

SENATE BILL NO. 323

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY SENATOR SEEKINS

Introduced: 2/13/04

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a project owner's liability for workers' compensation and the**
2 **exclusiveness of liability for workers' compensation."**

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

4 *** Section 1.** AS 23.30.045(a) is amended to read:

5 (a) An employer is liable for and shall secure the payment to employees of the
6 compensation payable under AS 23.30.041, 23.30.050, 23.30.095, 23.30.145, and
7 23.30.180 - 23.30.215. If the employer is a subcontractor, the contractor **or, if there is**
8 **a project owner, the project owner** is liable for and shall secure the payment of the
9 compensation to employees of the subcontractor unless the subcontractor secures the
10 payment. **If the employer is a contractor, the project owner is liable for and shall**
11 **secure the payment of the compensation to employees of the contractor unless the**
12 **contractor secures the payment.**

13 *** Sec. 2.** AS 23.30.045(f) is amended by adding a new paragraph to read:

14 (3) "project owner" means a person who, in the course of the person's

1 business engages the services of a contractor for the performance of certain work and
2 who enjoys the beneficial use of the work.

3 * **Sec. 3.** AS 23.30.055 is amended to read:

4 **Sec. 23.30.055. Exclusiveness of liability.** The liability of an employer
5 prescribed in AS 23.30.045 is exclusive and in place of all other liability of the
6 employer and any fellow employee to the employee, the employee's legal
7 representative, husband or wife, parents, dependents, next of kin, and anyone
8 otherwise entitled to recover damages from the employer or fellow employee at law or
9 in admiralty on account of the injury or death. The liability of the employer is
10 exclusive even if the employee's claim is barred under AS 23.30.022. However, if an
11 employer fails to secure payment of compensation as required by this chapter, an
12 injured employee or the employee's legal representative in case death results from the
13 injury may elect to claim compensation under this chapter, or to maintain an action
14 against the employer at law or in admiralty for damages on account of the injury or
15 death. In that action the defendant may not plead as a defense that the injury was
16 caused by the negligence of a fellow servant, or that the employee assumed the risk of
17 the employment, or that the injury was due to the contributory negligence of the
18 employee. **In this section, "employer" includes, in addition to the meaning given**
19 **in AS 23.30.395, a person who, under AS 23.30.045(a), is required to secure**
20 **payment of compensation.**