

1 IN THE HOUSE BY MESSRS. REED AND DEVEAU

2 HOUSE BILL NO. 398

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the licensing and  
7 regulation of contractors; repealing  
8 Ch. 158, SLA 1960; and providing for  
9 an effective date."

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

11 Section 1. CREATION OF BOARD AND OFFICE OF DIRECTOR. a.

12 There is hereby created within the Department of Commerce  
13 a Contractors State License Board consisting of five members  
14 appointed by the governor. Members of the board shall be  
15 contractors actively engaged in the contracting business, shall  
16 have been so engaged for a period of not less than three years  
17 immediately preceding the date of their appointment, and shall  
18 continue in the contracting business during their terms of  
19 office. Except for those first appointed, each member of the  
20 board shall be a contractor licensed under this Act. One member  
21 of the board shall be a general engineering contractor, two  
22 members shall be general building contractors, one member  
23 shall be the chairman of the Electrical Advisory Board as  
24 hereinafter defined and one member shall be the chairman of the  
25 Plumbing Advisory Board as hereinafter defined. The board  
26 shall annually elect a chairman and a secretary-treasurer from  
27 its members. A majority of the board shall constitute a quorum  
28 for the transaction of business.

29 b. The governor shall appoint a director who shall be the

1 executive officer of the board, and whose duty it shall be to  
2 carry out the rules and regulations promulgated by the board.  
3 He shall issue all licenses provided for under this Act.

4       Sec. 2. POWERS AND DUTIES OF BOARD. The board shall  
5 adopt rules and regulations necessary to effect the licensing  
6 and classification of contractors, in conformity with standards  
7 prescribed by this Act. The board shall adopt minimum building  
8 requirements. The board may make or cause to be made any  
9 special inspection or investigation into the work of any  
10 licensee when necessary to the board's function, and shall  
11 have the power to issue subpoenas, subpoenas duces tecum, and  
12 process compelling the attendance of any person and the produc-  
13 tion of records, papers and books, for the purpose of such  
14 investigation and examination, shall have the power to administer  
15 oaths when required, and to petition any court of this state to  
16 enforce such subpoenas, subpoenas duces tecum, or to compel  
17 testimony.

18       Sec. 3. ELECTRICAL ADVISORY BOARD OF EXAMINERS. There is  
19 hereby created an Electrical Advisory Board of Examiners which  
20 shall consist of three members all of whom shall be persons  
21 who are licensed electrical contractors. The members of the  
22 board shall be appointed by the governor and confirmed by the  
23 legislature for staggered terms of three years, or until  
24 their successors are appointed, and may be removed at the  
25 pleasure of the governor. The board shall elect one of its  
26 members as chairman. The board shall hold a regular annual  
27 meeting and may hold special meetings at the call of the  
28 chairman of the board with prior approval of the governor. Two  
29 members shall constitute a quorum. The board may suggest rules

HB #398

1 and regulations to the Contractors Licensing Board relating to  
2 the examination and licensing of electrical contractors.

3       Sec. 4. PLUMBING ADVISORY BOARD. There is hereby created  
4 a Plumbing Advisory Board which shall consist of three members  
5 all of whom shall be persons who are licensed plumbing contractors  
6 as hereinafter defined. The members of the board shall be  
7 appointed by the governor and confirmed by the legislature  
8 for staggered terms of three years, or until their successors  
9 are appointed, and may be removed at the pleasure of the governor.  
10 The board shall elect one of its members as chairman. The  
11 board shall hold a regular annual meeting and may hold special  
12 meetings at the call of the chairman of the board with prior  
13 approval of the governor. Two members shall constitute a quorum.  
14 The board may suggest rules and regulations to the Contractors  
15 Licensing Board relating to the examination and licensing  
16 of plumbing contractors.

