

SENATE CS FOR CS FOR HOUSE BILL NO. 27(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/11/02
Referred: Finance

Sponsor(s): REPRESENTATIVE ROKEBERG

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the registration of individuals who perform home inspections;**
2 **relating to regulation of contractors; relating to registration fees for specialty**
3 **contractors, home inspectors, and associate home inspectors; relating to home inspection**
4 **requirements for residential loans purchased or approved by the Alaska Housing**
5 **Finance Corporation; relating to civil actions by and against home inspectors and to**
6 **civil actions arising from residential unit inspections; and providing for an effective**
7 **date."**

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

9 *** Section 1.** AS 08.01.010(12) is amended to read:

10 (12) regulation of construction contractors **and home inspectors** under
11 AS 08.18;

12 *** Sec. 2.** AS 08.01.065(c) is amended to read:

13 (c) Except as provided in **(f) - (i)** [(f) - (h)] of this section, the department shall

1 establish fee levels under (a) of this section so that the total amount of fees collected
 2 for an occupation approximately equals the actual regulatory costs for the occupation.
 3 The department shall annually review each fee level to determine whether the
 4 regulatory costs of each occupation are approximately equal to fee collections related
 5 to that occupation. If the review indicates that an occupation's fee collections and
 6 regulatory costs are not approximately equal, the department shall calculate fee
 7 adjustments and adopt regulations under (a) of this section to implement the
 8 adjustments. In January of each year, the department shall report on all fee levels and
 9 revisions for the previous year under this subsection to the office of management and
 10 budget. If a board regulates an occupation covered by this chapter, the department
 11 shall consider the board's recommendations concerning the occupation's fee levels and
 12 regulatory costs before revising fee schedules to comply with this subsection. In this
 13 subsection, "regulatory costs" means costs of the department that are attributable to
 14 regulation of an occupation plus

15 (1) all expenses of the board that regulates the occupation if the board
 16 regulates only one occupation;

17 (2) the expenses of a board that are attributable to the occupation if the
 18 board regulates more than one occupation.

19 * **Sec. 3.** AS 08.01.065 is amended by adding a new subsection to read:

20 (i) Notwithstanding (c) of this section, the department shall establish fee levels
 21 under (a) of this section so that the total amount of fees collected by the Department of
 22 Community and Economic Development for specialty contractors, home inspectors,
 23 and associate home inspectors approximately equals the total regulatory costs of the
 24 department for those three registration categories. The department shall set the fee
 25 levels for the issuance and renewal of a certificate of registration issued under
 26 AS 08.18 so that the fee levels are the same for all three of these registration
 27 categories and so that the fee level for a home inspector with a joint registration is not
 28 different from the fee level for a home inspector who does not have a joint
 29 registration. In this subsection, "joint registration" has the meaning given in
 30 AS 08.18.171.

31 * **Sec. 4.** AS 08.18.011 is amended to read:

1 **Sec. 08.18.011. Registration required.** (a) A person may not submit a bid or
 2 work as a contractor until that person has been issued a certificate of registration **as a**
 3 **contractor** by the department. A partnership or joint venture shall be considered
 4 registered **as a contractor** if one of the general partners or venturers whose name
 5 appears in the name under which the partnership or venture does business is registered
 6 **as a contractor**.

7 (b) A general contractor may not use a bid or proposal from, award a bid or
 8 proposal to, contract with, or allow a person required to be registered under this
 9 chapter to work for the general contractor as a specialty contractor unless the person is
 10 registered **as a specialty contractor** under this chapter.

11 * **Sec. 5.** AS 08.18.011 is amended by adding new subsections to read:

12 (c) Unless exempt under AS 08.18.156 or serving lawfully as an associate
 13 home inspector under (d) of this section, an individual may not perform a home
 14 inspection

15 (1) for a residence not previously occupied as a residence unless that
 16 individual is registered as a home inspector for new homes under this chapter;

17 (2) for a residence previously occupied as a residence unless that
 18 individual is registered as a home inspector for existing homes under this chapter.

19 (d) Notwithstanding (c) of this section, an individual who is not registered as a
 20 home inspector under this chapter may perform a home inspection as an associate
 21 home inspector if the individual

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

25 (2) is registered with the department as an associate home inspector.

26 (e) A registered home inspector who employs an associate home inspector
 27 under (d) of this section is liable for the work done by the associate home inspector.

28 (f) An individual who holds a joint registration for home inspection is
 29 considered to be registered as both a home inspector for new homes and a home
 30 inspector for existing homes.

