

1 IN THE HOUSE

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HOUSE BILL NO. 140

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SECOND LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act requiring contractors and subcon-  
7 tractors to furnish payment bonds securing  
8 payment of all labor and service costs in  
9 connection with contracts performed by them;  
10 and providing a penalty for failure to file."

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

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Section 1. DEFINITIONS. When used in this Act, unless

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otherwise expressly stated or unless the context or subject matter  
14 otherwise requires:

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(1) "Person" includes an individual, firm, copartner-  
16 ship, corporation, association or other organization, or any com-  
17 bination of any thereof.

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(2) "Contractor" is synonymous with the term "builder"  
19 and is any person who undertakes or offers to undertake or pur-  
20 ports to have the capacity to undertake, either by himself or by  
21 or through others, to construct, alter, repair, add to, subtract  
22 from, improve, move, wreck or demolish any building, highway,  
23 road, railroad, excavation or other structure, project, develop-  
24 ment or improvement, or to do any part thereof, including the  
25 crection of scaffolding or other structures or works in connection  
26 therewith. The term contractor includes subcontractor and  
27 specialty contractor.

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Sec. 2. PAYMENT BOND. a. Whenever any contractor or person

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who holds himself out to be a contractor enters into a contract,

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1 whether written or oral, or whether cost plus or fixed fee, which  
2 requires for its performance the use of any labor or other service,  
3 the contractor shall be required to deposit with the commissioner  
4 of labor a payment bond equal to 50% of the total amount of the  
5 contract, said bond to ensure that all the cost for such labor,  
6 including wages and fringe benefits, are paid in full.

7 b. Such payment bond shall be in a form approved by the  
8 commissioner of labor and written by a corporate surety authorized  
9 to engage in business in the State of Alaska.

10 c. Said bond, together with the Alaska state business  
11 license number and business name, if any, shall be filed with the  
12 commissioner of labor prior to commencement of any work under the  
13 contract.

14 Sec. 3. PROCEEDINGS TO ENFORCE BOND. If the employer fails  
15 to pay any employee the salary, wages or fringe benefits due with-  
16 in two weeks after such become payable, the employee may file an  
17 application to the state Department of Labor to have his salary,  
18 wages or fringe benefits paid out of the performance bond. If the  
19 number of employees or the amount of salary, wages or fringe bene-  
20 fits due make it impossible to pay each employee the full amount  
21 due him, each employee shall be given a proportional amount of the  
22 payment bond, which proportional amount shall be based on the  
23 amount of salary, wages or fringe benefits owed to him.

24 Sec. 4. PENALTY. Failure to file the required bond is a  
25 misdemeanor, punishable by a fine not to exceed \$1,000.00, or  
26 30 days in jail, or both.

27 Sec. 5. NOTICE OF FILING TO BE POSTED. Notice of the filing  
28 of the bond shall be posted on the premises of the contract per-  
29 formance, or if more than one site is involved in the contract on

1 each of said sites, within five days after commencement of work,  
2 in the following form:

3 "Pursuant to Ch. .... , SLA 1961, ..... contractor,  
4 hereby gives notice that a payment bond in the sum of \$ .....  
5 has been filed with the commissioner of labor, State of  
6 Alaska."

7 Sec. 6. EXEMPTIONS. a. Contractors entering into contracts  
8 with the United States government or any branch or agency thereof,  
9 or with the State of Alaska, or any agency, division or political  
10 sub-division thereof, where a statute or ordinance requires the  
11 contractor to supply a payment and/or performance bond, shall be  
12 exempt from the provisions of this Act for such contracts only.

13 b. Contractors entering into contracts where the other party  
14 to the contract requires the contractor to supply a 50% payment  
15 and/or performance bond by a corporate surety approved and  
16 authorized to do business in Alaska shall be exempt from the pro-  
17 visions of this Act for such contracts only; provided, however,  
18 that notice of the existence of the payment bond is given to the  
19 commissioner of labor prior to commencement of any work under the  
20 contract.

21 c. In the event the contract is one with a home owner for  
22 work to be performed upon his home premises, the employees of the  
23 contractor shall first proceed against the bond prior to filing a  
24 lien upon the real estate. Nothing contained herein shall apply  
25 to the alteration, repair or rehabilitation of premises occupied  
26 as a home by the owner.

27 d. In the event a payment bond is given by the contractor  
28 as authorized in Subsec. b of this section, the contractor shall  
29 post a notice of the bond on the premises of the contract

1 performance, or if more than one site is involved in the contract,  
2 on each of said sites, within five days after commencement of  
3 performance, in the following form:

4 "Pursuant to Ch. ..., SLA 1961, ..... contractor,  
5 hereby gives notice that a payment bond in the sum of \$.....  
6 payable to ..... has been made with a  
7 corporate surety authorized to do business in the State of  
8 Alaska and whose agent is..... doing business at  
9 ..... , Alaska."

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