DIRK KEMPTHORNE
GOVERNOR

March 25, 2005

The Honorable Bruce Newcomb
Speaker of the House
Idaho House of Representatives
Statehouse
Boise, Idaho 83720

Dear Mr. Speaker:

I hereby advise you that I have transmitted to the Office of the Secretary of State, with my approval, the following House Bill, to wit:

H 163

within the time limited by law, the same having arrived in the Office of the Governor at the hour of 11:15 a.m. on March 21, 2005.

I. INTRODUCTION

Today I signed House Bill 163 – the Contractor Registration Act – into law. Beginning January 1, 2006, this law will require building contractors to register with the State of Idaho. The vast majority of construction professionals within our state operate with integrity and skill. Those few who do not, however, pose a great risk to Idaho consumers. Our homes are typically the largest single investments most Idahoans will make, and it makes sense to have a law in place that gives homeowners some assurance that those individuals building their homes have not previously put homeowners at risk.

This legislation has been brought about by the industry itself – this is not a case of industry being imposed upon by government.

I strongly believe that H 163 creates good public policy that provides for consumer and community protection from the actions of a few "bad actors" in the construction industry.

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I recognize that the enactment and implementation of any new legislation may cause anxiety or concern, which is why I felt that it was important to explain the need for this legislation and refute some of the misconceptions that have been expressed to me.

II. DISCUSSION

I would like to explain my rationale for signing H 163, which is outlined below.

1. First, I do not believe that the requirements of H 163 are onerous or overly burdensome. This law will require contractors to carry liability insurance and insurance covering their construction operations – most contractors already carry such insurance with coverage in amounts that exceed the requirement of the new law. Due to the high risk involved in construction operations, it makes sense to ensure that the homeowner and builder are adequately protected. This section of the legislation was reviewed and crafted by Senator John Goedde and Representative Max Black, both respected for their expertise in the field of insurance. H 163 also requires proof of compliance with Idaho's workers compensation insurance law. Because workers compensation insurance is already required by law, this will not be an additional cost for law-abiding contractors.

2. The $2,000 exemption, or the "handy-man" exemption, tracks with a section of current law, Idaho Code §45-525. This section of code identifies a contractor as anyone with a direct contractual relationship with a homeowner to perform construction and states that certain disclosures (such as identification of people with lien rights) must be made to the homeowner. Failure to comply with this law is a violation of the Consumer Protection Act. Setting the "handy-man" exemption at $2,000 is intended to let contractors know when they need to make the disclosures (current law) and when they need to register (H 163).

3. The "handy-man" exemption should not be confused with the "homeowner exemption." Under H 163, a homeowner can do repairs at ANY cost. Homeowners can perform their own construction or act as their own general contractor without being required to register, provided the homeowner is not acting with the intent to evade the chapter and with the intent to promptly sell the home.

4. It also seems reasonable to establish a board representative of the construction industry and the public to develop a system and process to deal with unscrupulous contractors. The rules of this board will be created through a rule making process that provides for public input from both the general public, as well as contractors – these proposed rules will be reviewed by the Idaho State Legislature.

5. Currently, the cities of Idaho Falls, Pocatello and Chubbuck require contractors to be licensed per city ordinance. Under H 163, contractors will still be required to have licenses in those cities under the standards they have established.
   If the state failed to act and H 163 did not become law, other cities have indicated that they will implement local licensing. If that were to occur, Idaho would find itself in a position with each individual city and county requiring separate licenses with different conditions. A statewide and uniform system of requirements for contractors is a better policy and is intended to preempt other cities from creating a larger "hodge-podge" for contractors.

   Having multiple licensure requirements in multiple jurisdictions would be detrimental to regional building contractors and would increase the cost of construction. The Association of Idaho Cities is in support of H 163 and assisted in drafting portions of the bill.