17       Sec. 5. CLASSIFICATION OF CONTRACTORS. For the purpose  
18 of classification, the contracting business shall include: a.  
19 General building contracting. A general building contractor  
20 is a contractor whose contracting business is in connection  
21 with a structure built, being built, or to be built, for  
22 the support, shelter and enclosure of persons, animals,  
23 chattels or movable property of any kind, requiring in its  
24 construction the use of more than two unrelated building  
25 trades or crafts, or to do or superintend the whole or a part  
26 thereof. This does not include anyone who merely furnishes  
27 materials or supplies under Sec. 7 e, without fabricating them  
28 into, or consuming them in the performance of the work of the  
29 general building contractor.

1           b. General engineering contracting. A general  
2 engineering contractor is a contractor whose contracting business  
3 is in connection with fixed works, including but not limited to  
4 any or all of the following divisions or subjects; irrigation,  
5 drainage, water power, water supply, flood control, inland  
6 waterways, harbors, railroads, highways, tunnels, airports and  
7 airways, sewerage and bridges; except general building  
8 contracting.

9           c. Electrical contracting. An electrical contractor  
10 is a contractor engaged in the business of installing or repair,  
11 any electrical wiring, conduits, devices, fixtures, equipment  
12 or other electrical materials for transmitting, using or  
13 consuming electrical energy.

14           d. Plumbing contracting. A plumbing contractor is  
15 a contractor engaged in the business of plumbing or pipe  
16 fitting or the installation of water softeners, water treatment  
17 plants, fixtures and appliances that are integral parts of  
18 plumbing; or any system for the transmission or circulation  
19 of fluids or gases.

20           e. Specialty contracting. A specialty contractor is a  
21 contractor whose operations as such are the performance  
22 of construction work requiring special skill and whose contract-  
23 ing business involves the use of specialized building trades  
24 or crafts.

25           Sec. 6. DEFINITION OF CONTRACTOR. Within this Act,  
26 "contractor" means an individual, a person, firm, partnership,  
27 corporation, association, or other organization, or a combination  
28 of any of them, who, for either a fixed sum, price, fee,  
29 percentage, bonus or other compensation or remuneration undertaken

1 to or offers to undertake to, or purports to have the capacity  
2 to undertake, or submits a bid to, or who does himself or by  
3 or through others, construct, alter, repair, add to, subtract  
4 from, improve, move, wreck or demolish any building, highway,  
5 road, railroad, excavation or other structure, project,  
6 development or improvement, or to do any part thereof, including  
7 owners of property building or improving structures thereon  
8 for the purpose of sale, or other structure or works in connec-  
9 tion therewith. The term "contractor" includes electrical  
10 contractor, plumbing contractor, sub-contractor and speciality  
11 contractor.

12 Sec. 7. EXCEPTIONS TO COVERAGE. This Act does not apply  
13 to: a. employees of the federal government, the state,  
14 or any incorporated city, borough or other municipal or  
15 subdivision of this state;

16 b. any construction, repair or operation incidental  
17 to the discovering or production of petroleum or gas, or the  
18 drilling, testing, abandoning or other operation of a petroleum  
19 or gas well, when performed by an owner or lessee;

20 c. public utilities on construction, maintenance  
21 and development work incidental to their own business;

22 d. owners of property, building or improving  
23 structures thereon for the occupancy of the owner and not  
24 intended or offered for sale; in all actions brought under this  
25 chapter, proof of the sale or offering for sale of a structure  
26 by an owner-builder, within one year after its completion,  
27 is presumptive evidence that the structure was undertaken for  
28 purposes of sale;

29 e. the sale or installation of finished products,

1 materials or articles of merchandise, which are not actually  
2 fabricated into and do not become a fixed part of the structure;

3 f. construction, alteration, improvement or repair of  
4 personal property;

5 g. construction , alteration, improvement or repair  
6 carried on within the limits and boundaries of a site  
7 or reservation, the title of which rests in the federal govern-  
8 ment;

