

SENATE CS FOR HOUSE BILL NO. 130(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

Offered: 4/12/00

Referred: Rules

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act adding limited liability companies and limited liability partnerships to the
2 organizations that can be authorized to practice architecture, engineering, land
3 surveying, and landscape architecture; relating to the review of drawings and
4 specifications for compliance with building codes; and relating to state and
5 municipal contracts for architectural, engineering, land surveying, and landscape
6 architectural services."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** AS 08.48.101(a) is amended to read:

- 9 (a) The board may adopt regulations to carry out the purpose of this chapter,
10 including [, BUT NOT LIMITED TO]
11 (1) describing the contents of an examination;
12 (2) establishing the conduct of an examination;
13 (3) establishing a minimum score for passing an examination;

- 1 (4) establishing bylaws governing its meetings and activities;
- 2 (5) publishing a code of ethics or professional conduct for those
- 3 persons regulated by this chapter, including corporations, **limited liability companies,**
- 4 **and limited liability partnerships** under AS 08.48.241.

5 * **Sec. 2.** AS 08.48.111 is amended to read:

6 **Sec. 08.48.111. Power to revoke, suspend, or reissue certificate.** The board

7 may suspend, refuse to renew, or revoke the certificate of or reprimand a registrant,

8 [OR] corporation, **limited liability company, or limited liability partnership** who is

9 found guilty of (1) fraud or deceit in obtaining a certificate; (2) gross negligence,

10 incompetence, or misconduct in the practice of architecture, engineering, land

11 surveying, or landscape architecture; or (3) a violation of this chapter, a regulation

12 adopted under this chapter, or the code of ethics or professional conduct as adopted

13 by the board. The code of ethics or professional conduct shall be distributed in writing

14 to every registrant and applicant for registration under this chapter. This publication

15 and distribution of the code of ethics or professional conduct constitutes due notice to

16 all registrants. The board may revise and amend its code and, upon doing so, shall

17 immediately notify each registrant in writing of the revisions or amendments. The

18 board may, upon petition of the registrant, [OR] corporation, **limited liability**

19 **company, or limited liability partnership,** reissue a certificate if a majority of the

20 members of the board vote in favor of the reissuance.

21 * **Sec. 3.** AS 08.48.231(a) is amended to read:

22 (a) To remain valid, certificates shall be renewed in accordance with

23 AS 08.01.100. Notice of renewal dates, given under AS 08.01.050(a)(11), shall be

24 mailed to the registrant, [OR] corporation, **limited liability company, or limited**

25 **liability partnership** at the registrant's, [OR] corporation's, **limited liability**

26 **company's, or limited liability partnership's** last known address at least one month

27 in advance of the date of the expiration of the certificate. If the certificate has been

28 suspended or revoked, the board may take action independent of this section.

29 * **Sec. 4.** AS 08.48.241 is amended to read:

30 **Sec. 08.48.241. Corporations, limited liability companies, and limited**

31 **liability partnerships.** (a) This chapter does not prevent a corporation, **limited**

1 liability company, or limited liability partnership from offering architectural,
 2 engineering, land surveying, or landscape architectural services; however, the
 3 corporation, limited liability company, or limited liability partnership shall file with
 4 the board

5 (1) an application for a certificate of authorization upon a form to be
 6 prescribed by the board and containing information required to enable the board to
 7 determine whether the corporation, limited liability company, or limited liability
 8 partnership is qualified in accordance with the provisions of this chapter to offer to
 9 practice architecture, engineering, land surveying, or landscape architecture in this
 10 state;

11 (2) a certified copy of a resolution of the board of directors of the
 12 corporation, the managing members or manager of the limited liability company,
 13 or the general partners of a limited liability partnership designating persons
 14 holding certificates of registration under this chapter as responsible for the practice of
 15 architecture, engineering, land surveying, or landscape architecture by the corporation,
 16 limited liability company, or limited liability partnership in this state and providing
 17 that full authority to make all final architectural, engineering, land surveying, or
 18 landscape architectural decisions on behalf of the corporation, limited liability
 19 company, or limited liability partnership with respect to work performed by the
 20 corporation, limited liability company, or limited liability partnership in this state
 21 is granted by the board of directors of the corporation, the managing members or
 22 manager of the limited liability company, or the general partners of the limited
 23 liability partnership to the persons designated in the resolution; however, the filing
 24 of this resolution does not relieve the corporation, limited liability company, or
 25 limited liability partnership of any responsibility or liability imposed upon it by law
 26 or by contract;

