



LAWS OF ALASKA

1968

Source

Chapter No.

HCSSB 161 am FCC

100

AN ACT

Relating to the bonding and licensing requirements for construction contractors.

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

* Section 1. AS 08.18.010 - 08.18.350 are repealed.

* Sec. 2. AS 08.18 is amended by adding new sections to read:

ARTICLE 1. REGISTRATION.

Sec. 08.18.011. REGISTRATION REQUIRED. It is unlawful for a person to submit a bid or work as a contractor until he has been issued a certificate of registration by the Department of Commerce. A partnership or joint venture shall be considered registered if one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered

Sec. 08.18.021. APPLICATION FOR REGISTRATION. (a) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the commissioner and which shall include the following information pertaining to the applicant:

- (1) employer social security number;
- (2) type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty;
- (3) the name and address of each partner if the applicant is a firm or partnership, or the name and address of the owner if the applicant is an individual proprietorship, or the name and address of the corporate officers

and statutory agent, if any, if the applicant is a corporation.

(b) The information contained in the application shall be a matter of public record and open to public inspection.

Sec. 08.18.031. CERTIFICATE OF REGISTRATION -- ISSUANCE, DURATION, RENEWAL. A certificate of registration is valid for one year and shall be renewed by the same procedure as for an original registration. The commissioner shall issue to the applicant a certificate of registration upon compliance with the registration requirements of this chapter.

Sec. 08.18.041. REGISTRATION AND RENEWAL FEES. The applicant shall pay to the commissioner a registration or renewal fee as follows:

- (1) general contractor. . . . \$100
- (2) specialty contractor. . . . 50

Sec. 08.18.051. REGISTERED NAME. Except as provided otherwise by state law, no person who has registered under one name as required by this chapter may act in the capacity of a contractor under any other name unless that name also is registered. All advertising, contracts, correspondence, cards, signs, posters, papers and documents prepared by a contractor which show his name and address shall show his name and address as registered under this chapter. Individual contractors and partners, associates, agents, salesmen, solicitors, officers and employees of contractors shall use their true names and addresses at all times while acting in the capacity of a contractor or performing related activities.

Sec. 08.18.061. REQUIREMENTS OF POLITICAL SUBDIVISION. A contractor who is licensed by the state under this chapter shall not be required to give bond in applying for or holding a license issued by a political subdivision.

ARTICLE 2. BOND AND INSURANCE.

Sec. 08.18.071. BOND REQUIRED. (a) Each applicant shall, at the time of applying for a certificate of registration, file with the commissioner a surety bond running to the State of Alaska conditioned upon the applicant's promise to pay

- (1) all taxes and contributions due the state and political subdivisions,
- (2) all persons furnishing labor or material or renting or supplying equipment to the applicant, and
- (3) all amounts that may be adjudged against him by reason of negligent or improper work or breach of contract in the conduct of the contracting business or by reason of damage to public facilities occurring in the course of a construction project.

(b) If the applicant is a general contractor the amount of the bond shall be \$5,000; if he is a specialty contractor the amount of the bond shall be \$2,000. In lieu of the surety bond the applicant may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner of commerce, in the amount specified for bonds.

Sec. 08.18.081. CLAIMS AGAINST CONTRACTOR. A person having a claim against a contractor for any of the items referred to in sec. 71 of this chapter may bring suit upon the bond in the superior court of the judicial district in which the work is done or of any judicial district in which jurisdiction of the contractor may be obtained. A copy of the complaint shall be served by registered or certified mail upon the commissioner at the time suit is filed and the commissioner shall maintain a record, available for public inspection, of all suits commenced. This service shall constitute service on the surety and the commissioner shall transmit the complaint or a copy of it to the surety within 72 hours after it has been received. The surety upon the bond is not liable in an aggregate amount in excess of that named in the bond, but in case claims pending at any one time exceed the amount of the bond, the claims shall be satisfied from the bond in the following order:

- (1) labor, including employee benefits;
- (2) taxes and contributions due the state, city and borough, in that order;
- (3) material and equipment;
- (4) claims for breach of contract;
- (5) repair of public facilities.

(b) If a judgment is entered against the cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit, in accordance with the priorities set out in (a) of this section.

Sec. 08.18.091. CANCELLATION OF BOND. Nothing in this chapter impairs the right of a bonding company to cancel its bond of a contractor for lawful reasons.

