

What to do If You are not Satisfied with a Construction Contractor's Work and Want to File Suit against the Contractor's Bond

Introduction

There are number of reasons why you may want to sue a construction contractor. The contractor did not finish the job you hired him to do, for example, or did not do a good job. If the contractor is bankrupt or does not have any other assets, you can sue against the contractor's bond.

What is a contractor's bond?

All construction contractors registered with the Department of Labor and Industries must be bonded. This means the contractor has to pay a certain amount of money to a bonding company. If the contractor defaults on the contract and you sue against the bond, the bonding company will be responsible for paying damages (up to the bond amount) if you win.

The bond amount is limited. A general contractor must get a bond for \$12,000 and a specialty contractor must get one for \$6,000. A specialty contractor is a contractor who specializes in a certain trade, like painting, while a general contractor supervises the work of a few unrelated trades.

As an alternative to a contractor's bond, a contractor can put the required amount of money into a bank account and file the bank name and account number with the Department of Labor and Industries.

Who can sue against a contractor's bond?

If you are a home-owner, you can sue against a contractor's bond if the contractor defaulted on the contract. You have to file suit within 2 years of the date the claimed contract work was substantially completed or abandoned.¹

Is there anything I need to do before filing suit?

With contracts for sale, construction, or substantial remodel, the contractor has the right to offer to fix any construction-related defects before you can begin any legal proceeding against him.² The contractor should give you written notice of this right.³ You must tell the contractor in writing about any allegedly defective conditions no later than 45 days before you file suit and give him an opportunity to make an offer to repair or pay for the defects.⁴ The contractor should respond in writing to your claim within 21 days.⁵ You are not obligated to accept any offer the contractor makes to you.⁶

¹ [RCW 18.27.040\(3\)](#).

² [RCW 64.50.050](#). "Substantial remodel" means a remodel of a residence, for which the total cost exceeds one-half of the assessed value of the residence for property tax purposes at the time the contract for the remodel work was made. [RCW 64.50.010](#).

³ [RCW 64.50.050](#).

⁴ [RCW 64.50.020](#).

⁵ [RCW 64.50.020](#).

⁶ [RCW 64.50.050](#).

Where do I file suit?

You can file suit in the superior court of the county where the contractor did the work.⁷

How do I file suit against the contractor's bond?

1. To begin the process, complete a Summons form and a Complaint form. You *may* be able to purchase one at an office supply store or get one at the courthouse.
 - i. In order to collect from the contractor's bond, you have to name the bond company as one of the defendants on the form.
 - ii. You should also include the contractor's bond number, as well as the contractor's business name, name of the owner(s), and business address. You can find this information on the Department of Labor and Industries' website at www.Contractors.LNI.wa.gov.
 - iii. If the contractor has a bank account on file instead of a bond, you have to list the bank name and account number in the complaint. This information is also available on the Department of Labor and Industries' website.
 - iv. In your complaint you can also request that the court award you your court costs,

⁷ [RCW 18.27.040\(3\)](#). You may also bring suit in the superior court of any county that has jurisdiction over the contractor.

interest, or reasonable attorney's fees as part of any judgment.⁸

2. When you have completed the Summons & Complaint forms, file it with the superior court in the county where work was done. The filing fee is approximately \$200. The court will give your case a cause number.
3. Once you have a cause number, the Department of Labor and Industries must serve the bonding company:
 - i. Send three copies of your Summons & Complaint to the Department of Labor and Industries. You should include a check for \$20 (processing fee) made out to the Department of Labor and Industries. Mail the forms and the check by certified or registered mail to the following address:

Department of Labor and Industries
Contractor Registration
PO Box 44450
Olympia, WA 98504-4450
4. You should serve the contractor and/or their business with a copy of the Summons & Complaint. Although the Department of Labor and Industries will also serve the contractor, the court may not consider the Department's service on the contractor adequate if the contractor's business is a partnership or limited liability company (LLC). Note that you may *not* serve this yourself but must have an

⁸ [RCW 18.27.040\(6\)](#).

uninterested person do this for you. You may hire a process server. Anyone who serves the contractor and/or their business must also file an Affidavit of Service with the court.

5. Make sure to keep a copy of the Summons and Complaint for your records.
6. When the case is finished, mail a copy of the Judgment and Order to the Department of Labor and Industries for their records.

◆ NOTE: This publication is general advice and cannot advise you how to go through or complete a lawsuit in Superior Court. Washington has state Court Rules and each Superior Court has Local Court Rules that you must follow during a lawsuit⁹. It is possible that if the contractor defends the lawsuit that your case may go to trial. Therefore, it is advisable that you seek legal assistance and/or representation.

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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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⁹ You may find both Washington State Court Rules and Washington Local Court Rules online at www.courts.wa.gov/court_rules/. You may also find these at the court's law library or your local library.