



## ***Do You Have a License for that Flipper?***

By the Demco Law Firm, P.S.

Homeowner complaints about houses that were quickly remodeled and “flipped” have caught the attention of the legislature. The result was changes to the contractor registration statute that went into effect with little fanfare last July. Under the revised statute, many real estate investors and developers are now required to be licensed as a contractor even if they perform no work themselves and hire licensed contractors to work on the property. The potential consequences for violation of the law are severe, and lawsuits may follow.

***The Amendments.*** The legislature changed the definition of who is a “contractor” rather than changing the requirements for contractors. The definition now includes:

Anyone who develops property as a business (even if a contractor is hired to do the work)

Anyone who performs contractor services in the role of a “consultant”

Anyone who sells a property less than one year after acquiring it

Although the law went into effect on July 22, 2007, the Department of Labor and Industries has not completed the regulations to enforce it. Those regulations will be complete in early 2008.

***What does it mean?*** Unfortunately, the language of the statute is not very clear, and it remains unknown how the changes will be enforced. The regulations to be issued in 2008 will add some clarity, but for the time being, the law should be read literally. The Department of Labor and Industries has published a brochure that explains its view on some questions.

1. ***I have owned my home for three years and am fixing it up to sell. Do I have to register to be a contractor?*** No, if you have owned your home for more than 12 months, you are exempt from the contractor registration requirement.
2. ***I am purchasing land and plan to construct on my own or hire a contractor to build a structure for the purpose of selling that improved property. Do I have to be registered as a general contractor?*** Yes.
3. ***I am purchasing a residential property that I am going to remodel or make improvements and then rent it out. Do I need to be a registered contractor?*** No.
4. ***I am purchasing a home to renovate and update with the purpose of selling it – also known as “flipping” it. Do I need to be registered as a general contractor?*** Yes.

5. ***I bought a piece of land and intend to build my “dream house” on it to live in as my primary residence. Do I need to be registered as a contractor?*** No.

Read literally, the law requires anyone who sells a property after owning it for less than a year to register as a contractor, even if no work was performed. For example, a homeowner who was transferred to another state and had to move six months after purchasing it would meet the statutory definition. However, it is likely that the upcoming regulations will require some remodeling or repair work before a homeowner would be considered a contractor in this circumstance.

***How Hard Can It Be?*** Becoming a contractor does not involve passing a test. It merely requires obtaining a business license, proof of insurance and a bond. However, obtaining those can be difficult and expensive. The cost of insurance depends upon the nature of the business of a contractor, and most insurance companies have not yet adjusted to the new statute. A homeowner who needs a license for a single transaction may need weeks to qualify and spend several thousand dollars. For this reason, people subject to the law should start the application process at the earliest possible time.

***What Are the Consequences?*** Acting as a contractor without a license is a gross misdemeanor and punishable by up to a year in county jail and a fine of \$5,000. Each property is a separate offense. Violation of the Contractor Registration Act is also a violation of the Consumer Protection Act, which can result in punitive damages and liability for attorney fees. Most insurance policies will not cover misdemeanors or violations of the Consumer Protection Act.

***The Takeaway Message.*** Property “flippers” and real estate developers have to be registered contractors. Any unhappy buyer will be able to use a failure to register as leverage in any claim or dispute even if the dispute has nothing to do with contractor issues. Anyone who is likely to come within the statutory definition should immediately take steps to become registered. Real estate agents should stay tuned for the upcoming rules to see how they will affect homeowners who simply decide to sell their house in less than a year.

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