

**CS FOR HOUSE BILL NO. 207(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/29/00  
Referred: Finance

Sponsor(s): REPRESENTATIVE ROKEBERG

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the licensure and registration of individuals who perform  
2 home inspections; relating to home inspection requirements for residential loans  
3 purchased or approved by the Alaska Housing Finance Corporation; relating to  
4 civil actions by and against home inspectors; and providing for an effective date."

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

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

7 **Chapter 57. Home Inspectors.**

8 **Article 1. Board of Home Inspectors.**

9 **Sec. 08.57.010. Creation and membership of board.** There is created the  
10 Board of Home Inspectors consisting of five members. Three members shall be  
11 licensed under this chapter and shall have been engaged in the practice of home  
12 inspection in the state for three years immediately preceding appointment, one member  
13 shall be a licensed real estate broker or certified real estate appraiser, and one member  
14 shall be a public member.

1                   **Sec. 08.57.020. General duties.** The board shall

- 2                   (1) administer and enforce this chapter;
- 3                   (2) regulate the practice of home inspection;
- 4                   (3) establish education and experience requirements that must be met  
5 for licensure under this chapter; the requirements established by the board must include  
6 Alaska or northern education or experience in Arctic construction or building;
- 7                   (4) establish standards for continuing education of home inspectors;
- 8                   (5) adopt a code of ethics for home inspectors; and
- 9                   (6) in addition to the meeting required under AS 08.01.070(2), meet  
10 when requested by a majority of the members of the board.

11                   **Sec. 08.57.030. Meetings.** The board may meet by teleconference.

12                                   **Article 2. Licensure.**

13                   **Sec. 08.57.050. Licensure required.** (a) Unless exempt under AS 08.57.900  
14 or serving lawfully as an associate home inspector under (b) of this section, an  
15 individual may not perform a home inspection

16                   (1) for new construction unless that individual is licensed as a home  
17 inspector for new construction under this chapter;

18                   (2) for previously occupied construction unless that individual is  
19 licensed as a home inspector for previously occupied construction under this chapter.

20                   (b) Notwithstanding (a) of this section, an individual who is not licensed under  
21 this chapter may perform a home inspection as an associate home inspector if the  
22 individual

23                   (1) is employed by a licensed home inspector who supervises the  
24 associate's work and the inspection is of the type that the supervising individual is  
25 authorized to perform; and

26                   (2) is registered with the board as an associate home inspector.

27                   (c) A home inspector who employs an associate home inspector under (b) of  
28 this section is liable for the work done by the associate home inspector.

29                   (d) An individual who holds a joint license is considered to be licensed as both  
30 a home inspector for new construction and a home inspector for previously occupied  
31 construction.

1           **Sec. 08.57.060. Qualifications.** The board shall authorize the department to  
 2 issue a home inspector license for new construction, previously occupied construction,  
 3 or both, as appropriate, to an individual who

4                   (1) passes the appropriate home inspection examination; the  
 5 examination, which must include a written portion and other test methodologies as  
 6 determined by the board, must test competence in relation to Alaska construction  
 7 techniques and other matters as determined by the board; the examination may be  
 8 based on a recognized national examination or other methodology;

9                   (2) meets the educational and experience requirements adopted by the  
 10 board in regulations for the type of license applied for;

11                   (3) submits a complete application for licensure within one year after  
 12 passing the examination required under (1) of this section;

13                   (4) within the seven years preceding the date of application, has not  
 14 been under a sentence for an offense related to forgery, theft in the first or second  
 15 degree, extortion, or conspiracy to defraud creditors or for a felony involving  
 16 dishonesty; and

17                   (5) pays the appropriate fees.

18           **Sec. 08.57.070. License renewal; continued competency.** (a) A license  
 19 issued under this chapter may not be renewed unless the applicant submits proof of  
 20 continued competency relating to home inspecting that satisfies the board.

21                   (b) A lapsed license may be reinstated within two years after the lapse upon  
 22 proof of continued competency, payment of a renewal fee for the intervening time  
 23 period, and payment of any penalty fee established under AS 08.01.100(b). If the  
 24 license has been lapsed for more than two years, the license may not be reinstated until  
 25 the individual also passes the appropriate home inspection examination described in  
 26 AS 08.57.060.

