

**CS FOR HOUSE BILL NO. 9(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 2/21/03

Referred: Rules

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; repealing a law that limits liability  
7 for damages based on a duty to inspect a residential unit to damages caused by gross  
8 negligence or intentional misconduct; and providing for an effective date."

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

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

11 (12) regulation of construction contractors and home inspectors under

12 AS 08.18;

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

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

17 (1) all expenses of the board that regulates the occupation if the board  
 18 regulates only one occupation;

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

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

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

1 AS 08.18.171.

2 \* **Sec. 4.** AS 08.18.011 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

1 inspector for existing homes.

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

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

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

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

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

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

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

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

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

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

25 (A) existing homes is the examination offered by the American  
26 Society of Home Inspectors, American Home Inspectors Training Institute, or  
27 National Association of Home Inspectors;

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

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

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

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

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

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

11 (7) pays the appropriate fees.

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

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

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

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

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

24 Before performing a home inspection, a registered home inspector or associate home  
25 inspector shall provide to the person on whose behalf a home is inspected a written  
26 document that includes the home inspector's registration number and that specifies

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

30 (2) that the inspector will notify in writing the person on whose behalf  
31 the inspection is being made of defects noted during the inspection along with a

1 recommendation, if any, that experts be retained to conduct further evaluation through  
 2 examination and analysis by a qualified professional, tradesperson, or service  
 3 technician beyond that provided by the home inspection to determine the extent of  
 4 defects and corrective action necessary to address the defects.

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

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

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

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

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

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

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

1 under this subsection:

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

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

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

12 for

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

14 contractors;

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

16 **qualified to inspect new homes;**

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

18 **qualified to inspect existing homes;**

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

20 **inspectors;**

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

22 **inspector;**

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

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

25 or inactive endorsements for residential contractors; and

26 (8) [(3)] departmental publications and seminars related to this chapter.

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

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

29 person applies to retake an examination.

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

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

1           **contractor** under one name as required by this chapter may not act in the capacity of a  
 2           contractor under any other name unless that name also is registered.

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

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

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

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

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

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

21          \* **Sec. 13.** AS 08.18.061 is amended to read:

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

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

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

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

31                               (2) persons furnishing labor or material or renting or supplying

1 equipment to the applicant; and

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

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

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

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

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

- 26 (1) labor, including employee benefits;  
27 (2) taxes and contributions due the state, city, and borough, in that  
28 order;  
29 (3) material and equipment;  
30 (4) claims for breach of contract;  
31 (5) repair of public facilities.

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

2 **Sec. 08.18.085. Legal actions against home inspector.** (a) Notwithstanding  
3 contrary provisions of AS 08.18.081 or AS 09.10, a person may not bring an action  
4 against an individual registered under this chapter based on a home inspection report  
5 unless the action is commenced within

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

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

10 (b) The limitations in (a) of this section apply to all actions based on a home  
11 inspection report, regardless of whether the action is based on breach of contract,  
12 personal injury or death, property damage, or another source of liability except that (a)  
13 of this section is not applicable to an action based on gross negligence or intentional  
14 misconduct by the home inspector. The limitations may not be waived by contract.

15 (c) A person may not bring an action against an individual registered under  
16 this chapter for damages that arise from an act or omission relating to a home  
17 inspection performed by the individual unless the person

18 (1) was a party to the real estate transaction for which the home  
19 inspection was conducted; or

20 (2) received the home inspection report with the written consent of the  
21 party for whom the home inspection was originally performed.

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

25 \* **Sec. 18.** AS 08.18.111 is amended to read:

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

29 \* **Sec. 19.** AS 08.18.115 is amended to read:

30 **Sec. 08.18.115. Return of cash deposit.** (a) A contractor **or home inspector**  
31 who has filed a cash deposit and who ceases doing business as a contractor **or home**

1 **inspector** may request the return of as much of that cash deposit as is held by the  
2 commissioner by

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

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

8 (A) requests return of the cash deposit;

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

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

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

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

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

24 \* **Sec. 20.** AS 08.18.116 is amended to read:

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

1 being done. The departments may make inquiries about the identity of the contractor  
 2 or the person acting in the capacity of a contractor. **The Department of Community**  
 3 **and Economic Development may make inquiries about the identity of a home**  
 4 **inspector or a person acting in the capacity of a home inspector.** Upon demand, a  
 5 contractor **or home inspector** or person acting in the capacity of a contractor **or home**  
 6 **inspector,** or that person's representative, shall produce evidence of current  
 7 endorsement, if applicable, and registration.

8 \* **Sec. 21.** AS 08.18.117 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

19 \* **Sec. 27.** AS 08.18.123 is amended to read:

20 **Sec. 08.18.123. Denial, suspension, and revocation of endorsement or**  
21 **home inspector registration.**

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

25 (1) the application is fraudulent or misleading;

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

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

30 (b) Proceedings for the denial, suspension, or revocation of residential  
31 contractor endorsement, **home inspector registration, or associate home inspector**

1 **registration** are governed by AS 44.62 (Administrative Procedure Act).