31 * **Sec. 6.** AS 08.18.021(a) is amended to read:

1 (a) An applicant for registration as a contractor **or home inspector** shall
 2 submit an application under oath upon a form to be prescribed by the commissioner
 3 and **that** [WHICH] must include the following information pertaining to the applicant:

4 (1) **the applicant's** [EMPLOYER] social security number;

5 (2) **if applying to be a registered contractor, the** type of contracting
 6 activity, whether a general or a specialty contractor and, if the latter, the type of
 7 specialty;

8 (3) **if applying to be a registered home inspector, whether the**
 9 **applicant is applying to inspect new homes or existing homes, or both;**

10 (4) **if applying to be a registered contractor,** the name and address of
 11 each partner if the applicant is a firm or partnership, or the name and address of the
 12 owner if the applicant is an individual proprietorship, or the name and address of the
 13 corporate officers and statutory agent, if any, if the applicant is a corporation; **and**

14 (5) **if applying to be a registered home inspector, the name and**
 15 **address of the applicant.**

16 * **Sec. 7.** AS 08.18 is amended by adding new sections to read:

17 **Sec. 08.18.022. Home inspectors; associate home inspectors.** (a) The
 18 department shall issue a certificate of registration as a home inspector for new homes,
 19 existing homes, or both, as appropriate, to an individual who

20 (1) passes the appropriate home inspection examination; for purposes
 21 of this paragraph, the appropriate home inspection examination for an individual who
 22 applies to be registered for inspection of

23 (A) existing homes is the examination or set of applicable
 24 courses offered by the American Society of Home Inspectors, American Home
 25 Inspectors Training Institute, or National Association of Home Inspectors;

26 (B) new homes or for a joint registration is the examination or
 27 set of applicable courses offered by the International Conference of Building
 28 Officials;

29 (2) meets the educational and experience requirements adopted by the
 30 department in regulations for the type of registration applied for;

31 (3) submits a complete application for registration within one year

1 after passing the examination required under (1) of this subsection;

2 (4) within the seven years preceding the date of application, has not
3 been under a sentence for an offense related to forgery, theft in the first or second
4 degree, extortion, or defrauding creditors or for a felony involving dishonesty;

5 (5) has not had the authority to perform home inspections revoked in
6 this state or in another jurisdiction;

7 (6) is not the subject of an unresolved criminal complaint or
8 unresolved disciplinary action before a regulatory authority in this state or in another
9 jurisdiction related to real estate or home inspection matters; and

10 (7) pays the appropriate fees.

11 (b) An individual may register with the department as an associate home
12 inspector upon application, payment of the required fee, and determination by the
13 department that the individual

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

17 (2) has not had the authority to perform home inspections revoked in
18 this state or in another jurisdiction; and

19 (3) is not the subject of an unresolved criminal complaint or
20 unresolved disciplinary action before a regulatory authority in this state or in another
21 jurisdiction related to real estate or home inspection matters.

22 **Sec. 08.18.023. Pre-inspection documents and inspection reports.** (a)
23 Before performing a home inspection, a registered home inspector or associate home
24 inspector shall provide to the person on whose behalf a home is inspected a written
25 document specifying

26 (1) the scope of intended inspection; the scope of the intended
27 inspection may include systems and components that are not listed in
28 AS 08.18.171(12); and

29 (2) that the inspector will notify in writing the person on whose behalf
30 the inspection is being made of defects noted during the inspection along with a
31 recommendation, if any, that experts be retained to conduct further evaluation through

1 examination and analysis by a qualified professional, tradesperson, or service
 2 technician beyond that provided by the home inspection to determine the extent of
 3 defects and corrective action necessary to address the defects.

4 (b) After performance of a home inspection, a registered home inspector or
 5 associate home inspector shall give a written home inspection report to the person
 6 requesting the inspection. The written report must include a review of the condition of
 7 each system and component identified as being within the scope of the intended
 8 inspection under (a) of this section.

9 (c) In addition to the written inspection report required under (b) of this
 10 section, an oral inspection report may be given by the inspector during or after the
 11 inspection.

12 (d) A home inspection report is valid for six months.

13 * **Sec. 8.** AS 08.18.031(a) is amended to read:

14 (a) **Except as provided in (c) of this section, a** [A] certificate of registration
 15 shall be renewed under the same requirements as for an original registration, **and the**
 16 [.THE] commissioner shall issue to the applicant a certificate of registration upon
 17 compliance with the registration requirements of this chapter.