27                   (c) The license of an applicant whose license has been suspended or against  
 28 whom a fine has been imposed under this chapter may not be renewed until the period  
 29 of suspension has expired and any fine has been paid.

30           **Sec. 08.57.080. Fees.** (a) The department shall set fees under AS 08.01.065  
 31 for

1 (1) licensure and renewal of licensure for a home inspector qualified  
2 to inspect new construction;

3 (2) licensure and renewal of licensure for a home inspector qualified  
4 to inspect previously occupied construction;

5 (3) joint licenses and renewal of joint licenses;

6 (4) registration and renewal of registration as an associate home  
7 inspector;

8 (5) examinations; and

9 (6) board and departmental publications and seminars related to this  
10 chapter.

11 (b) An individual who fails a home inspector examination shall pay the  
12 examination fee set by the department if the individual applies to retake an  
13 examination.

14 **Sec. 08.57.090. Identification requirements.** (a) Except as provided  
15 otherwise by law, an individual who is licensed under this chapter by one name may  
16 not act in the capacity of a home inspector under any other name unless the individual  
17 is also licensed under that name.

18 (b) All advertising and business cards prepared by a licensed home inspector  
19 for the home inspection business must show the home inspector's name, mailing  
20 address, and license number.

21 (c) Individual licensed home inspectors and partners, associates, agents,  
22 salespeople, solicitors, officers, and employees of licensed home inspectors shall use  
23 their true names and addresses and the true name of the home inspecting firm at all  
24 times while acting in the capacity of a licensed home inspector or performing related  
25 activities.

26 (d) Regardless of whether they are exempt from licensure and registration  
27 under AS 08.57.900, persons who perform home inspections may not hold themselves  
28 out to be licensed home inspectors or use words or titles that may reasonably be  
29 confused with the title of "licensed home inspector" unless they are licensed under this  
30 chapter.

31 **Article 3. Insurance Requirement.**

1           **Sec. 08.57.200. Types of insurance.** Each applicant, at the time of applying  
 2 for licensure or for renewal of licensure, shall file with the board satisfactory evidence  
 3 that there is in effect for the applicant public liability and property damage insurance  
 4 covering the applicant's home inspecting operations in this state in the sum of not less  
 5 than \$20,000 for damage to property, \$50,000 for injury, including death, to any one  
 6 person, and \$100,000 for injury, including death, to more than one person.

7           **Sec. 08.57.210. Suspension of license.** If the insurance required in  
 8 AS 08.57.200 ceases to be in effect, the license of the home inspector shall  
 9 immediately be suspended until the insurance has been reinstated.

10           **Article 4. Disciplinary Actions; Other Enforcement Mechanisms.**

11           **Sec. 08.57.300. Grounds for disciplinary sanctions or other license**  
 12 **decisions.** The board may take disciplinary action authorized under AS 08.01.075 or  
 13 refuse to grant or renew a license or registration under this chapter on a finding that

14                   (1) the application is fraudulent or misleading;

15                   (2) the individual has knowingly violated this chapter or a lawful order  
 16 or regulation of the department or the board;

17                   (3) the individual is incompetent or has engaged in fraudulent practices  
 18 relating to home inspection.

19           **Sec. 08.57.310. Administrative Procedure Act applicable.** Proceedings for  
 20 the denial, suspension, or revocation of a license or registration under this chapter are  
 21 governed by AS 44.62 (Administrative Procedure Act).

22           **Sec. 08.57.320. Injunction.** In an action instituted in the superior court by the  
 23 board or the department, the court may enjoin an individual from performing a home  
 24 inspection in violation of this chapter. In addition to other relief, the court may  
 25 impose a civil penalty of not more than \$500 for each violation. Each day that an  
 26 unlawful act continues constitutes a separate violation.

27           **Sec. 08.57.330. Violations.** (a) An individual who knowingly violates  
 28 AS 08.57.050 is guilty of a class B misdemeanor. A person who violates another  
 29 provision of this chapter is guilty of a violation punishable under AS 12.

30                   (b) Criminal prosecution for a violation of this chapter does not preclude the  
 31 board or the department from seeking available civil remedies.

1 **Article 5. Miscellaneous Provisions.**

2 **Sec. 08.57.800. Legal actions by home inspector.** An individual may not  
3 bring an action in a court of this state for the collection of compensation for the  
4 performance of a home inspection or for breach of a contract for which a license is  
5 required under this chapter without alleging and proving that the individual was a  
6 licensed home inspector or registered associate home inspector at the time of  
7 contracting for the performance of the work.

