

CS FOR HOUSE BILL NO. 9(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/7/03

Referred: Finance

Sponsor(s): REPRESENTATIVES ROKEBERG, Hawker, Crawford

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 offered by the American
 24 Society of Home Inspectors, American Home Inspectors Training Institute, or
 25 National Association of Home Inspectors;

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

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

30 (3) submits a complete application for registration within one year
 31 after passing the examination required under (1) of this subsection;

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

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

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

9 (7) pays the appropriate fees.

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

13 (1) 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 defrauding creditors or for a felony involving dishonesty;

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

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

21 **Sec. 08.18.023. Pre-inspection documents and inspection reports.** (a)

22 Before performing a home inspection, a registered home inspector or associate home
23 inspector shall provide to the person on whose behalf a home is inspected a written
24 document specifying

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

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

1 technician beyond that provided by the home inspection to determine the extent of
2 defects and corrective action necessary to address the defects.

3 (b) After performance of a home inspection, a registered home inspector or
4 associate home inspector shall give a written home inspection report to the person
5 requesting the inspection. The written report must include a review of the condition of
6 each system and component identified as being within the scope of the intended
7 inspection under (a) of this section except that a home inspector's written report for
8 new construction that is the subject of a loan by the Alaska Housing Finance
9 Corporation or another lender may be in the form required by the corporation or other
10 lender, as appropriate.

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

14 (d) A home inspection report is valid for 180 days after the date the home
15 inspector signs and dates the report.

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

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

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

22 (c) A certificate of registration as a home inspector may not be renewed unless
23 the home inspector has complied with the continuing competency requirements
24 established by the department. The department shall adopt regulations establishing the
25 continuing competency requirements. The department shall require at least eight
26 hours of continuing competency activity for each licensing period. The regulations
27 must provide that a continuing competency activity approved by one of the following
28 entities satisfies the continuing competency requirements of this subsection if the
29 activity meets the requirements established by the department in regulations adopted
30 under this subsection:

31 (1) Alaska Housing Finance Corporation;

- 1 (2) University of Alaska;
- 2 (3) American Society of Home Inspectors Alaska Chapter;
- 3 (4) a chapter of the International Conference of Building Officials
- 4 Alaska;
- 5 (5) Alaska State Homebuilders Association; or
- 6 (6) a state agency that offers an activity that meets the requirements set
- 7 by the department.

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

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

10 for

11 (1) registration and renewal of registration for all categories of

12 contractors;

13 (2) **registration and renewal of registration for a home inspector**

14 **qualified to inspect new homes;**

15 (3) **registration and renewal of registration for a home inspector**

16 **qualified to inspect existing homes;**

17 (4) **joint registration and renewal of joint registration for home**

18 **inspectors;**

19 (5) **registration and renewal of registration as an associate home**

20 **inspector;**

21 (6) **examinations for applicants for home inspector registration;**

22 (7) examination, issuance of initial endorsement, and renewal of active

23 or inactive endorsements for residential contractors; and

24 (8) [(3)] departmental publications and seminars related to this chapter.

25 (b) A person who fails a residential contractor examination **or home**

26 **inspector examination** shall pay the examination fee set by the department if the

27 person applies to retake an examination.

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

29 (a) Except as provided otherwise by law, a person who has registered **as a**

30 **contractor** under one name as required by this chapter may not act in the capacity of a

31 contractor under any other name unless that name also is registered.

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

2 **Sec. 08.18.053. Identification requirements for home inspectors.** (a)

3 Except as provided otherwise by law, an individual who is registered as a home
4 inspector or associate home inspector under this chapter by one name may not act in
5 the capacity of a home inspector or associate home inspector under any other name.

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

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

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

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

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

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

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

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

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

31 (3) amounts that may be adjudged against the applicant by reason of

1 negligent or improper work or breach of contract in the conduct of the contracting
 2 business or home inspection activity, as applicable, or by reason of damage to
 3 public facilities occurring in the course of a construction project.

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

5 (b) If the applicant is a general contractor, the amount of the bond shall be
 6 \$10,000; if the applicant is a mechanical or specialty contractor or home inspector,
 7 the amount of the bond shall be \$5,000. In lieu of the surety bond the applicant may
 8 file with the commissioner a cash deposit or other negotiable security acceptable to the
 9 commissioner in the amount specified for bonds.