Sec. 08.18.101. INSURANCE REQUIRED. Each applicant, at the time of applying for registration, shall file with the commissioner satisfactory evidence that the applicant has in effect public liability and property damage insurance covering his contracting operations in the sum of not less than \$20,000 for damage to property, \$50,000 for injury, including death, to any one person and \$100,000 for injury, including death, to more than one person.

Sec. 08.18.111. ADVERTISING BOND AND INSURANCE. No contractor may advertise that he is bonded and insured simply because he has complied with the bond and insurance requirements of this chapter.

ARTICLE 3. MISCELLANEOUS PROVISIONS.

Sec. 08.18.121. SUSPENSION AND REVOCATION OF REGISTRATION. (a) If the insurance required in sec. 101 of this chapter ceases to be in effect, the registration of the contractor shall be suspended until the insurance has been reinstated.

(b) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposit so that there is not in effect a bond undertaking or cash deposit in the full amount prescribed in sec. 71 of this chapter, the registration of the contractor involved shall be suspended until the bond liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(c) If a bonding company cancels its bond of a contractor the contractor's registration shall be revoked. He may again obtain registration by complying with the requirements of this chapter.

(d) If a licensed contractor fails to fulfill his obligations as set out in sec. 71 of this chapter his license shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions his license may be permanently revoked.

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

Sec. 08.18.131. INJUNCTION. In an action instituted in the superior court by the commissioner or his representative a person acting in the capacity of a contractor in violation of this chapter may be enjoined from doing so.

Sec. 08.18.141. MISDEMEANOR. A person acting in the capacity of a contractor in violation of this chapter is guilty of a misdemeanor.

Sec. 08.18.151. LEGAL ACTIONS BY CONTRACTOR. No person acting in the capacity of a contractor may bring an action in a court of this state for the collection of compensation for the performance of work or for breach of a contract for which registration is required under this chapter without alleging and proving that he was a duly registered contractor at the time he contracted for the performance of the work.

ARTICLE 4. GENERAL PROVISIONS.

Sec. 08.18.161. EXEMPTIONS. This chapter does not apply to:

- (1) an authorized representative of the United States government, the State of Alaska, or a political subdivision or agency of the state;
- (2) an officer of a court when acting within the scope of his office;
- (3) a public utility operating under the regulations of the public service commission in construction,

maintenance or development work incidental to its own business;

(4) a construction, repair or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning or other operation of a petroleum or gas well or a surface or underground mine or mineral deposit when performed by an owner or lessee;

(5) the sale or installation of finished products, materials or articles of merchandise which are not actually fabricated into and do not become a permanent, fixed part of a structure;

(6) construction, alteration, or repair of personal property;

(7) construction, alteration, or repair carried on within the boundaries of a site under the legal jurisdiction of the federal government;

(8) a person who only furnished materials, supplies or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;

(9) work on one undertaking by one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than \$1,000, this work being considered as of a casual, minor, or inconsequential nature; this exemption does not apply when the work is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which division of the operation is made into contracts of amounts less than \$1,000 for the purpose of evasion of this chapter or otherwise; this exemption does not apply to a person 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 contracting business;

(10) an owner who contracts for a project with a registered contractor;

(11) a person working on his own property, whether occupied by him or not, and a person working on his own residence, whether owned by him or not;

(12) an owner or tenant of commercial property who uses his own employees to do maintenance, repair and alteration work upon that property;

(13) an owner who acts as his own contractor and in doing so hires workmen on an hourly basis, hires subcontractors, purchases materials and as such, sees to the paying for all labor, subcontractors and materials; in this case, the owner shall be limited to construction of one home or duplex or one commercial building per year;

(14) a person performing construction work incidental to farming, dairying, agriculture, horticulture,

stock or poultry raising, mining, logging, fishing, clearing or other work upon the land in rural districts for fire prevention purposes, or access road building, unless the person is a licensee.

Sec. 08.18.171. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of the Department of Commerce;

(2) "contractor" means a person who, in the pursuit of an independent business, undertakes or offers to perform, or claims to have the capacity to perform, or submits a bid for a project to construct, alter, repair, move or demolish a building, highway, road, railroad, or any type of fixed structure, including excavation and site development and erection of scaffolding; a "general contractor" is a contractor whose business operations require the use of more than two distinct trades whose work the general contractor superintends; the terms "general contractor" and "builder" are synonymous; a "specialty contractor" is a contractor whose operations do not fall within the definition of "general contractor".