



LAWS OF ALASKA

1966

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Chapter No.:

164

AN ACT

Establishing a Construction Contractor's Licensing Board.

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

* Section 1. AS 08 is amended by adding a new chapter to read:

CHAPTER 18. CONSTRUCTION CONTRACTORS.

ARTICLE 1. CONSTRUCTION CONTRACTOR'S LICENSING BOARD.

Sec. 08.18.010. CREATION AND COMPOSITION OF BOARD. (a)

There is created within the Department of Commerce a Construction Contractor's Licensing Board composed of five members. The governor shall appoint the members of the board. The members shall serve at the pleasure of the governor and be confirmed by the legislature.

(b) The board shall be composed of

- (1) one member who is a general building contractor;
- (2) one member who is a highway and heavy construction general contractor;
- (3) one member who is a plumbing and heating contractor;

- (4) one member who is a residential builder;
- (5) one member who is a specialty contractor.

Sec. 08.18.020. QUALIFICATIONS OF MEMBERS. To be eligible for appointment as a member of the board, a person must

- (1) be a resident of Alaska;
- (2) have engaged in the construction contracting business in Alaska for not less than five years immediately preceding his appointment;
- (3) have a reputation for integrity and responsibility in the construction industry;
- (4) not have been adjudged bankrupt;
- (5) unless an initial appointee to the board, be licensed under this chapter.

Sec. 08.18.030. TERMS OF OFFICE. The term of office of a member of the board is three years, except that initial appointments to the board are as follows: one member for a one-year term; two members for a two-year term; and two members for a three-year term. Except in the case of a vacancy, a person appointed to succeed a member must be engaged in the same type of contracting as the member he replaces.

Sec. 08.18.040. OFFICERS OF THE BOARD. The board shall annually elect a chairman and secretary-treasurer from its membership.

Sec. 08.18.050. MEETINGS AND QUORUM. (a) The board shall meet to transact business on those dates which it specifies. The board may not meet more than six times during a fiscal year.

(b) A majority of the board constitutes a quorum.

Sec. 08.18.060. EXECUTIVE DIRECTOR. The board shall appoint an executive director to serve as the executive officer of the board. The executive director shall perform those duties delegated to him by the board. The board shall establish the salary of the executive director.

Sec. 08.18.070. EXPENSES. Members of the board receive no salary but are entitled to per diem and travel expenses provided by law. The executive director of the board is entitled to per diem and travel expenses provided by law.

Sec. 08.18.080. INSPECTION OR INVESTIGATION BY BOARD. The board may make or cause to be made a special investigation or investigation of the work of a licensee if necessary to carry out the purposes of this chapter. The board may issue subpoenas, subpoenas duces tecum, and process compelling the testimony of any person and the production of records, papers and books, for the purpose of investigation or examination. The board may administer oaths when required and may petition a court of this state to enforce subpoenas, subpoenas duces tecum or to compel testimony.

Sec. 08.18.090. REGULATIONS OF THE BOARD. (a) The board shall adopt substantive regulations making more specific the experience standards which an applicant must meet to qualify for a license, the reasons for which a license may be suspended or revoked and the classifications of construction contractors. In adopting regulations under this section, the board shall be guided by established practices in the construction industry and recognized

ethical procedures required for the protection of persons and agencies in the state.

(b) The board may adopt procedural regulations necessary to administer this chapter.

ARTICLE 2. LICENSING.

Sec. 08.18.100. LICENSE REQUIRED. A person may not engage in business as a construction contractor unless licensed under this chapter.

Sec. 08.18.110. CLASSIFICATION OF LICENSES. (a) The board shall issue construction contractor licenses for each of the following classifications:

- (1) general building contractor;
- (2) highway and heavy construction general contractor;
- (3) plumbing and heating contractor;
- (4) residential builder;
- (5) specialty subcontractor;

(b) A person may apply for a construction contractor license for one or more of the classifications listed in (a) of this section. A licensee holding a construction contractor license valid for one classification may apply for a license in any other classification.

(c) The board shall require separate application, examination, and qualification for each license classification.

(d) A person who is a licensed general building contractor may engage in business as a residential builder without obtaining a residential builder license.