8 **Sec. 08.57.810. Legal actions against home inspector.** A person may not  
9 bring an action against an individual licensed or registered under this chapter based on  
10 a written home inspection report prepared by the inspector if the report is more than  
11 one year old or was unlawfully disclosed to the person bringing the action.

12 **Sec. 08.57.820. Inspection report required.** (a) Before performing a home  
13 inspection, a licensee or an associate home inspector shall provide to the person on  
14 whose behalf a home is inspected a written document specifying

15 (1) the scope of intended inspection, including the structural elements,  
16 systems, and subsystems that will be inspected; and

17 (2) that the inspector will notify in writing the person on whose behalf  
18 the inspection is being made of defects noted during the inspection along with a  
19 recommendation, if any, that experts be retained to determine the extent of defects and  
20 corrective action necessary to address the defects.

21 (b) After performing a home inspection, a licensee shall provide to the person  
22 on whose behalf the inspection was performed a written description of defects noted  
23 during the inspection along with a recommendation, if any, that experts be retained to  
24 determine the extent and corrective action necessary to address the defects.

25 **Sec. 08.57.830. Prohibited acts.** (a) An individual licensed or registered  
26 under this chapter, a company that employs an individual licensed or registered under  
27 this chapter, or a company that is controlled by a company that also has a financial  
28 interest in a company employing an individual licensed or registered under this chapter  
29 may not

30 (1) perform or offer to perform, for an additional fee, repairs to a  
31 structure on which the home inspector or the home inspector's company has prepared

1 a home inspection report in the past 12 months;

2 (2) inspect for a fee any property in which the home inspector or the  
3 home inspector's company has a financial interest or an interest in the transfer of the  
4 property;

5 (3) offer or deliver compensation, an inducement, or a reward to the  
6 owner of the inspected property, the broker, or the agent, for the referral of business  
7 to the home inspector or the home inspector's company;

8 (4) without the written consent of the home inspection client or the  
9 client's legal representative, disclose information from a home inspection report  
10 prepared by the home inspector or the home inspector's company unless the disclosure  
11 is made

12 (A) more than one year after the date of the report; or

13 (B) to a subsequent client who requests a home inspection of  
14 the same premises;

15 (5) without the written consent of all interested parties, accept  
16 compensation from more than one interested party for the same services;

17 (6) accept from a person who has other dealings with a home  
18 inspection client a commission or allowance, directly or indirectly, for work for which  
19 the home inspector or the home inspector's company is responsible;

20 (7) accept an engagement to make an inspection or to prepare a report  
21 in which the employment itself or the fee payable for the inspection is contingent upon  
22 the conclusions in the report, preestablished findings, or the close of escrow.

23 (b) Contractual provisions that purport to limit the liability of a home inspector  
24 to the cost of the home inspection report are contrary to public policy and void.

25 **Sec. 08.57.840. Limitation on activities.** A license or registration issued  
26 under this chapter does not authorize the holder to perform an activity for which a  
27 license is required under provisions of this title that are outside of this chapter.

## 28 **Article 6. General Provisions.**

29 **Sec. 08.57.900. Exemptions.** Notwithstanding other provisions of this chapter,  
30 an individual who performs a home inspection is not required to be licensed or  
31 registered under this chapter if the individual is

1 (1) employed by the federal or state government, a political subdivision  
2 of the state, or a municipality or unincorporated community and the employee is  
3 performing only duties that are within the employee's official duties;

4 (2) performing a home inspection only with respect to property that is  
5 the individual's residence or in which the individual has a financial interest;

6 (3) registered as a civil engineer or architect under AS 08.48 and the  
7 individual either

8 (A) affixes the individual's seal to the home inspection report;

9 or

10 (B) signs the report and puts the individual's registration number  
11 on the report;

12 (4) engaged as an engineer in training or architect in training who  
13 works for and is supervised by a person described in (3) of this section and the person  
14 described in (3) of this section affixes the person's seal to the home inspection report  
15 or signs and puts the person's registration number on the report;

16 (5) licensed as a pesticide applicator by the Department of  
17 Environmental Conservation and is performing only activities within the scope of that  
18 license;

19 (6) registered as an engineer or architect under AS 08.48 and is  
20 performing only activities that are authorized by the Board of Registration for  
21 Architects, Engineers and Land Surveyors under that registration; or

22 (7) certified as any type of real estate appraiser under AS 08.87 and is  
23 performing only activities that are authorized under that certification.

