

CS FOR HOUSE BILL NO. 260(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/12/26

Referred: Finance

Sponsor(s): REPRESENTATIVE JOSEPHSON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to penalties for violating a requirement for a certificate of fitness;**
2 **relating to joint and several liability for unpaid construction wages; and relating to the**
3 **jurisdiction of the office of administrative hearings over certificate of fitness**
4 **administrative fine hearings."**

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

6 *** Section 1.** AS 08.18.121 is amended by adding a new subsection to read:

7 (i) If a registered contractor is found to have knowingly violated a provision of
8 AS 18.62, the contractor's registration shall be suspended for a period of 90 days for a
9 second violation. A contractor's registration shall be permanently revoked upon a third
10 finding that the contractor knowingly violated a provision of AS 18.62.

11 *** Sec. 2.** AS 18.62.080 is repealed and reenacted to read:

12 **Sec. 18.62.080. Administrative fine and procedure.** (a) Except as provided
13 in (b) of this section, the department may impose an administrative fine of not more
14 than \$1,000 on an employer who violates a provision of this chapter or a regulation

1 adopted under this chapter.

2 (b) In addition to the penalties that may apply under AS 08.18.121, the
3 department shall impose a fine of \$1,000 on a registered contractor for the first and
4 second violations by the contractor of a provision of this chapter or a regulation
5 adopted under this chapter.

6 (c) The department shall issue a written notice of an administrative fine
7 imposed under (a) or (b) of this section, together with a statement of the reason for the
8 fine, a copy of the applicable procedures, and notice of an opportunity to request a
9 hearing, including the contact information for making the request, within 30 days after
10 the date of the notice of the fine. The department shall advise in the written notice that
11 additional violations may result in the suspension or permanent revocation of a
12 contractor's registration in accordance with AS 08.18.121.

13 (d) If a person who is issued a notice of an administrative fine under (c) of this
14 section fails to request a hearing within 30 days after the date of the notice, the right to
15 a hearing is waived, and the administrative fine is not subject to judicial review. A
16 hearing request must be in writing and must clearly state the issues to be raised at the
17 hearing. The department shall schedule a hearing before a hearing officer not earlier
18 than 10 days after receiving the request for a hearing.

19 (e) A decision of a hearing officer under this section is a final administrative
20 decision subject to review by a superior court under AS 44.62 (Administrative
21 Procedure Act).

22 * **Sec. 3.** AS 23.10 is amended by adding new sections to read:

23 **Article 9. Payment of Construction Wages.**

24 **Sec. 23.10.700. Employer's liability for compensation.** (a) A project owner
25 that enters into a construction contract with a contractor shall be jointly and severally
26 liable with the contractor for unpaid wages owed to an employee of the contractor and
27 an employee of a subcontractor at any tier for work performed on a project within the
28 scope of the construction contract. The provisions in this subsection may not be
29 waived.

30 (b) This section does not apply to

31 (1) an employee covered by a bona fide collective bargaining

1 agreement that provides a grievance procedure resulting in a final and binding
 2 decision and that provides a mechanism for recovering unpaid wages and benefits on
 3 behalf of the employee covered by the agreement;

4 (2) a construction contract that relates to real property used by the
 5 project owner as the project owner's principal residence or to real property consisting
 6 of five or fewer residential units on a single tract of land; or

7 (3) a project owner if the construction contract relates to real property
 8 consisting of one commercial unit.

9 **Sec. 23.10.710. Claims for unpaid construction wages.** (a) An employee of a
 10 contractor or subcontractor, or an authorized representative of the employee, may
 11 bring suit against a project owner, contractor, or subcontractor in any court of
 12 competent jurisdiction to recover unpaid wages. The employee retains all remedies to
 13 which the employee might otherwise be entitled, including those remedies provided
 14 under AS 08.18, AS 23.05, AS 34.35, or this chapter, for any balance claimed.

15 (b) In an action brought under this section, there is a rebuttable presumption
 16 that a person performing work on a project within the scope of a construction contract
 17 is an employee. A party claiming otherwise may rebut the presumption by establishing
 18 that the person is an independent contractor under AS 23.30.230(a)(12).

19 (c) Nothing in this section impairs the right of a project owner to bring an
 20 action against a contractor, or a project owner or contractor to bring an action against a
 21 subcontractor, to seek recovery of actual and liquidated damages for the amounts paid
 22 by the owner or contractor for unpaid wages.

