

1993 Assembly Bill 660

Date of enactment: **March 1, 1994**
Date of publication*: **March 15, 1994**

1993 WISCONSIN ACT 126

AN ACT to amend 20.445 (1) (j) and 101.64 (3); and to create 15.227 (7), 101.615 (3), 101.625, 101.63 (2m), 101.65 (1m), 101.65 (1r) and 101.654 of the statutes, relating to: the financial responsibility of persons who perform on one-family and 2-family dwellings work for which a building permit is required, creating a contractor financial responsibility council, granting rule-making authority, making an appropriation and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.227 (7) of the statutes is created to read:

15.227 (7) CONTRACTOR FINANCIAL RESPONSIBILITY COUNCIL. There is created in the department of industry, labor and human relations a contractor financial responsibility council consisting of 3 members who are representatives of building contractors actively engaged in on-site construction of one-family and 2-family housing, one member who is a certified building inspector employed by a county, city, village or town and one member who is not a building contractor or a building inspector. Members of the council shall serve for 3-year terms.

SECTION 2m. 20.445 (1) (j) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

20.445 (1) (j) *Safety and building operations.* The amounts in the schedule for the purposes of subchs. I, II, III, IV and VI of ch. 101, chs. 145 and 168 and ss. 236.12 (2) (a), 236.13 (1) (d) and (2m) and 236.335. All moneys received under ch. 145 and ss. 101.177 (4) (a) 4., 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), 101.973 (7), 168.12 (6) and 236.12 (7) shall be credited to this appropriation.

SECTION 3. 101.615 (3) of the statutes is created to read:

101.615 (3) Sections 101.65 (1m) and (1r) and 101.654 apply to an application for a building permit to perform work on a dwelling filed on or after the first day

of the first month beginning after the effective date of this subsection [revisor inserts date].

SECTION 4. 101.625 of the statutes is created to read: **101.625 Contractor financial responsibility council; duties.**

The contractor financial responsibility council shall recommend for promulgation by the department rules for certifying the financial responsibility of contractors under s. 101.654. These rules shall include rules providing for the assessment of fees upon applicants for certification of financial responsibility under s. 101.654 and for the suspension and revocation of that certification. The amount of the fees recommended under this section may not exceed an amount that is sufficient to defray the costs incurred in certifying the financial responsibility of applicants under s. 101.654.

SECTION 5. 101.63 (2m) of the statutes is created to read:

101.63 (2m) Promulgate rules for certifying the financial responsibility of contractors under s. 101.654. These rules shall include rules providing for the assessment of fees upon applicants for certification of financial responsibility under s. 101.654 and for the suspension and revocation of that certification. The amount of the fees assessed under this subsection may not exceed an amount that is sufficient to defray the costs incurred in certifying the financial responsibility of applicants under s. 101.654.

SECTION 6. 101.64 (3) of the statutes is amended to read:

– 2 –

1993 Assembly Bill 660

101.64 (3) Revise the rules under this subchapter after consultation with the dwelling code council or with the contractor financial responsibility council, as appropriate.

SECTION 7. 101.65 (1m) of the statutes is created to read:

101.65 (1m) May not issue a building permit to a person who is required to be certified under s. 101.654 unless that person, on applying for a building permit, produces a certificate of financial responsibility issued by the department showing that the person is in compliance with s. 101.654.

SECTION 8. 101.65 (1r) of the statutes is created to read:

101.65 (1r) Shall provide an owner who applies for a building permit with a statement advising the owner that if the owner hires a contractor to perform work under the building permit and the contractor is not bonded or insured as required under s. 101.654 (2) (a), the following consequences might occur:

(a) The owner may be held liable for any bodily injury to or death of others or for any damage to the property of others that arises out of the work performed under the building permit or that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.

(b) The owner may not be able to collect from the contractor damages for any loss sustained by the owner because of a violation by the contractor of the one- and 2-family dwelling code or an ordinance enacted under sub. (1) (a), because of any bodily injury to or death of others or damage to the property of others that arises out of the work performed under the building permit or because of any bodily injury to or death of others or damage to the property of others that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.

SECTION 9. 101.654 of the statutes is created to read:

101.654 Contractor financial responsibility certification. (1) (a) Subject to par. (b), no person may obtain a building permit unless the person annually obtains from the department a certificate of financial responsibility showing that the person is in compliance with sub. (2).