18 * **Sec. 9.** AS 08.18.031 is amended by adding a new subsection to read:

19 (c) A certificate of registration as a home inspector may not be renewed unless
 20 the home inspector has complied with the continuing competency requirements
 21 established by the department. The department shall adopt regulations establishing the
 22 continuing competency requirements. The regulations must provide that a continuing
 23 competency activity approved by one of the following entities satisfies the continuing
 24 competency requirements of this subsection if the activity meets the requirements
 25 established by the department in regulations adopted under this subsection:

26 (1) Alaska Housing Finance Corporation;

27 (2) University of Alaska;

28 (3) American Society of Home Inspectors Alaska Chapter;

29 (4) a chapter of the International Conference of Building Officials

30 Alaska;

31 (5) Alaska State Homebuilders Association; or

1 (6) a state agency that offers an activity that meets the requirements set
2 by the department.

3 * **Sec. 10.** AS 08.18.041 is amended to read:

4 **Sec. 08.18.041. Fees.** (a) The department shall set fees under AS 08.01.065
5 for

6 (1) registration and renewal of registration for all categories of
7 contractors;

8 (2) registration and renewal of registration for a home inspector
9 qualified to inspect new homes;

10 (3) registration and renewal of registration for a home inspector
11 qualified to inspect existing homes;

12 (4) joint registration and renewal of joint registration for home
13 inspectors;

14 (5) registration and renewal of registration as an associate home
15 inspector;

16 (6) examinations for applicants for home inspector registration;

17 (7) examination, issuance of initial endorsement, and renewal of active
18 or inactive endorsements for residential contractors; and

19 (8) [(3)] departmental publications and seminars related to this chapter.

20 (b) A person who fails a residential contractor examination or home
21 inspector examination shall pay the examination fee set by the department if the
22 person applies to retake an examination.

23 * **Sec. 11.** AS 08.18.051(a) is amended to read:

24 (a) Except as provided otherwise by law, a person who has registered as a
25 contractor under one name as required by this chapter may not act in the capacity of a
26 contractor under any other name unless that name also is registered.

27 * **Sec. 12.** AS 08.18 is amended by adding a new section to read:

28 **Sec. 08.18.053. Identification requirements for home inspectors.** (a)
29 Except as provided otherwise by law, an individual who is registered as a home
30 inspector or associate home inspector under this chapter by one name may not act in
31 the capacity of a home inspector or associate home inspector under any other name.

1 (b) All advertising and business cards prepared by a registered home inspector
 2 or associate home inspector for the home inspection business must show the
 3 inspector's name, mailing address, and registration number.

4 (c) Individual registered home inspectors and partners, associates, agents,
 5 salespeople, solicitors, officers, and employees of registered home inspectors shall use
 6 their true names and addresses and the true name of the home inspecting firm at all
 7 times while acting in the capacity of a registered home inspector or performing related
 8 activities.

9 (d) Individuals who are exempt from registration under AS 08.18.156(a) or
 10 whose actions are not considered to be home inspections under AS 08.18.156(b) may
 11 not hold themselves out to be registered home inspectors or use words or titles that
 12 may reasonably be confused with the title of "registered home inspector" unless they
 13 are registered as a home inspector under this chapter.

14 * **Sec. 13.** AS 08.18.061 is amended to read:

15 **Sec. 08.18.061. Requirements of political subdivision.** A contractor **or**
 16 **home inspector** who is registered with the state under this chapter may not be
 17 required to give bond in applying for or holding a license issued by a political
 18 subdivision **for a similar occupation.**

19 * **Sec. 14.** AS 08.18.071(a) is amended to read:

20 (a) Each applicant shall, at the time of applying for a certificate of registration,
 21 file with the commissioner a surety bond running to the state conditioned upon the
 22 applicant's promise to pay all

23 (1) taxes and contributions due the state and political subdivisions;

24 (2) persons furnishing labor or material or renting or supplying
 25 equipment to the applicant; and

26 (3) amounts that may be adjudged against the applicant by reason of
 27 negligent or improper work or breach of contract in the conduct of the contracting
 28 business **or home inspection activity, as applicable,** or by reason of damage to
 29 public facilities occurring in the course of a construction project.

30 * **Sec. 15.** AS 08.18.071(b) is amended to read:

31 (b) If the applicant is a general contractor, the amount of the bond shall be

1 \$10,000; if the applicant is a mechanical or specialty contractor **or home inspector**,
 2 the amount of the bond shall be \$5,000. In lieu of the surety bond the applicant may
 3 file with the commissioner a cash deposit or other negotiable security acceptable to the
 4 commissioner in the amount specified for bonds.