23 (d) Before filing suit against a project owner or contractor under (a) of this
 24 section, an employee or the authorized representative of the employee shall send
 25 written notice of the alleged unpaid wages by certified mail to the owner and the
 26 contractor. The notice must describe the nature of the allegation and state that the
 27 project owner and the contractor have 21 calendar days from the certified delivery date
 28 to remit wages owed. Notice provided under this subsection does not limit the liability
 29 of the project owner or contractor or preclude a person from later amending a
 30 complaint after an action is commenced to include additional parties to the action.

31 **Sec. 23.10.720. Payroll records.** (a) A subcontractor performing work on a

1 project within the scope of a construction contract entered into by a project owner and
 2 contractor shall provide the following records to the project owner or contractor upon
 3 the owner's or contractor's request:

4 (1) payroll reports that, at a minimum, include sufficient information
 5 for the contractor to determine whether a subcontractor has paid in full all wages
 6 earned by employees of the subcontractor who performed work within the scope of the
 7 construction contract;

8 (2) the name, address, and telephone number of the subcontractor and
 9 the name of any additional subcontractor employed by the subcontractor to perform
 10 work on the project;

11 (3) the names of all workers who performed work on the project and
 12 whether each worker is paid or classified as an employee or an independent contractor;

13 (4) the anticipated start date and scheduled duration of the work on the
 14 project;

15 (5) an affidavit that attests to whether the subcontractor or any of the
 16 subcontractor's current principals, including project owners and contractors, have,
 17 within the preceding five years, participated in a civil, administrative, or criminal
 18 proceeding involving the violation of a law providing for payment of wages or
 19 imposing a criminal penalty for the violation and the outcome of the proceeding,
 20 including damages, fees, or penalties paid to workers or a government agency, if any;
 21 in this paragraph, "principal" means a person that commissions a construction project
 22 and that is responsible for the project's scope, standards, and objectives.

23 (b) A subcontractor shall provide records described in (a) of this section to an
 24 authorized representative of an employee only if

25 (1) the record contains information pertaining specifically to the
 26 employee on whose behalf the authorized representative is acting; and

27 (2) the subcontractor would be lawfully required to disclose the record
 28 under AS 23.10.430 to the employee if the employee was acting on the employee's
 29 own behalf.

30 (c) A subcontractor's failure to comply with (a) of this section does not relieve
 31 the project owner or contractor of liability under AS 23.10.700.

1 (d) Nothing in this section affects the duty of a project owner or contractor to
 2 timely pay a subcontractor, except that a project owner or contractor may withhold
 3 payment to a subcontractor in an amount equal to the amount of wages owed to
 4 employees of the subcontractor that the owner or contractor has paid on behalf of the
 5 subcontractor.

6 (e) A contractor or subcontractor may not disclose personally identifying
 7 information about workers who perform work on a construction project except to the
 8 extent necessary to comply with federal and state laws.

9 **Sec. 23.10.740. Definitions.** In AS 23.10.700 - 23.10.740,

10 (1) "construction contract" means an express or implied agreement for
 11 the construction, reconstruction, alteration, maintenance, movement, or demolition of
 12 a building, structure, or improvement or the excavation or other development of or
 13 improvement to land;

14 (2) "contractor" means a person that enters into a construction contract
 15 with a project owner or the person's successors, heirs, or assigns;

16 (3) "project owner" means a person with an ownership interest,
 17 whether the interest or estate is in fee simple, as a vendee under a contract to purchase,
 18 or as a lessee or another interest or estate less than fee simple, that enters into a
 19 construction contract with a contractor; "project owner" does not include a public
 20 agency employing a contractor or subcontractor for work under AS 22.05.025 or
 21 AS 35 or a financial institution that acquires ownership of a property through
 22 foreclosure or a deed in lieu of foreclosure and that does not undertake, contract for, or
 23 direct construction work beyond activities necessary to preserve or secure the
 24 property;

25 (4) "subcontractor" means a person that is a party to an express or
 26 implied contract with a contractor, or with a contractor's subcontractor at any tier, to
 27 perform any portion of work within the scope of the contractor's construction contract
 28 with a project owner;

29 (5) "wages" has the meaning given in AS 23.90.900.

30 * **Sec. 4.** AS 44.64.030(a) is amended by adding a new paragraph to read:

31 (52) AS 18.62.080 (certificates of fitness).

1 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 **APPLICABILITY.** This Act applies to work performed by employees of a contractor
4 or subcontractor under a contract entered into on or after the effective date of this Act.