Sec. 08.18.130. REQUIREMENT FOR LICENSE. To qualify

for a construction contractors license of any classification, a person must

(1) submit a verified application on the form prescribed by the board;

(2) submit, with the application, a bond or surety deposit required by sec. 180 of this chapter;

(3) show, to the satisfaction of the board, that he

(A) is of good reputation,

(B) has not been previously denied a license or had a license revoked,

(C) if applying for a license more than one year after the effective date of this chapter, has not violated this chapter by engaging in business as a construction contractor in Alaska without a license during a period of one year before the date of application,

(D) if a foreign corporation, has received a certificate of authority from the commissioner of commerce to transact business in the state;

(4) pass the written examination given by the board;

(5) submit, with the application, the appropriate fee for the license classification applied for.

Sec. 08.18.140. PERSONS EXEMPT FROM WRITTEN EXAMINATION. (a) An applicant who actively engaged in business as a construction contractor in Alaska for at least three years before the effective date of this chapter must qualify for a license according to sec. 130 of this chapter, except

that he need not take and pass a written examination. An applicant who is not required to take a written examination shall, if the board notifies him that the records of this state disclose that he has not satisfactorily complied with all laws relating to workmen's compensation, employment security, social security, business license and income taxes, or comprehensive liability during that period in which he engaged in business as a constructor, submit to the board proof of his past compliance with these laws.

(b) If the board finds that an applicant intentionally failed or refused to comply with the laws specified in (a) of this section, but that the applicant is otherwise entitled to a license without examination under this section, the board shall issue the license applied for to the applicant but shall condition the license upon future satisfactory compliance by the applicant with all laws specified in (a) of this section.

Sec. 08.18.150. APPLICATION. (a) The board shall prescribe the form of an application for a license. The form shall, in addition to other information considered necessary by the board, require

(1) the name and address of the person applying, if the applicant is an individual;

(2) the names and addresses of all general and limited partners, if the applicant is a partnership;

(3) the names and addresses of the president, vice president, secretary and chief construction managing officer or officers, if the applicant is a corporation or firm;

(4) a complete statement of the general nature of the applicant's contracting business;

(5) a statement which recites the applicant's experience in the type of contracting which he proposes to engage in if granted a license;

(6) if the applicant holds a license valid for another classification, proof that he has satisfactorily complied with all laws relating to workmen's compensation, employment security, social security, business license and income taxes, and comprehensive liability while engaged in business under that license.

(b) If the board notifies an applicant subject to (a) (6) of this section that the records of this state disclose that the applicant has not satisfactorily complied with all laws relating to workmen's compensation, employment security, social security, business license and income taxes, or comprehensive liability during that period in which he engaged in business under a license for another classification, the applicant must submit proof to the board that he has complied in the past with these laws. If the board finds that the applicant intentionally failed or refused to comply with the laws specified in this subsection, but that the applicant is otherwise entitled to the additional license applied for, the board shall issue the license to the applicant but shall condition all licenses held by the applicant upon future satisfactory compliance by the applicant with all laws specified in this subsection.

Sec. 08.18.160. WRITTEN EXAMINATION. (a) The department shall give a written examination, in either Anchorage

or Fairbanks, to an applicant within five days after receipt of his application unless the applicant requests a field examination. The department shall give a written examination in the field at least twice a year at those locations which the department determines to be most convenient for those applicants who request a field examination.

(b) A written examination administered under (a) of this section shall test the applicant's knowledge of elementary administrative principles of the contracting business, those uniform, state, and local codes, and safety, health, and lien laws, which pertain to the license classification being applied for, and the regulations of the board.

Sec. 08.18.170. LICENSING OF APPLICANTS OTHER THAN INDIVIDUALS. Each applicant, other than an individual who is applying in his own name, shall designate a supervisor or member of the corporation, partnership, or firm to take the written examination. The person designated by the applicant to take the examination shall substitute his experience for that of the applicant for the purposes of sec. 150(5) of this chapter. The person designated by the applicant under this section is known as the administrator of the license. A license issued subject to this section is contingent upon the administrator remaining in a responsible supervisory capacity with the licensee for construction contracting performed in Alaska.

Sec. 08.18.180. BOND. (a) An applicant shall submit with his application either a cash surety deposit of \$1,000, or a bond written by an acceptable surety company in the amount of not less than \$1,000, payable to the department.