5 * **Sec. 16.** AS 08.18.081(a) is amended to read:

6 (a) A person having a claim against a contractor **or home inspector** for any of
 7 the items referred to in AS 08.18.071 may bring suit upon the bond in the district court
 8 of the judicial district in which venue lies. A copy of the complaint shall be served by
 9 registered or certified mail upon the commissioner at the time suit is filed, and the
 10 commissioner shall maintain a record, available for public inspection, of all suits
 11 commenced. Two additional copies shall be served upon the director of the division
 12 of insurance with the payment to the director of a fee set under AS 21.06.250, taxable
 13 as costs in the action. This service upon the director shall constitute service on the
 14 surety, and the director shall transmit the complaint or a copy of it to the surety within
 15 72 hours after it has been received. The surety upon the bond is not liable in an
 16 aggregate amount in excess of that named in the bond, but in case claims pending at
 17 any one time exceed the amount of the bond, the claims shall be satisfied from the
 18 bond in the following order:

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

25 * **Sec. 17.** AS 08.18 is amended by adding a new section to read:

26 **Sec. 08.18.085. No contractual limitation of liability of home inspector.**
 27 Contractual provisions that purport to limit the liability of a home inspector are
 28 contrary to public policy and void.

29 * **Sec. 18.** AS 08.18.111 is amended to read:

30 **Sec. 08.18.111. Advertising bond and insurance.** Contractors **and home**
 31 **inspectors** may not advertise that they are bonded and insured simply because they

1 have complied with the bond and insurance requirements of this chapter.

2 * **Sec. 19.** AS 08.18.115 is amended to read:

3 **Sec. 08.18.115. Return of cash deposit.** (a) A contractor **or home inspector**
4 who has filed a cash deposit and who ceases doing business as a contractor **or home**
5 **inspector** may request the return of as much of that cash deposit as is held by the
6 commissioner by

7 (1) filing a notarized statement with the commissioner that the
8 contractor **or home inspector** has ceased doing business as a contractor **or home**
9 **inspector, as applicable**; and

10 (2) filing a notarized statement with the commissioner at least three
11 years after filing the statement in (1) of this subsection **that** [WHICH]

12 (A) requests return of the cash deposit;

13 (B) certifies that the former contractor **or home inspector** has
14 not been engaged in business as a contractor **or home inspector, as**
15 **applicable**, for at least three years; and

16 (C) certifies that to the best of the contractor's **or home**
17 **inspector's** knowledge no action has been commenced upon the cash deposit
18 **that** [WHICH] has not been dismissed or reduced to a final judgment **that**
19 [WHICH] has been satisfied.

20 (b) The commissioner, after paying any judgments against the cash deposit
21 under AS 08.18.081(b), shall return the remainder of a former contractor's **or former**
22 **home inspector's** cash deposit to the contractor **or home inspector, as applicable**, if

23 (1) the former contractor **or former home inspector** has complied
24 with (a) of this section; and

25 (2) no action has been commenced upon the cash deposit **that**
26 [WHICH] has not been dismissed or reduced to a final judgment **that** [WHICH] has
27 been satisfied.

28 * **Sec. 20.** AS 08.18.116 is amended to read:

29 **Sec. 08.18.116. Investigations.** Either the Department of Community and
30 Economic Development or the Department of Labor and Workforce Development
31 may investigate alleged or apparent violations of this chapter **relating to contractors**.

1 **The Department of Community and Economic Development may investigate**
 2 **alleged or apparent violations of this chapter relating to home inspection**
 3 **activities.** These departments, upon showing proper credentials, may enter, during
 4 regular hours of work, a construction site where it appears that contracting work is
 5 being done. The departments may make inquiries about the identity of the contractor
 6 or the person acting in the capacity of a contractor. **The Department of Community**
 7 **and Economic Development may make inquiries about the identity of a home**
 8 **inspector or a person acting in the capacity of a home inspector.** Upon demand, a
 9 contractor **or home inspector** or person acting in the capacity of a contractor **or home**
 10 **inspector,** or that person's representative, shall produce evidence of current
 11 endorsement, if applicable, and registration.

12 * **Sec. 21.** AS 08.18.117 is amended to read:

13 **Sec. 08.18.117. Issuance of citations.** Either the Department of Community
 14 and Economic Development or the Department of Labor and Workforce Development
 15 may issue a citation for a violation if there is probable cause to believe a person has
 16 violated this chapter **with respect to contractor activities.** **The Department of**
 17 **Community and Economic Development may issue a citation for a violation if**
 18 **there is probable cause to believe a person has violated this chapter with respect**
 19 **to home inspection activities.** Each day a violation continues after a citation for the
 20 violation has been issued constitutes a separate violation.

21 * **Sec. 22.** AS 08.18.121(a) is amended to read:

22 (a) If the insurance required in AS 08.18.101 ceases to be in effect, the
 23 registration of the contractor **or home inspector** shall be suspended until the insurance
 24 has been reinstated.

