

HOUSE BILL NO. 260

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE JOSEPHSON

Introduced: 1/20/26

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to penalties for violating a requirement for a certificate of fitness;
2 relating to joint and several liability for unpaid construction wages; and relating to the
3 jurisdiction of the office of administrative hearings over certificate of fitness
4 administrative fine hearings."

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

6 * **Section 1.** AS 08.18.121 is amended by adding a new subsection to read:

7 (i) If a registered contractor is found to have knowingly violated a provision of
8 AS 18.62, the contractor's registration shall be suspended for a period of 90 days. A
9 contractor's registration shall be permanently revoked upon a second finding that the
10 contractor knowingly violated a provision of AS 18.62.

11 * **Sec. 2.** AS 18.62.080 is repealed and reenacted to read:

12 **Sec. 18.62.080. Administrative fine and procedure.** (a) The department may
13 impose an administrative fine of not more than \$1,000 on an employer or employee
14 who violates a provision of this chapter or a regulation adopted under this chapter.

1 (b) The department shall issue a written notice of an administrative fine
 2 imposed under (a) of this section, together with a statement of the reason for the fine, a
 3 copy of the applicable procedures, and notice of an opportunity to request a hearing,
 4 including the contact information for making the request, within 30 days after the date
 5 of the notice of the fine.

6 (c) If a person who is issued a notice of an administrative fine under (b) of this
 7 section fails to request a hearing within 30 days after the date of the notice, the right to
 8 a hearing is waived, and the administrative fine is not subject to judicial review. A
 9 hearing request must be in writing and must clearly state the issues to be raised at the
 10 hearing. The department shall schedule a hearing before a hearing officer not earlier
 11 than 10 days after receiving the request for a hearing.

12 (d) A decision of a hearing officer under this section is a final administrative
 13 decision subject to review by a superior court under AS 44.62 (Administrative
 14 Procedure Act).

15 * **Sec. 3.** AS 23.10 is amended by adding new sections to read:

16 **Article 9. Payment of Construction Wages.**

17 **Sec. 23.10.700. Employer's liability for compensation.** (a) A project owner
 18 that enters into a construction contract with a contractor shall be jointly and severally
 19 liable with the contractor for unpaid wages owed to an employee of the contractor and
 20 an employee of a subcontractor at any tier for work performed on a project within the
 21 scope of the construction contract. The provisions in this subsection may not be
 22 waived.

23 (b) This section does not apply to

24 (1) an employee covered by a bona fide collective bargaining
 25 agreement that provides a grievance procedure resulting in a final and binding
 26 decision and that provides a mechanism for recovering unpaid wages and benefits on
 27 behalf of the employee covered by the agreement;

28 (2) a construction contract that relates to real property used by the
 29 project owner as the project owner's principal residence or to real property consisting
 30 of five or fewer residential units on a single tract of land; or

31 (3) a project owner if the construction contract relates to real property

1 consisting of one commercial unit.

2 **Sec. 23.10.710. Claims for unpaid construction wages.** (a) An employee of a
3 contractor or subcontractor, or an authorized representative of the employee, may
4 bring suit against a project owner, contractor, or subcontractor in any court of
5 competent jurisdiction to recover unpaid wages. The employee retains all remedies to
6 which the employee might otherwise be entitled, including those remedies provided
7 under AS 08.18, AS 23.05, AS 34.35, or this chapter, for any balance claimed.

8 (b) In an action brought under this section, there is a rebuttable presumption
9 that a person performing work on a project within the scope of a construction contract
10 is an employee. A party claiming otherwise may rebut the presumption by establishing
11 that the person is an independent contractor under AS 23.30.230(a)(12).

12 (c) Nothing in this section impairs the right of a project owner to bring an
13 action against a contractor, or a project owner or contractor to bring an action against a
14 subcontractor, to seek recovery of actual and liquidated damages for the amounts paid
15 by the owner or contractor for unpaid wages.