27 (3) a designation in writing setting out the name of one or more
 28 persons holding certificates of registration under this chapter who are in responsible
 29 charge of each major branch of the architectural, engineering, land surveying, or
 30 landscape architectural activities in which the corporation, limited liability company,
 31 or limited liability partnership specializes in this state; if a change is made in the

1 person in responsible charge of a major branch of the architectural, engineering, land
 2 surveying, or landscape architectural activities, the change shall be designated in
 3 writing and filed with the board within 30 days after the effective date of the change.

4 (b) Upon filing with the board the application for certificate of authorization,
 5 certified copy of resolution, affidavit, and designation of persons specified in this
 6 section, the board shall, subject to (c) of this section, issue to the corporation, **limited**
 7 **liability company, or limited liability partnership** a certificate of authorization to
 8 practice architecture, engineering, land surveying, or landscape architecture in this state
 9 upon a determination by the board that

10 (1) the bylaws of the corporation, **the articles of organization or**
 11 **operating agreement of the limited liability company, or the partnership**
 12 **agreement of the limited liability partnership** contain provisions that all
 13 architectural, engineering, land surveying, or landscape architectural decisions
 14 pertaining to architectural, engineering, land surveying, or landscape architectural
 15 activities in this state will be made by the specified architect, engineer, land surveyor,
 16 or landscape architect in responsible charge, or other registered architects, engineers,
 17 land surveyors, or landscape architects under the direction or supervision of the
 18 architect, engineer, land surveyor, or landscape architect in responsible charge;

19 (2) the application for certificate of authorization states the type of
 20 architecture, engineering, land surveying, or landscape architecture practiced or to be
 21 practiced by the corporation, **limited liability company, or limited liability**
 22 **partnership**;

23 (3) the applicant corporation, **limited liability company, or limited**
 24 **liability partnership** has the ability to provide architectural, engineering, land
 25 surveying, or landscape architectural services;

26 (4) the application for certificate of authorization states the professional
 27 records of the designated person who is in responsible charge of each major branch of
 28 architectural, engineering, land surveying, or landscape architectural activities in which
 29 the corporation, **limited liability company, or limited liability partnership**
 30 specializes;

31 (5) the application for certificate of authorization states the experience,

1 **if any**, of the corporation, **limited liability company, or limited liability partnership**
 2 [, IF ANY,] in furnishing architectural, engineering, land surveying, or landscape
 3 architectural services during the preceding five-year period;

4 (6) the applicant corporation, **limited liability company, or limited**
 5 **liability partnership** meets other requirements related to professional competence in
 6 the furnishing of architectural, engineering, land surveying, or landscape architectural
 7 services as may be adopted by the board in furtherance of the objectives and
 8 provisions of this chapter.

9 (c) The board may, in the exercise of its discretion, refuse to issue, or may
 10 suspend or revoke a certificate of authorization to a corporation, **limited liability**
 11 **company, or limited liability partnership** if the board finds that any of the
 12 **corporation's** officers, directors, **or** incorporators, **any of** [OR] the stockholders
 13 holding a majority of the stock of the corporation, **any of the limited liability**
 14 **company's organizers, managers, or managing members, or any of the limited**
 15 **liability partnership's general partners** has committed misconduct or malpractice,
 16 or has been found personally responsible for misconduct or malpractice under the
 17 provisions of this chapter.

18 (d) The certificate of authorization **must** [SHALL] specify the major branches
 19 of architecture, engineering, land surveying, or landscape architecture of which the
 20 corporation, **limited liability company, or limited liability partnership** has
 21 designated a person in responsible charge as provided in this section. The certificate
 22 of authorization shall be conspicuously displayed in the place of business of the
 23 corporation, **limited liability company, or limited liability partnership**, together with
 24 the names of persons designated as being in responsible charge of the professional
 25 activities.