The surety deposit or bond shall guarantee that the applicant, if granted a license, will comply with the provisions of this chapter. The aggregate liability of the surety shall not exceed the amount of the bond. The bond shall be continuous until the license is revoked or otherwise terminated by the board. If the surety desires to cancel the bond, the cancellation is effective 30 days after the surety sends written notice of cancellation to the department and to the licensee by registered mail.

(b) Persons injured by a licensee's failure to comply with the provisions of this chapter may commence a right of action against the board, but actions collectively may not exceed the amount of the surety deposit or bond.

Sec. 08.18.190. ISSUANCE OF LICENSE. If the board determines that an applicant qualifies for a license, the board shall issue a license for the classification applied for within 30 days after the application is filed.

Sec. 08.18.200. EFFECT OF LICENSE. A license issued under this chapter authorizes the licensee to engage only in construction contracting within that classification stated on the license. Nothing in this chapter shall be construed to prohibit a licensee from performing work of an intrinsic or minor nature on a project which he has under contract, although that intrinsic or minor work is not within the licensee's classification, if the work is necessary to the prompt completion of the licensee's contract.

Sec. 08.18.210. FORM AND CONDITIONS OF LICENSE. (a) A license issued under this chapter shall be signed by a member of the board or a person designated by the board. A

license is not transferable except

(1) to a personal representative of the licensee if the licensee dies, provided that the board shall cancel the license unless the personal representative complies with sec. 170 of this chapter; or

(2) to a newly-formed corporation, partnership or firm if the administrator of the license to be transferred assumes a responsible supervisory position with the newly-formed organization.

(b) A licensee, upon demand, must show satisfactory evidence that he possesses a license.

(c) A license shall clearly state the contracting classification for which it is valid.

(d) The name, license classification and license number of a licensee must be conspicuously placed upon the premises where contracting work is being performed by the licensee.

(e) A licensee shall include the license number in all written bids which he submits.

Sec. 08.18.220. LICENSE FEES. (a) The fees for licenses issued under this chapter are:

	Original Fee	Annual Renewal Fee
Building contractor	\$200	\$100
Highway and heavy construction general contractor	200	100
Residential builder	150	75
Plumbing, heating and specialty		

subcontractors 100 50

(b) If an application for a license is denied, one-half of the fee accompanying the application is forfeited, and the remainder shall be returned to the applicant.

(c) If an applicant, after having been notified to do so, fails to appear for a written examination within six months after the date of filing his application, the fee submitted with his application is forfeited and the application voided.

(d) A re-application for a license must be accompanied by the original fee established for the classification applied for.

(e) A licensed residential builder, plumbing and heating contractor, or specialty subcontractor who obtains a building contractor or highway and heavy construction general contractor license is required to pay an original fee for either of those licenses which equals the difference between the original fee for his current license and \$200.

Sec. 08.18.230. LICENSE RENEWAL. (a) Licenses issued under this chapter expire June 30 each year. An application for the renewal of a license which is accompanied by the appropriate renewal fee and received by the board before July 1 authorizes a licensee to engage in business as a construction contractor until the license is formally renewed by the board for the next fiscal year.

(b) If a licensee fails to file an application to renew a license, or to pay the appropriate renewal fee, before July 1, the license shall be suspended and is renewable only upon payment of a fee which equals one and one-

half times the amount of the appropriate renewal fee. Unless renewed, a license remains suspended for the remainder of the fiscal year. If a license is suspended for nonpayment of the renewal fee for one year or more, the renewal privilege is not available to the former licensee and he must apply for an original license.

Sec. 08.18.240. INVESTIGATIONS; SUSPENSION AND REVOCATION OF LICENSES. (a) The board may hold a hearing to investigate complaints about licensees which it receives. A complaint shall be in writing and verified by oath. A person who files a complaint may be required to submit additional proof before the board holds a hearing. The board may require a person who files a complaint, which results in a hearing, to pay the licensee's costs, including attorney fees, if the board finds the complaint to be malicious or filed for the purpose of harassment. A hearing held under this section is only investigatory in nature and no adjudication regarding a licensee's rights under a license may be made as a result of a hearing under this section.