24 **Sec. 08.57.990. Definitions.** In this chapter,

25 (1) "board" means the Board of Home Inspectors;

26 (2) "department" means the Department of Community and Economic  
27 Development;

28 (3) "home inspection" means an inspection of the condition of a  
29 residence or intended residence performed for compensation on behalf of a prospective  
30 buyer, seller, or lender in a real estate transaction or on behalf of the owner of the  
31 residence;

1 (4) "joint license" means a license that authorizes an individual to  
2 inspect both new construction and previously occupied residences;

3 (5) "real estate transaction" means the transfer or attempted transfer of  
4 an interest in a unit of real property or an act conducted as a result of or in pursuit of  
5 a contract to transfer an interest in a unit of real property;

6 (6) "residence" means

7 (A) a single-family home;

8 (B) a duplex, triplex, or four-plex; or

9 (C) a residential townhouse or residential condominium unit.

10 \* **Sec. 2.** AS 08.01.010 is amended by adding a new paragraph to read:

11 (3) Board of Home Inspectors (AS 08.57.010).

12 \* **Sec. 3.** AS 08.03.010(c) is amended by adding a new paragraph to read:

13 (22) Board of Home Inspectors (AS 08.57.010) -- June 30, 2004.

14 \* **Sec. 4.** AS 18.56.300(b) is amended to read:

15 (b) As a condition of a commitment to purchase or approve a loan under this  
16 section for residential housing the construction of which begins after June 30, 1992,  
17 the corporation shall require inspection of the unit of residential housing that is the  
18 subject of the loan. The inspection must be performed by a municipal building  
19 inspector, by a person who is approved or certified to perform residential inspections  
20 by the International Conference of Building Officials or the International Association  
21 of Electrical Inspectors, **by an individual who is licensed or registered under**  
22 **AS 08.57.050 to perform home inspections** [OR, WHEN THE UNIT OF  
23 RESIDENTIAL HOUSING IS LOCATED IN A RURAL AREA], by an architect  
24 licensed under AS 08.48, by an engineer licensed under AS 08.48, or by another  
25 person approved by the corporation. When the unit of residential housing is located  
26 in a rural area, the person who makes the inspection may use methods other than a  
27 personal physical inspection to make the inspection if the method is approved by the  
28 corporation, and variations from the applicable code may be accepted at the  
29 corporation's discretion, if the person authorized to inspect the unit under this  
30 subsection satisfies the corporation that the variation does not adversely affect the  
31 structural integrity of the unit or the health and safety of the residents. The person

1 who makes the inspection shall determine whether the construction conforms to  
 2 relevant provisions of the construction codes of the municipality or of the state  
 3 building code, as applicable, at each of the following stages of construction:

- 4 (1) plan approval;
- 5 (2) completion of footings and foundations;
- 6 (3) completion of electrical installation, plumbing, and framing;
- 7 (4) completion of installation of insulation;
- 8 (5) final approval.

9 \* **Sec. 5.** AS 18.56.300(b) is amended to read:

10 (b) As a condition of a commitment to purchase or approve a loan under this  
 11 section for residential housing the construction of which begins after June 30, 1992,  
 12 the corporation shall require inspection of the unit of residential housing that is the  
 13 subject of the loan. The inspection must be performed by a municipal building  
 14 inspector, [BY A PERSON WHO IS APPROVED OR CERTIFIED TO PERFORM  
 15 RESIDENTIAL INSPECTIONS BY THE INTERNATIONAL CONFERENCE OF  
 16 BUILDING OFFICIALS OR THE INTERNATIONAL ASSOCIATION OF  
 17 ELECTRICAL INSPECTORS,] by an individual who is licensed or registered under  
 18 AS 08.57.050 to perform home inspections, by an architect licensed under AS 08.48,  
 19 by an engineer licensed under AS 08.48, or by another person approved by the  
 20 corporation. When the unit of residential housing is located in a rural area, the person  
 21 who makes the inspection may use methods other than a personal physical inspection  
 22 to make the inspection if the method is approved by the corporation, and variations  
 23 from the applicable code may be accepted at the corporation's discretion, if the person  
 24 authorized to inspect the unit under this subsection satisfies the corporation that the  
 25 variation does not adversely affect the structural integrity of the unit or the health and  
 26 safety of the residents. The person who makes the inspection shall determine whether  
 27 the construction conforms to relevant provisions of the construction codes of the  
 28 municipality or of the state building code, as applicable, at each of the following stages  
 29 of construction:

- 30 (1) plan approval;
- 31 (2) completion of footings and foundations;

- 1 (3) completion of electrical installation, plumbing, and framing;  
 2 (4) completion of installation of insulation;  
 3 (5) final approval.

4 \* **Sec. 6.** AS 44.62.330(a) is amended by adding a new paragraph to read:

5 (60) Board of Home Inspectors.

6 \* **Sec. 7.** AS 45.50.471(b) is amended by adding a new paragraph to read:

7 (43) violating AS 08.57.830.

8 \* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section  
 9 to read:

10 REGULATIONS. The Board of Home Inspectors may proceed to adopt regulations  
 11 to implement this Act. A regulation adopted under this section takes effect under AS 44.62  
 12 (Administrative Procedure Act) but not before the effective date of the law implemented by  
 13 the regulation.

14 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section  
 15 to read:

16 INITIAL BOARD MEMBERS. Notwithstanding AS 08.57.010, added by sec. 1 of this  
 17 Act, the three home inspectors appointed to the initial Board of Home Inspectors are not  
 18 required to be licensed as home inspectors before appointment but must be licensed as home  
 19 inspectors in order to be appointed or reappointed after expiration of their first term in office.

20 \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section  
 21 to read:

22 TRANSITIONAL LICENSING PROVISIONS. (a) Notwithstanding AS 08.57, added  
 23 by sec. 1 of this Act, the Board of Home Inspectors shall issue a joint license that is valid  
 24 until January 1, 2002, to an individual who submits to the board satisfactory evidence of being  
 25 in the business of home inspection in the state at the time of application for a license under  
 26 this subsection and of having

27 (1) been in the business of home inspection in the state on October 1, 1999;  
 28 or

29 (2) passed the building inspector examination or property maintenance and  
 30 housing inspector examination given by the International Conference of Building Officials.

31 (b) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home

1 Inspectors shall issue a license to practice home inspection of previously occupied residences  
2 that is valid until January 1, 2002, to an individual who submits to the board satisfactory  
3 evidence of being in the business of home inspection in the state at the time of application for  
4 a license under this subsection and of having passed

5 (1) the national home inspector examination given by the American Society  
6 of Home Inspectors; or

7 (2) the examination of the Examination Board of Professional Home Inspectors.

8 (c) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home  
9 Inspectors shall issue a license to practice home inspection of new construction that is valid  
10 until January 1, 2002, to an individual who submits to the board satisfactory evidence of being  
11 in the business of home inspection in the state at the time of application for a license under  
12 this subsection and of having passed the combination inspector examination or the  
13 combination dwelling inspector examination given by the International Conference of Building  
14 Officials.

15 (d) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home  
16 Inspectors shall grant registration as an associate home inspector that is valid until January 1,  
17 2002, to an individual who submits to the board satisfactory evidence of being employed by  
18 an individual who is in the business of home inspection and is licensed under this section or  
19 under AS 08.57.

20 (e) A license or registration issued under this section may not be renewed or extended.

21 (f) Except as provided in (e) of this section, a license or registration issued under this  
22 section is considered to be a license or registration issued under AS 08.57, added by sec. 1  
23 of this Act.

24 (g) In this section, "joint license" has the meaning given in AS 08.57.990, added by  
25 sec. 1 of this Act.

26 \* **Sec. 11.** AS 08.57.050, 08.57.090, 08.57.330(a), 08.57.800 - 08.57.820, enacted by sec. 1  
27 of this Act, and the amendment of AS 18.56.300(b), made by sec. 4 of this Act, take effect  
28 July 1, 2001.

29 \* **Sec. 12.** Section 5 of this Act takes effect January 1, 2002.

30 \* **Sec. 13.** Except as provided in secs. 11 - 12 of this Act, this Act takes effect immediately  
31 under AS 01.10.070(c).