25 * **Sec. 23.** AS 08.18.121(b) is amended to read:

26 (b) If a final judgment impairs the liability of the surety upon the bond or
 27 depletes the cash deposit so that there is not in effect a bond undertaking or cash
 28 deposit in the full amount prescribed in AS 08.18.071, the registration of the
 29 contractor **or home inspector** involved shall be suspended until the bond liability in
 30 the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

31 * **Sec. 24.** AS 08.18.121(c) is amended to read:

1 (c) If a bonding company cancels its bond of a contractor **or home inspector,**
 2 the contractor's **or home inspector's** registration shall be revoked. The contractor **or**
 3 **home inspector** may again obtain registration by complying with the requirements of
 4 this chapter.

5 * **Sec. 25.** AS 08.18.121(d) is amended to read:

6 (d) If a registered contractor **or registered home inspector** fails to fulfill the
 7 contractor's **or home inspector's** obligations as set out in AS 08.18.071, the
 8 contractor's **or home inspector's** registration shall be suspended for a period of time
 9 the commissioner determines is appropriate. After three suspensions, the contractor's
 10 **or home inspector's** registration may be permanently revoked.

11 * **Sec. 26.** AS 08.18.121(f) is amended to read:

12 (f) If the Department of Community and Economic Development or the
 13 Department of Labor and Workforce Development determines that a contractor or [A]
 14 person acting in the capacity of a contractor [,] is in violation of this chapter, that
 15 department may give written notice to the person prohibiting further action by the
 16 person as a contractor. **If the Department of Community and Economic**
 17 **Development determines that a home inspector or a person acting in the capacity**
 18 **of a home inspector is in violation of this chapter, the department may give**
 19 **written notice to the person prohibiting further action by the person as a home**
 20 **inspector.** The prohibition **in a notice given under this subsection** continues until
 21 the person has submitted evidence acceptable to **the appropriate** [THAT] department
 22 showing that the violation has been corrected.

23 * **Sec. 27.** AS 08.18.131 is amended to read:

24 **Sec. 08.18.131. Injunction; civil penalty.** In an action instituted in the
 25 superior court by the Department of Community and Economic Development or the
 26 Department of Labor and Workforce Development, the court may enjoin a person
 27 from acting in the capacity of a contractor in violation of this chapter. **In an action**
 28 **instituted in the superior court by the Department of Community and Economic**
 29 **Development, the court may enjoin a person from acting in the capacity of a**
 30 **home inspector in violation of this chapter.** In addition to other relief, the court may
 31 impose a civil penalty of not more than \$250 for each violation. Each day that an

1 unlawful act continues constitutes a separate violation.

2 * **Sec. 28.** AS 08.18.141(a) is amended to read:

3 (a) A contractor, **home inspector**, or [A] person acting in the capacity of a
4 contractor **or home inspector** who knowingly violates AS 08.18.011 or 08.18.025 is
5 guilty of a class B misdemeanor. A person who violates another provision of this
6 chapter is guilty of a violation punishable under AS 12.

7 * **Sec. 29.** AS 08.18.151 is amended to read:

8 **Sec. 08.18.151. Legal actions by contractor or home inspector.** A person
9 acting in the capacity of a contractor **or home inspector** may not bring an action in a
10 court of this state for the collection of compensation for the performance of work or
11 for breach of a contract for which registration is required under this chapter without
12 alleging and proving that the contractor **or home inspector** was a registered contractor
13 **or registered home inspector, as applicable**, at the time of contracting for the
14 performance of the work.

15 * **Sec. 30.** AS 08.18 is amended by adding new sections to article 4 to read:

16 **Sec. 08.18.152. Prohibited acts for home inspectors.** An individual
17 registered under this chapter as a home inspector or associate home inspector may not

18 (1) perform or offer to perform, for an additional fee, repairs to a
19 subject property on which the home inspector or the home inspector's company has
20 prepared a home inspection report in the past 12 months;

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

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

27 (4) without the written consent of the home inspection client or the
28 client's legal representative, disclose information from a home inspection report
29 prepared by the home inspector or the home inspector's company unless the disclosure
30 is made

31 (A) to a subsequent client who requests a home inspection of

1 the same premises; or

2 (B) by the home inspector in an administrative or judicial
3 proceeding in which disclosure of the home inspection report is relevant to
4 resolution of the legal issues in the proceeding;

5 (5) without the written consent of all interested parties, accept
6 compensation from more than one interested party for the same home inspection
7 services;

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

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

14 **Sec. 08.18.154. Limitation on home inspector's activities.** A registration
15 issued under AS 08.18.022 does not authorize the holder to perform an activity for
16 which a license is required under provisions of this title that are outside of this chapter.