26 (e) If a corporation, **limited liability company, or limited liability**
 27 **partnership that is** organized solely by either a group of architects, a group of
 28 engineers, a group of land surveyors, or a group of landscape architects, each holding
 29 a certificate of registration under this chapter, applies for a certificate of authorization,
 30 the board may, in its discretion, grant a certificate of authorization to the corporation,
 31 **limited liability company, or limited liability partnership** based on a review of the

professional records of the incorporators of the corporation, organizers of the limited liability company, or partners who formed the limited liability partnership [,] in place of the required qualifications set out in this section. If the ownership of the corporation is altered, the membership of the limited liability company is altered, or the partners of the limited liability partnership change, the corporation, limited liability company, or limited liability partnership shall apply for a revised certificate of authorization, based upon the professional records of the owners of the corporation, the members of the limited liability company, or the partners of the limited liability partnership, if exclusively architects, engineers, land surveyors, or landscape architects, or otherwise under the qualifications required by (b)(1) - (4) of this section.

(f) A corporation, limited liability company, or a limited liability partnership authorized to offer architectural, engineering, land surveying, or landscape architectural services under this chapter, together with its directors, [AND] officers, managing members, manager, and partners for their own individual acts, is responsible to the same degree as the designated individual registered architect, engineer, land surveyor, or landscape architect, and shall conduct its business without misconduct or malpractice in the practice of architecture, engineering, land surveying, or landscape architecture as defined in this chapter.

(g) If the board, after a proper hearing, finds that a corporation, limited liability company, or limited liability partnership holding a certificate of authorization has committed misconduct or malpractice, the board shall suspend or revoke the certificate of authorization. The board shall also suspend or revoke the certificate of registration of any registered individual architect, engineer, land surveyor, or landscape architect who, after a proper hearing, is found by the board to have participated in committing the misconduct or malpractice.

(h) Drawings, specifications, designs, and reports, when issued in connection with work performed by a corporation, limited liability company, or limited liability partnership under its certificate of authorization, shall be prepared by or under the responsible charge of and shall be signed by and [SHALL BE] stamped with the official seal of a person holding a certificate of registration under this chapter.

1 (i) [Repealed].

2 * **Sec. 5.** AS 08.48.241 is amended by adding a new subsection to read:

3 (j) In this section,

4 (1) "manager" has the meaning given in AS 10.50.990;

5 (2) "managing member" has the meaning given in AS 10.50.990.

6 * **Sec. 6.** AS 08.48.251 is amended to read:

7 **Sec. 08.48.251. Certain partnerships [PARTNERSHIPS].** This chapter does
8 not prevent the practice of architecture, engineering, land surveying, or landscape
9 architecture by a partnership if all of the members of the partnership are architects,
10 engineers, land surveyors, or landscape architects legally registered under this chapter.

11 **In this section, "partnership" does not include a limited liability partnership.**

12 * **Sec. 7.** AS 08.48.281(a) is amended to read:

13 (a) A person may not practice or offer to practice the profession of
14 architecture, engineering, land surveying, or landscape architecture in the state, or use
15 in connection with the person's name or otherwise assume or advertise a title or
16 description tending to convey the impression that the person is an architect, an
17 engineer, a land surveyor, or a landscape architect, unless the person has been
18 registered under the provisions of this chapter or is a person to whom these provisions
19 do not apply, or, in the case of a corporation, **limited liability company, or limited**
20 **liability partnership**, unless it has been authorized under this chapter.

21 * **Sec. 8.** AS 08.48.331(a) is amended to read:

22 (a) This chapter does not apply to

23 (1) a contractor performing work designed by a professional architect,
24 engineer, or landscape architect or the supervision of the construction of the work as
25 a supervisor or superintendent for a contractor;

26 (2) workers in building trades crafts, earthwork, grounds keeping, or
27 nursery operations, and superintendents, supervisors, or inspectors in the performance
28 of their customary duties;

29 (3) an officer or employee of the United States government practicing
30 architecture, engineering, land surveying, or landscape architecture as required by the
31 person's official capacity;

1 (4) an employee or a subordinate of a person registered under this
 2 chapter if the work or service is done under the direct supervision of a person
 3 registered under this chapter;