(b) Paragraph (a) does not apply to an owner of a dwelling who resides or will reside in the dwelling and who applies for a building permit to perform work on that dwelling.

(2) An applicant for a certificate of financial responsibility shall provide to the satisfaction of the department proof of all of the following:

(a) That the applicant has in force one of the following:

1. A bond endorsed by a surety company authorized to do business in this state of not less than \$25,000, conditioned upon the applicant complying with all applicable provisions of the one- and 2-family dwelling code and

any ordinance enacted under s. 101.65 (1) (a) and as indemnity for any loss sustained by any person because of any violation by the applicant of that dwelling code or ordinance.

2. A policy of general liability insurance issued by an insurer authorized to do business in this state insuring the applicant in the amount of at least \$250,000 per occurrence because of bodily injury to or death of others or because of damage to the property of others.

(b) If the applicant is required under s. 102.28 (2) (a) to have in force a policy of worker's compensation insurance or if the applicant is self-insured in accordance with s. 102.28 (2) (b), that the applicant has in force a policy of worker's compensation insurance issued by an insurer authorized to do business in this state or is self-insured in accordance with s. 102.28 (2) (b).

(c) If the applicant is required to make state unemployment compensation contributions under ch. 108 or is required to pay federal unemployment compensation taxes under 26 USC 3301 to 3311, that the applicant is making those contributions or paying those taxes as required.

(3) Upon receipt of the proof required under sub. (2) and the fee required by rules promulgated under s. 101.63 (2m), the department shall issue to the applicant a certificate of financial responsibility. A certificate of financial responsibility issued under this subsection is valid for one year after the date of issuance, unless sooner suspended or revoked.

(4) (a) A bond or insurance policy required under sub. (2) shall provide that the bond or policy may not be canceled by the person insured under the bond or policy or by the surety company or insurer except on 30 days' prior written notice served on the department in person or by certified mail. The person insured under the bond or policy shall file with the department proof to the satisfaction of the department of a replacement bond or replacement insurance within the 30-day notice period and before the expiration of the bond or policy. The department shall suspend without prior notice or hearing the certificate of financial responsibility of a person who does not file satisfactory proof of a replacement bond or replacement insurance as required by this subsection.

(b) A bond under sub. (2) (a) 1. shall be executed in the name of the state for the benefit of any person who sustains a loss as described in sub. (2) (a) 1., except that the aggregate liability of the surety to all persons may not exceed the amount of the bond.

SECTION 11. Nonstatutory provisions. (1) INITIAL TERMS; CONTRACTOR FINANCIAL RESPONSIBILITY COUNCIL. Notwithstanding the length of terms specified in section 15.227 (7) of the statutes, as created by this act, the governor, in making initial appointments to the contractor financial responsibility council, shall designate one member of the contractor financial responsibility council who is a building contractor to serve for a term expiring

1993 Assembly Bill 660

on July 1, 1994, and shall designate 2 members of that council, one of whom is a building contractor, to serve for terms expiring on July 1, 1995.

(2) **RULE MAKING; CONTRACTOR FINANCIAL RESPONSIBILITY CERTIFICATION.** The department of industry, labor and human relations shall submit the proposed rules required under section 101.63 (2m) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 12th month beginning after the effective date of this subsection.

SECTION 11m. Appropriation changes. (1m) CONTRACTOR FINANCIAL RESPONSIBILITY ADMINISTRATION. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of industry, labor and human relations under section 20.445 (1) (j) of the statutes, as affected by the acts of 1993, the dollar amount is

increased by \$97,100 for fiscal year 1994–95 to increase the authorized FTE positions for the department by 8.0 PR positions to administer the contractor financial responsibility program under section 101.654 of the statutes, as created by this act.

SECTION 12. Initial applicability. (1) **APPLICATIONS FOR BUILDING PERMITS.** The treatment of sections 101.65 (1m) and (1r) and 101.654 of the statutes first applies to applications for building permits filed on the first day of the first month beginning after the effective date of this subsection.

SECTION 13. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 101.615 (3), 101.65 (1m) and (1r) and 101.654 of the statutes and SECTION 12 of this act take effect on the first day of the 12th month beginning after publication.