17 **Sec. 08.18.156. Exemptions related to home inspections.** (a)
18 Notwithstanding other provisions of this chapter, an individual who inspects a home is
19 not required to be registered under this chapter as a home inspector or associate home
20 inspector if the individual is

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

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

26 (3) registered as an engineer or architect under AS 08.48, prepares a
27 written report after the inspection, and either

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

29 or

30 (B) signs the report and puts the individual's registration
31 number on the report;

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

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

8 (6) registered as a general contractor with a residential contractor
 9 endorsement under this chapter and is performing only activities within the scope of
 10 that registration;

11 (7) certified as any type of real estate appraiser under AS 08.87 and is
 12 performing only activities that are authorized under that certification; or

13 (8) only determining whether a building complies with the thermal and
 14 lighting energy standards required by AS 46.11.040.

15 (b) Notwithstanding the definition of "home inspection" in AS 08.18.171(12),
 16 an individual is not considered to be doing a home inspection for purposes of this
 17 chapter if the individual

18 (1) is in the business of repairing, maintaining, or installing any of the
 19 systems or components listed in AS 08.18.171(12); and

20 (2) inspects the system or component for the sole purpose of
 21 determining the condition of the system or component before performing or offering
 22 to perform repair, maintenance, or installation work on the system or component.

23 * **Sec. 31.** AS 08.18.161 is amended to read:

24 **Sec. 08.18.161. Exemptions. To the extent that this chapter governs**
 25 **contractors, this** [THIS] chapter does not apply to

26 (1) an authorized representative of the United States government, the
 27 State of Alaska, or a political subdivision or agency of the state;

28 (2) an officer of a court when acting within the scope of office;

29 (3) a public utility operating under the regulations of the public service
 30 commission in construction, maintenance, or development work incidental to its own
 31 business;

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

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

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

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

12 (8) work on one project under one or more contracts, the aggregate
 13 contract price of which for labor and materials and all other items is less than \$10,000
 14 [THIS WORK BEING CONSIDERED AS OF A CASUAL, MINOR, OR
 15 INCONSEQUENTIAL NATURE]; this exemption does not apply when the work is
 16 only a part of a larger or major operation, whether undertaken by the same or a
 17 different contractor, or when the work is divided into contracts of amounts less than
 18 \$10,000 for the purpose of evasion of this chapter or otherwise; this exemption does
 19 not apply to a person who advertises or puts out a sign or card or other device that
 20 might indicate to the public that the person is a contractor, or that the person is
 21 qualified to engage in the contracting business; a contractor who performs work priced
 22 at \$2,500 or more, under this exemption, shall nevertheless keep in force public
 23 liability and property damage insurance with coverage in at least the amounts set out
 24 in AS 08.18.101;

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

26 (10) a person working on that person's own property, whether occupied
 27 by the person or not, and a person working on that person's own residence, whether
 28 owned by the person or not;

29 (11) an owner or tenant of commercial property who uses the owner's
 30 or tenant's own employees to do maintenance, repair, and alteration work upon that
 31 property;

1 (12) an owner who acts as the owner's own contractor and in doing so
 2 hires workers on an hourly basis, hires subcontractors, purchases materials and, as
 3 such, sees to the paying for all labor, subcontractors, and materials; in this case, the
 4 owner shall be limited to construction of one home, duplex, triplex, four-plex, or one
 5 commercial building per year;

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

10 * **Sec. 32.** AS 08.18.171 is amended by adding new paragraphs to read:

11 (11) "existing home" means a residence previously occupied as a
 12 residence;

13 (12) "home inspection" means a visual examination, performed in
 14 accordance with standards of practice adopted by the department, of the readily
 15 accessible parts of one or more of the following systems and components of a
 16 residence or intended residence:

17 (A) heating and air-conditioning systems;

18 (B) plumbing and electrical systems;

19 (C) built-in appliances;

20 (D) roof, attic, and visible insulation;

21 (E) walls, ceilings, floors, windows, and doors;

22 (F) foundation and basement;

23 (G) visible interior and exterior structures;

24 (H) drainage to and from the residence;

25 (I) other systems or components as specified by the department
 26 in regulations;

27 (13) "home inspector" means an individual who performs or offers to
 28 perform a home inspection for a fee;

29 (14) "joint registration" means a certificate of registration that
 30 authorizes an individual to inspect both new homes and existing homes;

31 (15) "knowingly" has the meaning given in AS 11.81.900;

1 (16) "new home" means a residence not previously occupied as a
2 residence;

3 (17) "residence" means

4 (A) a single-family home other than a mobile home;

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

6 (C) a residential townhouse or residential condominium unit;

7 (18) "visual examination" means an examination performed in person
8 at the physical location of the residence except that, if a method other than personal
9 physical inspection has been approved by the Alaska Housing Finance Corporation
10 under AS 18.56.300(b), use of the other approved method constitutes a visual
11 examination under this chapter.