16 (d) Before filing suit against a project owner or contractor under (a) of this
17 section, an employee or the authorized representative of the employee shall send
18 written notice of the alleged unpaid wages by certified mail to the owner and the
19 contractor. The notice must describe the nature of the allegation and state that the
20 project owner and the contractor have 21 calendar days from the certified delivery date
21 to remit wages owed. Notice provided under this subsection does not limit the liability
22 of the project owner or contractor or preclude a person from later amending a
23 complaint after an action is commenced to include additional parties to the action.

24 **Sec. 23.10.720. Payroll records.** (a) A subcontractor performing work on a
25 project within the scope of a construction contract entered into by a project owner and
26 contractor shall provide the following records to the project owner or contractor upon
27 the owner's or contractor's request:

28 (1) payroll reports that, at a minimum, include sufficient information
29 for the contractor to determine whether a subcontractor has paid in full all wages
30 earned by employees of the subcontractor who performed work within the scope of the
31 construction contract;

1 (2) the name, address, and telephone number of the subcontractor and
2 the name of any additional subcontractor employed by the subcontractor to perform
3 work on the project;

4 (3) the names of all workers who performed work on the project and
5 whether each worker is paid or classified as an employee or an independent contractor;

6 (4) the anticipated start date and scheduled duration of the work on the
7 project;

8 (5) an affidavit that attests to whether the subcontractor or any of the
9 subcontractor's current principals, including project owners and contractors, have,
10 within the preceding five years, participated in a civil, administrative, or criminal
11 proceeding involving the violation of a law providing for payment of wages or
12 imposing a criminal penalty for the violation and the outcome of the proceeding,
13 including damages, fees, or penalties paid to workers or a government agency, if any;
14 in this paragraph, "principal" means a person that commissions a construction project
15 and that is responsible for the project's scope, standards, and objectives.

16 (b) A subcontractor may provide records described in (a) of this section to an
17 authorized representative of an employee only if

18 (1) the record contains information pertaining specifically to the
19 employee on whose behalf the authorized representative is acting; and

20 (2) the subcontractor would be lawfully required to disclose the record
21 under AS 23.10.430 to the employee if the employee was acting on the employee's
22 own behalf.

23 (c) A subcontractor's failure to comply with (a) of this section does not relieve
24 the project owner or contractor of liability under AS 23.10.700.

25 (d) Nothing in this section affects the duty of a project owner or contractor to
26 timely pay a subcontractor, except that a project owner or contractor may withhold
27 payment to a subcontractor in an amount equal to the amount of wages owed to
28 employees of the subcontractor that the owner or contractor has paid on behalf of the
29 subcontractor.

30 (e) A contractor or subcontractor may not disclose personally identifying
31 information about workers who perform work on a construction project except to the

1 extent necessary to comply with federal and state laws.

2 **Sec. 23.10.740. Definitions.** In AS 23.10.700 - 23.10.740,

3 (1) "construction contract" means an express or implied agreement for
4 the construction, reconstruction, alteration, maintenance, movement, or demolition of
5 a building, structure, or improvement or the excavation or other development of or
6 improvement to land;

7 (2) "contractor" means a person that enters into a construction contract
8 with a project owner or the person's successors, heirs, or assigns;

9 (3) "project owner" means a person with an ownership interest,
10 whether the interest or estate is in fee simple, as a vendee under a contract to purchase,
11 or as a lessee or another interest or estate less than fee simple, that enters into a
12 construction contract with a contractor; "project owner" does not include a public
13 agency employing a contractor or subcontractor for work under AS 22.05.025 or
14 AS 35 or a financial institution that acquires ownership of a property through
15 foreclosure or a deed in lieu of foreclosure and that does not undertake, contract for, or
16 direct construction work beyond activities necessary to preserve or secure the
17 property;

18 (4) "subcontractor" means a person that is a party to an express or
19 implied contract with a contractor, or with a contractor's subcontractor at any tier, to
20 perform any portion of work within the scope of the contractor's construction contract
21 with a project owner;

22 (5) "wages" has the meaning given in AS 23.90.900.

23 * **Sec. 4.** AS 44.64.030(a) is amended by adding a new paragraph to read:

24 (52) AS 18.62.080 (certificates of fitness).

25 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **APPLICABILITY.** This Act applies to work performed by employees of a contractor
28 or subcontractor under a contract entered into on or after the effective date of this Act.