9 h. work or operation on one undertaking or project by  
10 one or more contracts, the aggregate contract price for which  
11 labor, materials, and all other items, is less than \$100.00  
12 that work or operations being considered as of casual, minor or  
13 inconsequential nature; this exemption does not apply in a case  
14 where the work of construction is only a part of a larger or  
15 major operation, whether undertaken by the same or a different  
16 contractor, or in which a division of the operation is made in  
17 contracts of amounts less than \$100.00 for the purpose of  
18 evasion of this Act, or otherwise; this exemption shall not apply  
19 to anyone who advertises or puts out a sign or card or other  
20 device which might indicate to the public that he is a contrac-  
21 tor or that he is qualified to engage in the business of  
22 contractor;

23 i. farming, dairying, agriculture, viticulture, horticul-  
24 ture, or stock or poultry raising, or clearing or other work  
25 upon the land in rural districts for fire prevention purposes,  
26 except when performed by a licensee under this Act;

27 j. a licensed architect or a registered civil or pro-  
28 fessional engineer acting solely in his professional capacity;

29 k. a person who only furnishes materials or supplies

1 without fabricating them into, or consuming them in the  
2 performance of the work of the contractor;

3 1. A person who engages in the activities regulated in  
4 this Act as an employee with wages as his sole compensation.

5 Sec. 8. LICENSE REQUIRED. It is unlawful for any  
6 individual, person, firm, partnership, corporation, association  
7 or other organization, or any combination of any of these to  
8 engage in the business, act or offer to act in the capacity, or  
9 purport to have the capacity to act as a contractor without  
10 first having obtained a license. Evidence of applying for or  
11 securing a permit for construction, alteration, addition,  
12 repair or demolition from a political subdivision of this state,  
13 or the employment of a person on a construction project shall  
14 be accepted in any court of this state as prima facie evidence  
15 of existence of a contract.

16 No contractor shall act as agent or commence or maintain  
17 any action in any court of this state for collection of  
18 compensation for the performance of any act for which a  
19 license is required by this Act without alleging and proving  
20 that he was at all times a duly licensed contractor during the  
21 performance of any act or contract.

22 Sec. 9. LICENSE CLASSIFICATION. a. No contractor's  
23 license shall be issued under this Act except by official  
24 act of the board. The board may qualify applicants for  
25 contractor's licenses by written or oral examination or both.  
26 A separate license shall be issued for each classification  
27 of the contracting profession established by the board, and  
28 a license shall only be valid for performance of work within  
29 the classification for which the license was issued. A licensee

1 may be issued licenses in more than one classification of the  
2 contracting profession. Separate applications shall be required  
3 and separate fees shall be charged for qualifying licenses in  
4 more than one classification;

5 b. Nothing in this Act shall prohibit a specialty  
6 contractor from taking and executing a contract involving  
7 work in contract classifications other than that in which he  
8 is licensed, provided that the work in the classification for  
9 which he is not licensed is actually necessary to the comple-  
10 tion of a project involving contracting work for which the  
11 specialty contractor is licensed.

12 Sec. 10. REQUIREMENTS FOR LICENSE. To obtain a license  
13 an applicant shall meet the following requirements: a. An  
14 applicant shall submit on forms adopted, prescribed and  
15 furnished by the board in accordance with its rules and  
16 regulations a verified application, including a complete state-  
17 ment of the general nature of his contracting business, and  
18 if an individual, his name and address; if a partnership, the  
19 names and addresses of all general and limited partners; if a  
20 corporation, association or other organization, the names of  
21 the president, vice president, secretary and chief construction  
22 managing officer or officers; if a corporation not organized  
23 under the laws of this state, a statement showing that the  
24 corporation is qualified to do business by showing compliance  
25 with all acts requisite to such qualification in this state.

26 b. An applicant shall be required to show, by written  
27 examination, experience in the kind of work in which he  
28 proposes to conduct his contracting business, his general know-  
29 ledge of the building, safety, health and lien laws of the state,

1 of the rudimentary administrative principles of the contracting  
2 business and of the rules and regulations promulgated by the  
3 board pursuant to this Act.

