

# HOUSE RESEARCH

## Bill Summary

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### **1 Construction contractors.**

Clarifies that the scope of the classification regulation language applies to persons performing construction services and adds limited liability partnerships to the entities covered.

Defines constructions services to include: field installation of building construction materials into commercial or residential buildings in both the public and private sector, demolition or deconstruction, and landscaping services or construction cleaning services when performed as part of a contract for other building construction or improvement services. Specifies that construction services do not include: the manufacture, supply, or sale of products, materials, merchandise, or equipment; installation or delivery of a product by the manufacturer; rubbish or debris hauling; or cleaning or maintenance of a building.

Sets forth criteria for classification as a construction contractor to include satisfaction of registration requirements (outlined below) and the following conditions:

- maintenance of a separate business with the person's own office, equipment, and materials;
- holding a federal employer I.D. number or filing a business or self-employment income tax return with the IRS if services were performed in the previous year;
- operating under written contracts to perform specific construction services for specific amounts of money. The person must control the means of performing the services;
- incurring the main expenses related to the construction services performed under the contract;
- responsibility for satisfactory completion of construction services and liability for failure to complete the service;
- receipt of compensation for services performed under a contract on a commission or per-job or competitive bid basis, and not on any other basis;
- realization of profit or loss under contracts to perform construction services;

- continuing or recurring business liabilities or obligations; and
- success of failure of business depends on the relationship of business receipts to expenditures.

On or after January 1, 2012, any person performing construction services in the state must register with the commissioner. Registration requirements do not apply to those otherwise licensed, certified, or registered under chapters 299M or 326B; those holding a current independent contractors exemption certificate; bonded persons; employees of a person performing the construction services if the person was in compliance with applicable laws at the time the services were performed; architects or professional engineers; school districts or technical colleges; certain volunteers; or those providing constructions services with gross annual receipts under \$2,000.

Specifies items that must be included on an application for initial or renewal registrations to include legal name and address, state tax ID number, federal employee ID number if applicable, evidence of active status of business filings, information on other officers and partners in the applicant's business, information on the number of employees, workers compensation insurance information, unemployment insurance account information, and certification that information on the application is truthful.

Directs the commissioner to establish and maintain a website for applicants and registrants.

Clarifies prohibited activities and provides for penalties for violations.

- 2** **Applicable law.** Adds statutory cross-reference to enforcement provisions of construction codes and licensing chapter.
- 3** **Repealer.** Repeals advisory task force on employee misclassification and independent contractor exemption certificate rules.