

1 IN THE HOUSE

FOR COMMERCE AND LABOR COMMITTEE

2 C. S. HOUSE BILL NO. 140

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 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."

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

12 Section 1. DEFINITIONS. When used in this Act, unless
13 otherwise expressly stated or unless the context or subject matter
14 otherwise requires:

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

18 (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 erection of scaffolding or other structures or works in connection
26 therewith. The term contractor includes subcontractor and
27 specialty contractor.

28 Sec. 2. PAYMENT BOND. a. Whenever any contractor or person
29 who holds himself out to be a contractor enters into a contract

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

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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

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

"Pursuant to Ch. ..., SLA 1961,contractor,
hereby gives notice that a payment bond in the sum of \$.....
payable tohas been made with a
corporate surety authorized to do business in the State of
Alaska and whose agent isdoing business at
....., Alaska."

e. The commissioner of labor may, if requested, grant a
waiver of the provisions of this Act when the contract is for an
amount of \$1000.00 or less.