4 (5) associates, consultants, or specialists retained by a registered
 5 individual, a partnership of registered individuals, [OR] a corporation, **a limited**
 6 **liability company, or a limited liability partnership** authorized to practice
 7 architecture, engineering, land surveying, or landscape architecture under this chapter,
 8 in the performance of professional services if responsible charge of the work remains
 9 with the individual, the partnership, or a designated representative of the corporation,
 10 **limited liability company, or limited liability partnership**;

11 (6) a person preparing drawings or specifications for

12 (A) a building for the person's own use and occupancy as a
 13 single family residence and related site work for that building;

14 (B) farm or ranch buildings and their grounds [,] unless the
 15 public health, safety, or welfare is involved;

16 (C) a building that is intended to be used only as a residence
 17 by not more than four families and that is not more than two stories high and
 18 the grounds of the building;

19 (D) a garage, workshop, or similar building that contains less
 20 than 2,000 square feet of floor space to be used for a private noncommercial
 21 purpose and the grounds of the building;

22 (7) a specialty contractor licensed under AS 08.18 while engaged in the
 23 business of construction contracting or designing systems for work within the specialty
 24 to be performed or supervised by the specialty contractor, or a contractor preparing
 25 shop or field drawings for work that the specialty contractor has contracted to perform;

26 (8) a person furnishing drawings, specifications, instruments of service,
 27 or other data for alterations or repairs to a building or its grounds that do not change
 28 or affect the structural system or the safety of the building, or that do not affect the
 29 public health, safety, or welfare;

30 (9) a person who is employed by a postsecondary educational
 31 institution to teach engineering, architectural, or landscape architectural courses; in this

paragraph, "postsecondary educational institution" has the meaning given in AS 14.48.210;

(10) an officer or employee of an individual, firm, partnership, association, utility, [OR] corporation, **limited liability company, or limited liability partnership**, who practices engineering involved in the operation of the employer's business only, and further provided that neither the employee nor the employer offers engineering services to the public; exclusions under this paragraph do not apply to buildings or structures whose primary use is public occupancy;

(11) a person while involved in revegetation, restoration, reclamation, rehabilitation, or erosion control for disturbed land;

(12) a person while maintaining or directing the placement of plant material;

(13) an employee, officer, or agent of a regulatory agency of the state or a municipality when reviewing drawings and specifications for compliance with the building codes of the state or a municipality if the drawings and specifications have been signed and sealed by a professional architect or professional engineer or the preparation of the drawings and specifications is exempt under this section from the requirements of this chapter; in this paragraph, "building codes" includes codes relating to building, mechanical, plumbing, electrical, and fire standards.

* Sec. 9. AS 08.48.341(4) is amended to read:

(4) "certificate of authorization" means a certificate issued by the board authorizing a corporation, **a limited liability company, or a limited liability partnership** to provide professional services in architecture, engineering, land surveying, or landscape architecture through individuals legally registered by the board;

* Sec. 10. AS 08.48.341 is amended by adding new paragraphs to read:

(19) "limited liability company" means an organization organized under AS 10.50 or a foreign limited liability company; in this paragraph, "foreign limited liability company" has the meaning given in AS 10.50.990;

(20) "limited liability partnership" means an organization registered under AS 32.05.415 or a foreign limited liability partnership; in this paragraph,

1 "foreign limited liability partnership" has the meaning given in AS 32.05.990.

2 * **Sec. 11.** AS 36.90.100 is amended to read:

3 **Sec. 36.90.100. Contracts for architectural, engineering, [OR] land**
4 **surveying, or landscape architectural services.** The state or a municipality may not
5 award a contract for architectural, engineering, [OR] land surveying, **or landscape**
6 **architectural** services to

7 (1) an individual who is not registered under AS 08.48 to perform the
8 architectural, engineering, [OR] land surveying, **or landscape architectural** services
9 required by the contract;

10 (2) a partnership, **except as provided by (3) of this section,** that is not
11 qualified under AS 08.48.251 to provide the architectural, engineering, [OR] land
12 surveying, **or landscape architectural** services required by the contract; or

13 (3) a corporation, **limited liability company, or limited liability**
14 **partnership** that is not authorized under AS 08.48.241 to offer the architectural,
15 engineering, [OR] land surveying, **or landscape architectural** services required by the
16 contract.