

*Original*

*Assembly*

IN THE House BY Mr. Olsen  
House BILL NO. 36 *By Request*

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA  
TWENTY-FIRST SESSION

A BILL

For an Act entitled: "An Act to require performance and payment bonds of contractors for public buildings or works of the Territory; permitting persons furnishing labor or material to sue on payment bonds."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. BONDS OF CONTRACTORS FOR PUBLIC BUILDINGS OR WORKS.

(a) Before any contract, exceeding \$2,000.00 in amount, for the construction, alteration, or repair of any public building or public work of the Territory of Alaska is awarded to any person, such person shall furnish to the Territory of Alaska the following bonds, which shall become binding upon the award of the contract to such person, who is hereinafter designated as "contractor":

~~(1) A performance bond with a surety or sureties satisfactory to the officer awarding such contract, and in such amount as he shall deem adequate, for the protection of the Territory of Alaska.~~

(2) ~~A payment bond with a surety or sureties satisfactory to such officer~~ for the protection of all persons supplying labor and material in the prosecution of the work provided for in said contract for the use of each such person. Whenever the total amount payable by the terms of the contract

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(1) A performance bond with a corporate surety qualified to do business within the Territory of Alaska, or not less than two individual sureties who shall each justify in a sum equal to the amount of the bond, ~~the amount of which shall be fixed by the officer awarding the contract, but which shall not be less than 50% of the contract.~~ *equivalent to the amount of the payment bond heretofore required.*

(2) A payment bond with a corporate surety qualified to do business within the Territory of Alaska, or not less than two individual sureties who shall each justify in a sum equal to the amount of such bond, ~~the amount of which shall be fixed by the officer awarding the contract, but which shall not be less than 50% of the contract.~~

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1 shall be not more than \$1,000,000.00, the said payment bond  
2 shall be in a sum of one-half the total amount payable by the  
3 terms of the contract. Whenever the total amount payable by  
4 the terms of the contract shall be more than \$1,000,000.00 and  
5 not more than \$5,000,000.00, the said payment bond shall be in a  
6 sum of 40 percentum of the total amount payable by the terms of  
7 the contract. Whenever the total amount payable by the terms of  
8 the contract shall be more than \$5,000,000.00, the said payment  
9 bond shall be in the sum of \$2,500,000.00.

10 (b) Nothing in this section shall be construed to  
11 limit the authority of any contracting officer to require a  
12 performance bond or other security in addition to those, or in  
13 cases other than the cases specified in subsection (a) of this  
14 section.

15 Section 2. RIGHTS OF PERSONS FURNISHING LABOR OR MATERIAL.

16 (a) Every person who has furnished labor or material  
17 in the prosecution of the work provided for in such contract, in  
18 respect of which a payment bond is furnished under Section 1 of  
19 this Act and who has not been paid in full therefor before the  
20 expiration of a period of ninety days after the day on which the  
21 last of the labor was done or performed by him or material was  
22 furnished or supplied by him for which such claim is made, shall  
23 have the right to sue on such payment bond for the amount, or  
24 the balance thereof, unpaid at the time of institution of such  
25 suit and to prosecute said action to final execution and  
26 judgment for the sum or sums justly due him: Provided, however,  
27 that any person having direct contractual relationship with a  
28 subcontractor but no contractual relationship express or implied  
29 with the contractor furnishing said payment bond shall have a

1 right of action upon the said payment bond upon giving written  
2 notice to said contractor within ninety days from the date on  
3 which such person did or performed the last of the labor or  
4 furnished or supplied the last of the material for which such  
5 claim is made, stating with substantial accuracy the amount  
6 claimed and the name of the party to whom the material was  
7 furnished or supplied or for whom the labor was done or  
8 performed. Such notice shall be served by mailing the same by  
9 registered mail, postage prepaid, in an envelope addressed to  
10 the contractor at any place he maintains an office or conducts  
11 his business, or his residence, or in any manner in which the  
12 United States Marshal of the division in which the public  
13 improvement is situated is authorized by law to serve summons.

14 (b) Every suit instituted under this section shall be  
15 brought in the name of the Territory of Alaska for the use of  
16 the person suing in the District Court for Alaska, but no such  
17 suit shall be commenced after the expiration of one year after  
18 the date of final settlement of such contract. The Territory  
19 of Alaska shall not be liable for the payment of any costs or  
20 expenses of any such suit.

21 Section 3. The term "person" and the masculine pronouns  
22 as used in this Act shall include all persons whether  
23 individuals, associations, copartnerships, or corporations.  
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