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

11 (a) Except as provided in AS 08.18.085, a [A] person having a claim against
 12 a contractor or home inspector for any of the items referred to in AS 08.18.071 may
 13 bring suit upon the bond in the district court of the judicial district in which venue lies.
 14 A copy of the complaint shall be served by registered or certified mail upon the
 15 commissioner at the time suit is filed, and the commissioner shall maintain a record,
 16 available for public inspection, of all suits commenced. Two additional copies shall
 17 be served upon the director of the division of insurance with the payment to the
 18 director of a fee set under AS 21.06.250, taxable as costs in the action. This service
 19 upon the director shall constitute service on the surety, and the director shall transmit
 20 the complaint or a copy of it to the surety within 72 hours after it has been received.
 21 The surety upon the bond is not liable in an aggregate amount in excess of that named
 22 in the bond, but in case claims pending at any one time exceed the amount of the bond,
 23 the claims shall be satisfied from the bond in the following order:

24 (1) labor, including employee benefits;

25 (2) taxes and contributions due the state, city, and borough, in that
 26 order;

27 (3) material and equipment;

28 (4) claims for breach of contract;

29 (5) repair of public facilities.

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

31 **Sec. 08.18.085. Legal actions against home inspector.** (a) Notwithstanding

1 contrary provisions of AS 08.18.081 or AS 09.10, a person may not bring an action
 2 against an individual registered under this chapter based on a home inspection report
 3 unless the action is commenced within

4 (1) two years after the date of the home inspection report if the report
 5 related to a new home; and

6 (2) one year after the date of the home inspection report if the report
 7 related to an existing home.

8 (b) The limitations in (a) of this section apply to all actions based on a home
 9 inspection report, regardless of whether the action is based on breach of contract,
 10 personal injury or death, property damage, or another source of liability. The
 11 limitations may not be waived by contract.

12 (c) An individual registered as a home inspector or associate home inspector
 13 under this chapter is not liable to a person for damages that arise from an act or
 14 omission relating to a home inspection performed by the individual if the person is

15 (1) not a party to the transaction for which the home inspection was
 16 conducted; or

17 (2) unlawfully in receipt of the home inspection report related to the
 18 home inspection.

19 (d) Contractual provisions that purport to limit the liability of a home
 20 inspector to the cost of the home inspection report are contrary to public policy and
 21 void.

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

23 **Sec. 08.18.111. Advertising bond and insurance.** Contractors **and home**
 24 **inspectors** may not advertise that they are bonded and insured simply because they
 25 have complied with the bond and insurance requirements of this chapter.

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

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

31 (1) filing a notarized statement with the commissioner that the

1 contractor **or home inspector** has ceased doing business as a contractor **or home**
 2 **inspector, as applicable**; and

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

5 (A) requests return of the cash deposit;

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

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

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

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

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

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

22 **Sec. 08.18.116. Investigations.** Either the Department of Community and
 23 Economic Development or the Department of Labor and Workforce Development
 24 may investigate alleged or apparent violations of this chapter **relating to contractors.**
 25 **The Department of Community and Economic Development may investigate**
 26 **alleged or apparent violations of this chapter relating to home inspection**
 27 **activities.** These departments, upon showing proper credentials, may enter, during
 28 regular hours of work, a construction site where it appears that contracting work is
 29 being done. The departments may make inquiries about the identity of the contractor
 30 or the person acting in the capacity of a contractor. **The Department of Community**
 31 **and Economic Development may make inquiries about the identity of a home**

1 **inspector or a person acting in the capacity of a home inspector.** Upon demand, a
 2 contractor **or home inspector** or person acting in the capacity of a contractor **or home**
 3 **inspector**, or that person's representative, shall produce evidence of current
 4 endorsement, if applicable, and registration.

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

6 **Sec. 08.18.117. Issuance of citations.** Either the Department of Community
 7 and Economic Development or the Department of Labor and Workforce Development
 8 may issue a citation for a violation if there is probable cause to believe a person has
 9 violated this chapter **with respect to contractor activities.** **The Department of**
 10 **Community and Economic Development may issue a citation for a violation if**
 11 **there is probable cause to believe a person has violated this chapter with respect**
 12 **to home inspection activities.** Each day a violation continues after a citation for the
 13 violation has been issued constitutes a separate violation.

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

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

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

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

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

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

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

30 (d) If a registered contractor **or registered home inspector** fails to fulfill the
 31 contractor's **or home inspector's** obligations as set out in AS 08.18.071, the

1 contractor's **or home inspector's** registration shall be suspended for a period of time
 2 the commissioner determines is appropriate. After three suspensions, the contractor's
 3 **or home inspector's** registration may be permanently revoked.

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

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

16 * **Sec. 27.** AS 08.18.123 is amended to read:

17 **Sec. 08.18.123. Denial, suspension, and revocation of endorsement or**
 18 **home inspector registration.**

19 (a) The department may suspend, revoke, or refuse to grant or renew a
 20 residential contractor endorsement, **a home inspector registration, or an associate**
 21 **home inspector registration** upon a finding that

22 (1) the application is fraudulent or misleading;

23 (2) the **endorsement holder or registrant** [CONTRACTOR] has
 24 knowingly violated this chapter or a lawful order or regulation of the department;

25 (3) the **endorsement holder or registrant** [CONTRACTOR] is
 26 incompetent or has engaged in fraudulent practices.