2 \* **Sec. 28.** AS 08.18.131 is amended to read:

3 **Sec. 08.18.131. Injunction; civil penalty.** In an action instituted in the  
 4 superior court by the Department of Community and Economic Development or the  
 5 Department of Labor and Workforce Development, the court may enjoin a person  
 6 from acting in the capacity of a contractor in violation of this chapter. **In an action**  
 7 **instituted in the superior court by the Department of Community and Economic**  
 8 **Development, the court may enjoin a person from acting in the capacity of a**  
 9 **home inspector in violation of this chapter.** In addition to other relief, the court may  
 10 impose a civil penalty of not more than \$250 for each violation. Each day that an  
 11 unlawful act continues constitutes a separate violation.

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

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

17 \* **Sec. 30.** AS 08.18.151 is amended to read:

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

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

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

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

31 (2) inspect for a fee any property in which the home inspector or the

1 home inspector's company has a financial interest or an interest in the transfer of the  
2 property;

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

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

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

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

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

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

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

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

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

31 (1) employed by the federal or state government, a political

1 subdivision of the state, or a municipality or unincorporated community and the  
2 employee is performing only duties that are within the employee's official duties;

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

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

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

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

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

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

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

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

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

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

1 \* **Sec. 32.** AS 08.18.161 is amended to read:

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

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

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

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

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

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

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

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

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

1 liability and property damage insurance with coverage in at least the amounts set out  
2 in AS 08.18.101;

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

4 (10) a person working on that person's own property, whether occupied  
5 by the person or not, and a person working on that person's own residence, whether  
6 owned by the person or not;

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

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

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

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

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

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

26 (A) heating and air-conditioning systems;

27 (B) plumbing and electrical systems;

28 (C) built-in appliances;

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

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

31 (F) foundation and basement;

1 (G) visible interior and exterior structures;

2 (H) drainage to and from the residence;

3 (I) other systems or components as specified by the department  
4 in regulations;

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

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

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

10 (16) "new home" means a residence not previously occupied as a  
11 residence;

12 (17) "residence" means

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

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

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

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

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

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

1 person approved by the corporation. When the unit of residential housing is located in  
 2 a rural area, the person who makes the inspection may use methods other than a  
 3 personal physical inspection to make the inspection if the method is approved by the  
 4 corporation, and variations from the applicable code may be accepted at the  
 5 corporation's discretion, if the person authorized to inspect the unit under this  
 6 subsection satisfies the corporation that the variation does not adversely affect the  
 7 structural integrity of the unit or the health and safety of the residents. The person  
 8 who makes the inspection shall determine whether the construction conforms to  
 9 relevant provisions of the construction codes of the municipality or of the state  
 10 building code, as applicable, at each of the following stages of construction:

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

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

17 (b) As a condition of a commitment to purchase or approve a loan under this  
 18 section for residential housing the construction of which begins after June 30, 1992,  
 19 the corporation shall require inspection of the unit of residential housing that is the  
 20 subject of the loan. The inspection must be performed by a municipal building  
 21 inspector, [BY A PERSON WHO IS APPROVED OR CERTIFIED TO PERFORM  
 22 RESIDENTIAL INSPECTIONS BY THE INTERNATIONAL CONFERENCE OF  
 23 BUILDING OFFICIALS OR THE INTERNATIONAL ASSOCIATION OF  
 24 ELECTRICAL INSPECTORS,] by an individual who is registered under AS 08.18 to  
 25 perform home inspections for new construction, by an architect registered under  
 26 AS 08.48, by an engineer registered under AS 08.48, or by another person approved  
 27 by the corporation. When the unit of residential housing is located in a rural area, the  
 28 person who makes the inspection may use methods other than a personal physical  
 29 inspection to make the inspection if the method is approved by the corporation, and  
 30 variations from the applicable code may be accepted at the corporation's discretion, if  
 31 the person authorized to inspect the unit under this subsection satisfies the corporation

1 that the variation does not adversely affect the structural integrity of the unit or the  
 2 health and safety of the residents. The person who makes the inspection shall  
 3 determine whether the construction conforms to relevant provisions of the  
 4 construction codes of the municipality or of the state building code, as applicable, at  
 5 each of the following stages of construction:

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

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

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

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

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

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

1 (b) An offeror for a construction contract shall submit evidence of the offeror's  
 2 registration **as a contractor** under AS 08.18. A request for sealed proposals for a  
 3 construction contract, except a design-build construction contract, must require the  
 4 offeror, no later than five working days after the proposal that is the most  
 5 advantageous to the state is identified, to list subcontractors the offeror proposes to use  
 6 in the performance of the construction contract. The list must include the information  
 7 required under AS 36.30.115(a). The provisions of AS 36.30.115(b) - (g) that apply to  
 8 a construction contractor or an apparent low bidder apply to offerors submitting  
 9 competitive sealed proposals for construction contracts, except design-build  
 10 construction contracts.

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

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

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

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

18 \* **Sec. 41.** AS 18.56.300(c) is repealed.

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

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

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

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

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

31 TRANSITIONAL LICENSING PROVISIONS. (a) Notwithstanding AS 08.18.022,

1 added by sec. 7 of this Act, the Department of Community and Economic Development shall  
 2 issue a certificate of joint registration that is valid until January 1, 2006, to an individual who  
 3 submits to the department satisfactory evidence of being in the business of home inspection in  
 4 the state at the time of application for registration under this subsection and of having

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

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

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

15 (1) the national home inspector examination given by the American Society of  
 16 Home Inspectors, American Home Inspectors Training Institute, or National Association of  
 17 Home Inspectors; or

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

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

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

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

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

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

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

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

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

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