(b) The board may suspend or revoke a license if it finds that a licensee has, to a substantial degree,

(1) abandoned, without good cause, a contract or construction project which has been awarded to him;

(2) diverted funds or property received for the execution or completion of a contract and applied or used them for another contract, obligation or purpose in cases where the contractor did not complete the first contract or did not have immediately available other funds or property;

(3) fraudulently, deliberately, grossly, or

negligently departed from, or disregarded, plans or specifications in any material respect without the consent of the owner or his duly authorized representative;

(4) been careless or negligent in providing minimum safety measures required by state law, including appliances and equipment, to protect workmen and the public or failed to observe applicable ordinances of a political subdivision of this state which prescribe measures for the safety of workmen and the public;

(5) failed to make unemployment and social security payments or failed to provide workmen's compensation insurance;

(6) failed to comply with all applicable state laws pertaining to the employment of laborers, mechanics, and other employees;

(7) failed to pay wages and other benefits, when due, for services rendered by employees;

(8) failed to furnish or provide transportation as required by state law;

(9) misrepresented a material fact in obtaining a license;

(10) committed a wilful or fraudulent act which resulted in another person being substantially injured;

(11) failed in a material respect to complete a construction project or operation for the price stated in the contract or in a modification of the contract which was agreed upon;

(12) aided or abetted an unlicensed person to evade the provisions of this chapter or knowingly combined

or conspired with an unlicensed person or acted as an agent, partner, associate or otherwise of the unlicensed person with the intent to evade the provisions of this chapter;

(13) wilfully or deliberately failed to pay money when due for material or services rendered in connection with his operations as a licensee when he had the capacity to pay or when he had received sufficient funds as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased; or

(14) failed to comply with the applicable building code requirements of the political subdivision in which construction work was performed.

Sec. 08.18.250. HEARING. Proceedings to suspend or revoke a license issued under this chapter are governed by the Administrative Procedure Act (AS 44.62).

Sec. 08.18.260. RENEWAL OF LICENSE AFTER SUSPENSION OR REVOCATION. (a) If a license is suspended or revoked for any of the reasons listed in sec. 240 of this chapter, the board may, on its own motion, renew a license upon proof that the former licensee has complied with provisions of the decision relating to renewal of a license, or in the absence of a decision or provisions in a decision relating to renewal, may renew a license upon proof that all loss caused by the act or omission for which the license was suspended or revoked has been fully satisfied.

(b) The board may reissue or renew a revoked or suspended license subject to conditions, including a requirement for a larger surety deposit or surety bond, not to

exceed \$5,000, which the board may prescribe which are necessary to prevent a recurrence of those acts or omissions by the licensee which resulted in the suspension or revocation of the license.

ARTICLE 3. MISCELLANEOUS PROVISIONS.

Sec. 08.18.270. PROHIBITED ACTS. (a) It is unlawful for a person to engage in business as a construction contractor, or to act or offer to act in that capacity, or to purport to have the capacity to act as a construction contractor, unless he has obtained a license under this chapter, unless the person is exempted from the effect of this chapter under sec. 320 of this chapter.

(b) Evidence that a person has applied for, or secured, a permit to construct, alter, add to, repair, or do wrecking work from a political subdivision of this state, or that a person has employed another person on a construction project, shall be accepted in a court of this state as prima facie evidence of violation of (a) of this section.

Sec. 08.18.280. DISABILITY. No person may commence or maintain an action in a court of this state, for the collection of compensation for the performance of an act for which a license is required by this chapter unless he alleges and proves that he was licensed under this chapter during the performance of that act.

Sec. 08.18.290. LIEN LAWS. Nothing in this chapter shall be construed to affect an applicable lien law. A bond submitted to the board under sec. 180 of this chapter is available to satisfy a judgment in a lien foreclosure suit.

Sec. 08.18.300. FEDERAL LAW. If a provision of this chapter conflicts with a federal law, or a rule or regulation made under federal law pertaining to federal aid contracts, the provision in conflict with the federal law, rule or regulation shall not apply to federal aid contracts to the extent that the conflict exists, but all provisions of this chapter which do not conflict shall apply to federal aid contracts.

Sec. 08.18.310. PENALTY. A person who wilfully violates a provision of this chapter, or who wilfully violates a regulation of the board, is guilty of a misdemeanor.

ARTICLE 4. GENERAL PROVISIONS.

