

HOUSE BILL NO. 130

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

Introduced: 3/8/99

Referred: State Affairs, Labor and Commerce

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; and relating to state and municipal contracts
4 for architectural, engineering, land surveying, and landscape architectural services."

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

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

7 (a) The board may adopt regulations to carry out the purpose of this chapter,
8 including [, BUT NOT LIMITED TO]

9 (1) describing the contents of an examination;

10 (2) establishing the conduct of an examination;

11 (3) establishing a minimum score for passing an examination;

12 (4) establishing bylaws governing its meetings and activities;

13 (5) publishing a code of ethics or professional conduct for those

14 persons regulated by this chapter, including corporations, limited liability companies,

1 **and limited liability partnerships** under AS 08.48.241.

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

3 **Sec. 08.48.111. Power to revoke, suspend, or reissue certificate.** The board
 4 may suspend, refuse to renew, or revoke the certificate of or reprimand a registrant,
 5 [OR] corporation, **limited liability company, or limited liability partnership** who is
 6 found guilty of (1) fraud or deceit in obtaining a certificate; (2) gross negligence,
 7 incompetence, or misconduct in the practice of architecture, engineering, land
 8 surveying, or landscape architecture; or (3) a violation of this chapter, a regulation
 9 adopted under this chapter, or the code of ethics or professional conduct as adopted
 10 by the board. The code of ethics or professional conduct shall be distributed in writing
 11 to every registrant and applicant for registration under this chapter. This publication
 12 and distribution of the code of ethics or professional conduct constitutes due notice to
 13 all registrants. The board may revise and amend its code and, upon doing so, shall
 14 immediately notify each registrant in writing of the revisions or amendments. The
 15 board may, upon petition of the registrant, [OR] corporation, **limited liability**
 16 **company, or limited liability partnership,** reissue a certificate if a majority of the
 17 members of the board vote in favor of the reissuance.

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

19 (a) To remain valid, certificates shall be renewed in accordance with
 20 AS 08.01.100. Notice of renewal dates, given under AS 08.01.050(a)(11), shall be
 21 mailed to the registrant, [OR] corporation, **limited liability company, or limited**
 22 **liability partnership** at the registrant's, [OR] corporation's, **limited liability**
 23 **company's, or limited liability partnership's** last known address at least one month
 24 in advance of the date of the expiration of the certificate. If the certificate has been
 25 suspended or revoked, the board may take action independent of this section.

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

27 **Sec. 08.48.241. Corporations, limited liability companies, and limited**
 28 **liability partnerships.** (a) This chapter does not prevent a corporation, **limited**
 29 **liability company, or limited liability partnership** from offering architectural,
 30 engineering, land surveying, or landscape architectural services; however, the
 31 corporation, **limited liability company, or limited liability partnership** shall file with

1 the board

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

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

24 (3) a designation in writing setting out the name of one or more
25 persons holding certificates of registration under this chapter who are in responsible
26 charge of each major branch of the architectural, engineering, land surveying, or
27 landscape architectural activities in which the corporation, **limited liability company,**
28 **or limited liability partnership** specializes in this state; if a change is made in the
29 person in responsible charge of a major branch of the architectural, engineering, land
30 surveying, or landscape architectural activities, the change shall be designated in
31 writing and filed with the board within 30 days after the effective date of the change.

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

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

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

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

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

28 (5) the application for certificate of authorization states the experience,
29 **if any,** of the corporation, **limited liability company, or limited liability partnership**
30 [, IF ANY,] in furnishing architectural, engineering, land surveying, or landscape
31 architectural services during the preceding five-year period;

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

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

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

23 (e) If a corporation, **limited liability company, or limited liability**
24 **partnership that is** organized solely by either a group of architects, a group of
25 engineers, a group of land surveyors, or a group of landscape architects, each holding
26 a certificate of registration under this chapter, applies for a certificate of authorization,
27 the board may, in its discretion, grant a certificate of authorization to the corporation,
28 **limited liability company, or limited liability partnership** based on a review of the
29 professional records of the incorporators **of the corporation, organizers of the limited**
30 **liability company, or partners who formed the limited liability partnership** [,] in
31 place of the required qualifications set out in this section. If the ownership of the

1 corporation is altered, **the membership of the limited liability company is altered,**
 2 **or the partners of the limited liability partnership change,** the corporation, **limited**
 3 **liability company, or limited liability partnership** shall apply for a revised certificate
 4 of authorization, based upon the professional records of the owners **of the**
 5 **corporation, the members of the limited liability company, or the partners of the**
 6 **limited liability partnership,** if exclusively architects, engineers, land surveyors, or
 7 landscape architects, or otherwise under the qualifications required by (b)(1) - (4) of
 8 this section.

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

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

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

29 (i) [Repealed].

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

31 (j) In this section,

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

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

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

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

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

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

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

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

19 (a) This chapter does not apply to

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

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

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

29 (4) an employee or a subordinate of a person registered under this
30 chapter if the work or service is done under the direct supervision of a person
31 registered under this chapter;

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

8 (6) a person preparing drawings or specifications for

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

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

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

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

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

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

27 (9) a person who is employed by a postsecondary educational
 28 institution to teach engineering, architectural, or landscape architectural courses; in this
 29 paragraph, "postsecondary educational institution" has the meaning given in
 30 AS 14.48.210;

31 (10) an officer or employee of an individual, firm, partnership,

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

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

8 (12) a person while maintaining or directing the placement of plant
 9 material.

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

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

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

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

19 (20) "limited liability partnership" means an organization registered
 20 under AS 32.05.415 or a foreign limited liability partnership; in this paragraph,
 21 "foreign limited liability partnership" has the meaning given in AS 32.05.990.

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

23 **Sec. 36.90.100. Contracts for architectural, engineering, [OR] land**
 24 **surveying, or landscape architectural services.** The state or a municipality may not
 25 award a contract for architectural, engineering, [OR] land surveying, **or landscape**
 26 **architectural** services to

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

30 (2) a partnership, **except as provided by (3) of this section**, that is not
 31 qualified under AS 08.48.251 to provide the architectural, engineering, [OR] land

1 surveying, **or landscape architectural** services required by the contract; or
2 (3) a corporation, **limited liability company, or limited liability**
3 **partnership** that is not authorized under AS 08.48.241 to offer the architectural,
4 engineering, [OR] land surveying, **or landscape architectural** services required by the
5 contract.