12 * **Sec. 33.** AS 18.56.300(b) is amended to read:

13 (b) As a condition of a commitment to purchase or approve a loan under this
14 section for residential housing the construction of which begins after June 30, 1992,
15 the corporation shall require inspection of the unit of residential housing that is the
16 subject of the loan. The inspection must be performed by a municipal building
17 inspector, by a person who is approved or certified to perform residential inspections
18 by the International Conference of Building Officials or the International Association
19 of Electrical Inspectors, **by an individual who is registered under AS 08.18 to**
20 **perform home inspections for new construction** [OR, WHEN THE UNIT OF
21 RESIDENTIAL HOUSING IS LOCATED IN A RURAL AREA], by an architect
22 licensed under AS 08.48, by an engineer licensed under AS 08.48, or by another
23 person approved by the corporation. When the unit of residential housing is located in
24 a rural area, the person who makes the inspection may use methods other than a
25 personal physical inspection to make the inspection if the method is approved by the
26 corporation, and variations from the applicable code may be accepted at the
27 corporation's discretion, if the person authorized to inspect the unit under this
28 subsection satisfies the corporation that the variation does not adversely affect the
29 structural integrity of the unit or the health and safety of the residents. The person
30 who makes the inspection shall determine whether the construction conforms to
31 relevant provisions of the construction codes of the municipality or of the state

1 building code, as applicable, at each of the following stages of construction:

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

7 * **Sec. 34.** AS 18.56.300(b) is amended to read:

8 (b) As a condition of a commitment to purchase or approve a loan under this
 9 section for residential housing the construction of which begins after June 30, 1992,
 10 the corporation shall require inspection of the unit of residential housing that is the
 11 subject of the loan. The inspection must be performed by a municipal building
 12 inspector, [BY A PERSON WHO IS APPROVED OR CERTIFIED TO PERFORM
 13 RESIDENTIAL INSPECTIONS BY THE INTERNATIONAL CONFERENCE OF
 14 BUILDING OFFICIALS OR THE INTERNATIONAL ASSOCIATION OF
 15 ELECTRICAL INSPECTORS,] by an individual who is registered under AS 08.18 to
 16 perform home inspections, by an architect licensed under AS 08.48, by an engineer
 17 licensed under AS 08.48, or by another person approved by the corporation. When the
 18 unit of residential housing is located in a rural area, the person who makes the
 19 inspection may use methods other than a personal physical inspection to make the
 20 inspection if the method is approved by the corporation, and variations from the
 21 applicable code may be accepted at the corporation's discretion, if the person
 22 authorized to inspect the unit under this subsection satisfies the corporation that the
 23 variation does not adversely affect the structural integrity of the unit or the health and
 24 safety of the residents. The person who makes the inspection shall determine whether
 25 the construction conforms to relevant provisions of the construction codes of the
 26 municipality or of the state building code, as applicable, at each of the following
 27 stages of construction:

- 28 (1) plan approval;
- 29 (2) completion of footings and foundations;
- 30 (3) completion of electrical installation, plumbing, and framing;
- 31 (4) completion of installation of insulation;

1 (5) final approval.

2 * **Sec. 35.** AS 36.30.050(b) is amended to read:

3 (b) A person who desires to be on a list shall submit to the commissioner
4 evidence of a valid Alaska business license. A biennial fee may be established by
5 regulation in an amount reasonably calculated to pay the costs of administering this
6 section. A construction contractor shall also submit a valid certificate of registration
7 **as a contractor** issued under AS 08.18. The commissioner, by regulation, may require
8 submission of additional information.

9 * **Sec. 36.** AS 36.30.115(a) is amended to read:

10 (a) Within five working days after the identification of the apparent low bidder
11 for a construction contract, the apparent low bidder shall submit a list of the
12 subcontractors the bidder proposes to use in the performance of the construction
13 contract. The list must include the name and location of the place of business for each
14 subcontractor, evidence of each subcontractor's valid Alaska business license, and
15 evidence of each subcontractor's registration **as a contractor** under AS 08.18. If a
16 subcontractor on the list did not have a valid Alaska business license and a valid
17 certificate of registration **as a contractor** under AS 08.18 at the time the bid was
18 opened, the bidder may not use the subcontractor in the performance of the contract,
19 and shall replace the subcontractor with a subcontractor who had a valid Alaska
20 business license and a valid certificate of registration **as a contractor** under AS 08.18
21 at the time the bid was opened.