Sec. 08.18.320. EXCEPTIONS. This chapter does not apply to

(1) employees of the federal government, the state, or a political subdivision of the state, if these employees are performing construction work while on the payrolls of these governmental entities, or to construction, alteration, improvement or repair work within the limits and boundaries of a federal site or reservation, if the work is performed by employees of the federal government;

(2) a public utility or an employee of a public utility in the discharge of his employment.

(3) a property owner, occupant, or person acting as his own contractor who is building or improving a structure either for personal use or for sale, if he does not construct more than two residential units, or does not engage in commercial construction having a market value in

excess of \$25,000 during a calendar year;

(4) work or operation on one undertaking or project by one or more contracts, the work or operation being considered as being of casual, minor or inconsequential nature; provided that this exemption does not apply in a case where the construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in a case in which a division of the operation is made in contracts of amounts less than \$100 for the purpose of evasion of this chapter or otherwise; and this exemption does not apply to anyone who advertises or puts out a sign or card or other device which might indicate to the public that he is a contractor or that he is qualified to engage in the business of contracting;

(5) a person performing construction work incidental to farming, dairying, agriculture, horticulture, or stock or poultry raising, mining activities, logging activities, fishing activities; clearing or other work upon the land in rural districts for fire prevention purposes, or access road building, unless the person is a licensee;

(6) a licensed architect, registered civil or professional engineer, or registered professional land surveyor acting solely in his professional capacity;

(7) a person who only furnishes materials or supplies without fabricating or consuming them in the performance of the work of the contractor;

(8) a person who engages in the activities regulated under this chapter with wages being his sole compensation; or

(9) a person engaged in performing construction contracting in areas of the state not declared to be disaster areas following the 1964 earthquake and tidal wave disaster, except that an organized borough with a population of 20,000 persons or more may, by ordinance, declare this chapter to be applicable within the borough.

Sec. 08.18.330. DISCLOSURE OF FINANCIAL INFORMATION. This chapter may not be construed to permit an agency of the state to disclose to any person, except the board or its authorized agents for the purpose of an investigation or adjudication under this chapter, financial information required of a licensee under this chapter if disclosure of the information is restricted under other laws of the state. The board or its authorized agents may not disclose or use financial information pertaining to a licensee under this chapter except for the purposes of performing duties under this chapter.

Sec. 08.18.330. DEFINITIONS. In this chapter

(1) "board" means the Construction Contractor's Licensing Board;

(2) "construction contractor" means a person who for a price, fee or percentage or other compensation, undertakes or offers to perform, or claims to have the capacity to undertake or perform, or submits a bid for, or who performs for others, a construction project to construct, build, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, or any type of fixed structures including excavation and site development, but does not include either a supplier of

materials or services who is not directly involved in the installation of the materials or services on a construction project or an electrical contractor, but does include all other subcontractors and specialty contractors;

(3) "department" means the Department of Commerce;

(4) "general building contractor" means a construction contractor engaged in the construction by contract of all types of building structures, including modification, additions or repairs, designed and intended for commercial, industrial, institutional, private or residential use for shelter, protection, comfort or convenience of persons, animals, merchandise, chattels, vehicles or equipment or other movable property;

(5) "highway and heavy construction general contractor" means a construction contractor engaged in the construction, by contract, of any type of fixed works for public or private agencies, which includes work related to the construction of streets, roads, highways, bridges, towers, tunnels, airports and runways, irrigation, drainage, and flood control works, dams, water power installations, sewerage systems, pipelines, inland waterways, harbors, railroads and any other similar types of construction whether public works or private developments and who although specializing in the construction of one or more of the works listed above, has a general knowledge of the construction of all works;

(6) "plumbing and heating contractor" means a construction contractor who performs work of a specialized nature in the installation, repair and maintenance of

plumbing, heating, and piping, air conditioning and duct systems of all kinds in and connected with buildings and structures of all types and outside pressure piping systems;

(7) "residential builder" means a construction contractor whose specialty is the construction of residential buildings and homes for occupancy as family dwellings and who may operate on a contract basis, but may also construct homes as a speculative business, and who does not construct or repair residential buildings for more than four-family occupancy;

(8) "specialty subcontractor" means a construction contractor who performs a specific type of work requiring special skill and the use of specialized craftsmen on construction projects and on renovation and remodeling work for both contractors and owners, but "specialty contractor" does not include electrical contractors.

Sec. 08.18.340. SHORT TITLE. This chapter may be cited as the Construction Contractor's Licensing Act.