27 (b) Proceedings for the denial, suspension, or revocation of residential
 28 contractor endorsement, **home inspector registration, or associate home inspector**
 29 **registration** are governed by AS 44.62 (Administrative Procedure Act).

30 * **Sec. 28.** AS 08.18.131 is amended to read:

31 **Sec. 08.18.131. Injunction; civil penalty.** In an action instituted in the

1 superior court by the Department of Community and Economic Development or the
 2 Department of Labor and Workforce Development, the court may enjoin a person
 3 from acting in the capacity of a contractor in violation of this chapter. **In an action**
 4 **instituted in the superior court by the Department of Community and Economic**
 5 **Development, the court may enjoin a person from acting in the capacity of a**
 6 **home inspector in violation of this chapter.** In addition to other relief, the court may
 7 impose a civil penalty of not more than \$250 for each violation. Each day that an
 8 unlawful act continues constitutes a separate violation.

9 * **Sec. 29.** AS 08.18.141(a) is amended to read:

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

14 * **Sec. 30.** AS 08.18.151 is amended to read:

15 **Sec. 08.18.151. Legal actions by contractor or home inspector.** A person
 16 acting in the capacity of a contractor **or home inspector** may not bring an action in a
 17 court of this state for the collection of compensation for the performance of work or
 18 for breach of a contract for which registration is required under this chapter without
 19 alleging and proving that the contractor **or home inspector** was a registered contractor
 20 **or registered home inspector, as applicable,** at the time of contracting for the
 21 performance of the work.

22 * **Sec. 31.** AS 08.18 is amended by adding new sections to article 4 to read:

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

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

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

31 (3) offer or deliver compensation, an inducement, or a reward to the

1 owner of the inspected property, the broker, or the agent, for the referral of business to
2 the home inspector or the home inspector's company;

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

7 (A) to a subsequent client who requests a home inspection of
8 the same premises; or

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

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

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

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

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

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

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

31 (2) performing a home inspection only with respect to property that is

1 the individual's residence or in which the individual has a financial interest;

2 (3) registered as an engineer or architect under AS 08.48, prepares a
3 written report after the inspection, affixes the individual's seal to the home inspection
4 report, signs and dates the report, and puts the individual's registration number on the
5 report;

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

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

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

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

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

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

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

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

29 * **Sec. 32.** AS 08.18.161 is amended to read:

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

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

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

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

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

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

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

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

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

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

1 (10) a person working on that person's own property, whether occupied
 2 by the person or not, and a person working on that person's own residence, whether
 3 owned by the person or not;

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

7 (12) an owner who acts as the owner's own contractor and in doing so
 8 hires workers on an hourly basis, hires subcontractors, purchases materials and, as
 9 such, sees to the paying for all labor, subcontractors, and materials; in this case, the
 10 owner shall be limited to construction of one home, duplex, triplex, four-plex, or one
 11 commercial building a [PER] year;

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

16 * **Sec. 33.** AS 08.18.171 is amended by adding new paragraphs to read:

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

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

23 (A) heating and air-conditioning systems;

24 (B) plumbing and electrical systems;

25 (C) built-in appliances;

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

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

28 (F) foundation and basement;

29 (G) visible interior and exterior structures;

30 (H) drainage to and from the residence;

31 (I) other systems or components as specified by the department

1 in regulations;

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

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

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

7 (16) "new home" means a residence not previously occupied as a
8 residence;

9 (17) "residence" means

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

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

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

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

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

19 (b) As a condition of a commitment to purchase or approve a loan under this
20 section for residential housing the construction of which begins after June 30, 1992,
21 the corporation shall require inspection of the unit of residential housing that is the
22 subject of the loan. The inspection must be performed by a municipal building
23 inspector, by a person who is approved or certified to perform residential inspections
24 by the International Conference of Building Officials or the International Association
25 of Electrical Inspectors, **by an individual who is registered under AS 08.18 to**
26 **perform home inspections for new construction** [OR, WHEN THE UNIT OF
27 RESIDENTIAL HOUSING IS LOCATED IN A RURAL AREA], by an architect
28 registered under AS 08.48, by an engineer registered under AS 08.48, or by another
29 person approved by the corporation. When the unit of residential housing is located in
30 a rural area, the person who makes the inspection may use methods other than a
31 personal physical inspection to make the inspection if the method is approved by the