6. The proponents of H 163 are wide and varied. Supporters include cities, chambers of commerce, consumer protection agencies, senior citizen advocacy groups, banks and lenders, construction groups and real estate professionals from across the state. An overview of the distribution of supporters can be demonstrated through the following examples:

"Fraudulent or misleading activity by a tiny handful of irresponsible contractors has been, and continues to be, a problem that costs consumers money and inconvenience...We believe that, after literally decades of debate over how to protect consumers in their dealings with contractors, this bill represents a reasonable and sensible solution that will protect consumers without unfairly restricting legitimate, responsible contractors."

Steve Ahrens, Idaho Association of Commerce
& Industry President

"Consumer complaints regarding home improvement services consistently top the Better Business Bureaus list of most common complaints. Yet, until today, Idahoans had few resources for understanding the history and abilities of companies or individuals providing home improvement services. The contractor registration process will provide savvy home improvement customers with the ability to know if a contractor has a poor history in another state, or has a habit of changing their business name to escape an unfavorable reputation. Every tool which Idaho consumers can use to make the best possible decision for their situation is good for the consumer themselves, good for the marketplace, and good for their community."

Nora J. Carpenter, Executive Director
Better Business Bureau, Inc.

" I want to add my voice to those who believe we need this bill [H 163] for the future of our city... "

Tom Dale, Mayor of Nampa

"As Fire Marshall for Caldwell, Secretary-Treasurer of the Idaho Fire Chiefs Association...and Vice-Chairman of the Idaho Building Code Board, I believe this is needed legislation to help protect Idaho citizens from dishonest and unreliable builders. With development and growth at record levels in the Treasure Valley it is imperative that we look out for the interest of the folks making the biggest investment of their lives – a home purchase."

Doug Brown, Caldwell

"The building industry has been a key factor in sustaining our economy statewide. With the magnitude of the building industry and the potential for consumer issues, the Twin Falls Area Chamber of Commerce feels the proposed Contractor Registration Act must be enacted."

Shawn Barigar, President/CEO Twin Falls
Area Chamber of Commerce

"The Coeur d' Alene City Council and I support HB 163...This bill is important because it protects the public from contractor scams; it protects workers and insures workman's compensation for employees; and competition and quality is enhanced."

Sandi Bloem, Mayor of Coeur d'Alene

"As a member of the Board of Directors for the Mini-Cassia Chamber of Commerce as well as actively involved in the Idaho Association of Realtors, I urge you to sign this very important legislation. It is past time for this minimum amount of regulation for an industry that can cause a great deal of harm to consumers."

Marvis Brice, Rupert

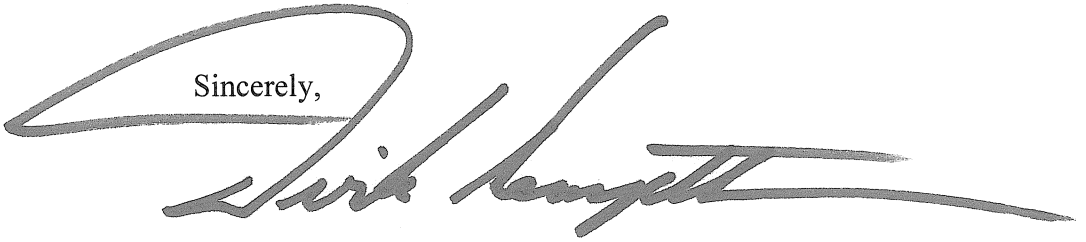
7. Lawsuits, liens, shoddy work, rebuilds, and corrective actions all cost homeowners unnecessary aggravation, time, and expenses. The Better Business Bureau has requested that Idaho enact this law, as construction-related complaints are consistently among the top number of complaints received by those bureaus – a trend that is increasing as Idaho's population and housing markets continue at record-setting pace.

I would like to praise the Idaho Building Contractors Association and the Idaho Association of REALTORS for bringing this legislation forward. I believe that their continued vigilance in pursuing a contractor registration program is a testament to their dedication to professionalism and commitment to ensuring the highest ethical standards in their industry.

III. CONCLUSION

As you know, Mr. Speaker, as public servants we are entrusted to protect consumers from fraud and abuse – I believe H 163 is a positive step forward in that direction. Thus, today I am pleased to sign this legislation.

Sincerely,



DIRK KEMPTHORNE
Governor

cc: Secretary of State