22 * **Sec. 37.** AS 36.30.210(b) is amended to read:

23 (b) An offeror for a construction contract shall submit evidence of the offeror's
24 registration **as a contractor** under AS 08.18. A request for sealed proposals for a
25 construction contract, except a design-build construction contract, must require the
26 offeror, no later than five working days after the proposal that is the most
27 advantageous to the state is identified, to list subcontractors the offeror proposes to use
28 in the performance of the construction contract. The list must include the information
29 required under AS 36.30.115(a). The provisions of AS 36.30.115(b) - (g) that apply to
30 a construction contractor or an apparent low bidder apply to offerors submitting
31 competitive sealed proposals for construction contracts, except design-build

1 construction contracts.

2 * **Sec. 38.** AS 36.90.290(1) is amended to read:

3 (1) "prime contractor" means a person required to be registered **as a**
 4 **contractor** under AS 08.18 who has a contract with the state or a political subdivision
 5 of the state to provide materials or services, other than as an employee, for a public
 6 construction or public works project;

7 * **Sec. 39.** AS 45.50.471(b) is amended by adding a new paragraph to read:

8 (43) violating AS 08.18.023(b), or 08.18.152.

9 * **Sec. 40.** AS 18.56.300(c) is repealed.

10 * **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 APPLICABILITY. The change made by sec. 40 of this Act applies to causes of action
 13 that accrue on or after July 1, 2004.

14 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
 15 read:

16 REGULATIONS. The Department of Community and Economic Development may
 17 proceed to adopt regulations to implement this Act. A regulation adopted under this section
 18 takes effect under AS 44.62 (Administrative Procedure Act) but not before the effective date
 19 of the law implemented by the regulation.

20 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 TRANSITIONAL LICENSING PROVISIONS. (a) Notwithstanding AS 08.18.022,
 23 added by sec. 7 of this Act, the Department of Community and Economic Development shall
 24 issue a certificate of joint registration that is valid until January 1, 2005, to an individual who
 25 submits to the department satisfactory evidence of being in the business of home inspection in
 26 the state at the time of application for registration under this subsection and of having

27 (1) been in the business of home inspection in the state on October 1, 2001;
 28 and

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 08.18.022, added by sec. 7 of this Act, the Department of

1 Community and Economic Development shall issue a certificate of registration to practice
 2 home inspection of previously occupied residences that is valid until January 1, 2005, to an
 3 individual who submits to the department satisfactory evidence of being in the business of
 4 home inspection in the state at the time of application for registration under this subsection
 5 and of having passed

6 (1) the national home inspector examination given by the American Society of
 7 Home Inspectors, American Home Inspectors Training Institute, or National Association of
 8 Home Inspectors; or

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

11 (c) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of
 12 Community and Economic Development shall issue a certificate of registration to practice
 13 home inspection of new construction that is valid until January 1, 2005, to an individual who
 14 submits to the department satisfactory evidence of being in the business of home inspection in
 15 the state at the time of application for registration under this subsection and of having passed
 16 the combination inspector examination or the combination dwelling inspector examination
 17 given by the International Conference of Building Officials.

18 (d) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of
 19 Community and Economic Development shall issue a certificate of registration as an associate
 20 home inspector that is valid until January 1, 2005, to an individual who submits to the
 21 department satisfactory evidence of being employed by an individual who is in the business of
 22 home inspection and is registered under this section or under AS 08.18.

23 (e) A certificate of registration issued under this section may not be renewed or
 24 extended.

25 (f) Except as provided in (e) of this section, a certificate of registration as a home
 26 inspector or associate home inspector issued under this section is considered to be a certificate
 27 of registration as a home inspector or associate home inspector issued under AS 08.18.022,
 28 added by sec. 7 of this Act.

29 (g) In this section, "joint registration" has the meaning given in AS 08.18.171, as
 30 amended by sec. 32 of this Act.

31 * **Sec. 44.** AS 08.18.011(c) - (f), added by sec. 5 of this Act; AS 08.18.023, added by sec. 7

1 of this Act; AS 08.18.085, added by sec. 17 of this Act; AS 08.18.151, as amended by sec. 29
2 of this Act; and the amendment of AS 18.56.300(b), made by sec. 33 of this Act, take effect
3 July 1, 2003.

4 * **Sec. 45.** Section 34 of this Act takes effect January 1, 2005.

5 * **Sec. 46.** Sections 40 and 41 of this Act take effect July 1, 2004.

6 * **Sec. 47.** Except as provided in secs. 44 - 46 of this Act, this Act takes effect immediately
7 under AS 01.10.070(c).