000) or to issue a formal reprimand
 9 against any registered contractor if, after an opportunity for a hearing,
 10 the board determines that:

11 (a) A contractor has violated any of the provisions of this chapter in-
 12 cluding, but not limited to, failure to keep current or provide insur-
 13 ance coverage as required by this chapter;

14 (b) A contractor has violated any of the provisions of chapter 6, title
 15 48, Idaho Code, relating to consumer protection including, but not lim-
 16 ited to, making fraudulent misrepresentations to consumers;

17 (c) A contractor employed fraud or deception, made a misrepresentation
 18 or misstatement, or employed any unlawful means in applying for or se-
 19 curing registration as a contractor;

20 (d) A contractor employed fraud or deception, made a misrepresentation
 21 or misstatement, or employed any unlawful means in applying for or se-
 22 curing a building permit or other permits for construction of any type;

23 (e) A contractor failed to pay the required fee for registration as pro-
 24 vided in this chapter;

25 (f) A contractor has been convicted of or has engaged in conduct consti-
 26 tuting a violation of public laws, ordinances or rules of this state,
 27 or any subdivision thereof, relevant to contracting, reflecting on
 28 the registered contractor's ability or qualifications to continue
 29 contracting for other persons, and making the registered contractor a
 30 threat to the public safety, health or well-being;

31 (g) A contractor has engaged in any other conduct whether of the same
 32 or a different character than hereinabove specified which constitutes
 33 dishonest or dishonorable dealings;

34 ~~(h) A contractor was grossly negligent or reckless in his conduct in~~
 35 ~~the performance of construction. For purposes of this chapter, conduct~~
 36 ~~is grossly negligent or reckless if, when taken as a whole, it is con-~~
 37 ~~duct which substantially fails to meet the generally accepted standard~~
 38 ~~of care in the practice of construction in Idaho;~~

39 ~~(i) A contractor had a license, registration or certification revoked,~~
 40 ~~suspended or refused by this or another state, territory, incorporated~~
 41 ~~municipality, county, alternative form of local government, or other~~
 42 ~~municipal or political corporation or subdivision of this or another~~
 43 ~~state, or omitted such information from any application to the board, or~~
 44 ~~failed to divulge such information when requested by the board;~~

45 ~~(j) A contractor has been adjudged mentally incompetent by a court of~~
 46 ~~competent jurisdiction; or~~

47 ~~(k) A contractor interfered with an investigation or disciplinary~~
 48 ~~proceeding by a willful misrepresentation of facts or by the use of~~
 49 ~~threats or harassment against any person to prevent such person from~~

1 providing evidence in a disciplinary proceeding, investigation or
2 other legal action instituted in accordance with this chapter.

3 (3) A contractor whose registration has been revoked or suspended shall
4 be required to return his certificate of registration within the time de-
5 termined by the board or, upon a failure to do so, shall be liable for civil
6 penalties as set by the board but not to exceed fifty dollars (\$50.00) per day
7 for each day the certificate is not returned after the expiration of the pe-
8 riod allowed.

9 (4) The suspension or revocation of a registration shall be considered
10 a contested case as provided for in chapter 52, title 67, Idaho Code, and
11 shall be subject to the provisions of that chapter as well as the administra-
12 tive rules adopted by the board governing contested cases.

13 (5) The assessment of attorney's fees and costs incurred in the inves-
14 tigation and prosecution or defense of a person under this section shall be
15 governed by the provisions of section 12-117(5), Idaho Code.