

CS FOR HOUSE BILL NO. 414(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/18/96

Referred: Rules

Sponsor(s): REPRESENTATIVE GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring mediation in a civil action against an architect, engineer, or
2 land surveyor; amending Rule 100, Alaska Rules of Civil Procedure; and
3 providing for an effective date."

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

5 * **Section 1.** AS 09.55 is amended by adding a new section to read:

6 **ARTICLE 9. MALPRACTICE ACTION AGAINST DESIGN PROFESSIONAL.**

7 Sec. 09.55.700. **MANDATORY MEDIATION.** (a) A civil action against a
8 design professional seeking damages resulting from professional negligence shall be
9 submitted to mediation unless all the parties to the civil action agree to waive
10 mediation. The court shall order that mediation be conducted as provided under the
11 Alaska Rules of Civil Procedure, except that if the court requires the costs of
12 mediation be paid by the party defending against the civil action, the provisions of this
13 section may be waived at the election of the party defending against the civil action.
14 If a party to the mediation is determined by the court to be indigent, the court may

1 impose the costs of mediation on another party. If more than one party is defending
2 against the civil action, waiver of mediation is not allowed unless all defending parties
3 agree to the waiver. For purposes of waiver allowed under this subsection, "civil
4 action" does not include a counterclaim, third-party claim, or cross claim.

5 (b) In this section,

6 (1) "design professional" means an architect, engineer, or land surveyor
7 licensed in this state;

8 (2) "professional negligence" means a negligent act or omission by a
9 design professional in providing professional services;

10 (3) "professional services" means services provided by a design
11 professional that are within the scope of the services for which the design professional
12 is licensed.

13 * **Sec. 2.** AS 09.55.700, enacted by sec. 1 of this Act, has the effect of amending Rule 100,
14 Alaska Rules of Civil Procedure, by requiring the parties to request mediation and the court
15 to order mediation in a civil action against a design professional.

16 * **Sec. 3.** This Act applies to causes of action that accrue on or after the effective date of
17 this Act.

18 * **Sec. 4.** This Act takes effect July 1, 1996.