1 corporation, and variations from the applicable code may be accepted at the
 2 corporation's discretion, if the person authorized to inspect the unit under this
 3 subsection satisfies the corporation that the variation does not adversely affect the
 4 structural integrity of the unit or the health and safety of the residents. The person
 5 who makes the inspection shall determine whether the construction conforms to
 6 relevant provisions of the construction codes of the municipality or of the state
 7 building code, as applicable, at each of the following stages of construction:

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

13 * **Sec. 35.** AS 18.56.300(b) is amended to read:

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

1 construction codes of the municipality or of the state building code, as applicable, at
 2 each of the following stages of construction:

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

8 * **Sec. 36.** AS 36.30.050(b) is amended to read:

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

15 * **Sec. 37.** AS 36.30.115(a) is amended to read:

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

28 * **Sec. 38.** AS 36.30.210(b) is amended to read:

29 (b) An offeror for a construction contract shall submit evidence of the offeror's
 30 registration **as a contractor** under AS 08.18. A request for sealed proposals for a
 31 construction contract, except a design-build construction contract, must require the

1 offeror, no later than five working days after the proposal that is the most
 2 advantageous to the state is identified, to list subcontractors the offeror proposes to use
 3 in the performance of the construction contract. The list must include the information
 4 required under AS 36.30.115(a). The provisions of AS 36.30.115(b) - (g) that apply to
 5 a construction contractor or an apparent low bidder apply to offerors submitting
 6 competitive sealed proposals for construction contracts, except design-build
 7 construction contracts.

8 * **Sec. 39.** AS 36.90.290(1) is amended to read:

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

13 * **Sec. 40.** AS 45.50.471(b) is amended by adding a new paragraph to read:

14 (45) violating AS 08.18.023(b) or 08.18.152.

15 * **Sec. 41.** AS 18.56.300(c) is repealed.

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

18 APPLICABILITY. The change made by sec. 41 of this Act applies to causes of action
 19 that accrue on or after July 1, 2005.

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

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

26 * **Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 TRANSITIONAL LICENSING PROVISIONS. (a) Notwithstanding AS 08.18.022,
 29 added by sec. 7 of this Act, the Department of Community and Economic Development shall
 30 issue a certificate of joint registration that is valid until January 1, 2006, to an individual who
 31 submits to the department satisfactory evidence of being in the business of home inspection in

1 the state at the time of application for registration under this subsection and of having

2 (1) been in the business of home inspection in the state on October 1, 2002;
3 and

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

6 (b) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of
7 Community and Economic Development shall issue a certificate of registration to practice
8 home inspection of previously occupied residences that is valid until January 1, 2006, to an
9 individual who submits to the department satisfactory evidence of being in the business of
10 home inspection in the state at the time of application for registration under this subsection
11 and of having passed

12 (1) the national home inspector examination given by the American Society of
13 Home Inspectors, American Home Inspectors Training Institute, or National Association of
14 Home Inspectors; or

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

17 (c) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of
18 Community and Economic Development shall issue a certificate of registration to practice
19 home inspection of new construction that is valid until January 1, 2006, to an individual who
20 submits to the department satisfactory evidence of being in the business of home inspection in
21 the state at the time of application for registration under this subsection and of having passed
22 the combination inspector examination or the combination dwelling inspector examination
23 given by the International Conference of Building Officials.

24 (d) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of
25 Community and Economic Development shall issue a certificate of registration as an associate
26 home inspector that is valid until January 1, 2006, to an individual who submits to the
27 department satisfactory evidence of being employed by an individual who is in the business of
28 home inspection and is registered under this section or under AS 08.18.

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

31 (f) Except as provided in (e) of this section, a certificate of registration as a home

1 inspector or associate home inspector issued under this section is considered to be a certificate
2 of registration as a home inspector or associate home inspector issued under AS 08.18.022,
3 added by sec. 7 of this Act.

4 (g) In this section, "joint registration" has the meaning given in AS 08.18.171, as
5 amended by sec. 33 of this Act.

6 * **Sec. 45.** AS 08.18.011(c) - (f), added by sec. 5 of this Act; AS 08.18.023, added by sec. 7
7 of this Act; AS 08.18.085, added by sec. 17 of this Act; AS 08.18.151, as amended by sec. 30
8 of this Act; and the amendment of AS 18.56.300(b), made by sec. 34 of this Act, take effect
9 July 1, 2004.

10 * **Sec. 46.** Section 35 of this Act takes effect January 1, 2006.

11 * **Sec. 47.** Sections 41 and 42 of this Act take effect July 1, 2005.

12 * **Sec. 48.** Except as provided in secs. 45 - 47 of this Act, this Act takes effect immediately
13 under AS 01.10.070(c).