4 c. An applicant shall be of good reputation.

5 d. An applicant shall never have been refused a license  
6 or had a license revoked for reasons that would preclude  
7 granting a license, or shall not have engaged in the contracting  
8 business without obtaining a license, as required by this Act,  
9 within one year immediately preceding the filing of an application  
10 for license.

11 e. An applicant shall not have been adjudicated bankrupt  
12 within one year immediately preceding the filing of an  
13 application for license.

14 f. Application for license in any branch or division of  
15 general engineering, general building, electrical, plumbing  
16 or specialty contracting shall be accompanied by the fee and  
17 bond required by this Act.

18 An applicant who has been engaged in the contracting  
19 business in Alaska for one year or more immediately preceding  
20 the effective date of this Act, upon making a showing of  
21 qualifications satisfactory to the board, may be licensed  
22 without written or oral examination.

23 Sec. 11. LICENSE: SPECIAL PROVISIONS. a. A license  
24 shall not be issued to a foreign corporation which has failed  
25 or refused to comply with the laws of this state concerning  
26 the qualifications necessary to do business in this state or  
27 from a foreign corporation which has not maintained an office  
28 in this state for at least 90 days immediately preceding the  
29 filing of an application of license, nor shall a license be

1 issued to an individual, firm, partnership or corporation unless  
2 one of its principals is a resident of this state for at least  
3 90 days immediately preceding the filing of an application for  
4 license or unless such individual, firm, partnership or  
5 corporation has maintained an office in this state for at least  
6 90 days immediately preceding the filing of an application  
7 for a license.

8 b. Without regard to residence qualification, the board  
9 may at any time issue a license to a specialty contractor when  
10 it is shown that there are not sufficient specialty contractors,  
11 as determined by the board, operating in the state licensed  
12 to do the kind of specialty contracting for which a specialty  
13 contractor applicant applies for license.

14 c. The board may waive or reduce the residence or local  
15 office requirement imposed by Subsec. a of this section for an  
16 applicant whose domicile is in another state to correspond with  
17 the residence or local office requirement imposed upon a  
18 resident of this state who is an applicant for a contractor's  
19 license in such other state.

20 Sec. 12. LICENSE: ISSUANCE. a. Upon receipt of the  
21 fee required by this Act, a complete application furnishing  
22 the information required by the board, and contingent upon  
23 an applicant passing the written examination required by  
24 Sec. 10, the board shall notify the applicant of the action  
25 taken on his application. If the board determines that the  
26 applicant is qualified for a license in accordance with the  
27 provisions of this Act, it shall issue a license to the applicant  
28 permitting him to engage in business as a contractor under the  
29 terms of this Act for the remainder of the fiscal year.

1           b. A license issued under the provisions of this Act  
2 and each annual renewal thereof shall be signed by the board  
3 or its designated representative and by the licensee. A license  
4 is non-transferable. Satisfactory evidence of the possession  
5 of a license shall be exhibited by the licensee upon demand.  
6 The name and license number of a licensee shall be posted in  
7 a conspicuous place upon the premises where any work is being  
8 done by a licensee. The name and license number shall be  
9 included in all written bids submitted by a licensee.

10           c. If an application for a license is denied for any  
11 reason provided in this Act, or if an applicant, after  
12 having been notified to do so, fails to appear for examination  
13 within six months from the date of filing his application, the  
14 fee paid by the applicant in connection with the filing of an  
15 application shall be forfeited. Reapplication for license shall  
16 be accompanied by the fee fixed by this Act.

17           Sec. 13. LICENSE: RENEWAL. a. Licenses issued under  
18 this Act shall expire June 30 each year. An application for  
19 the renewal of a current license for any branch or any division  
20 thereof, accompanied by the required fee, and received by the  
21 board before July 1 shall authorize a licensee to operate as  
22 a contractor until the actual issuance of a renewal for the  
23 ensuing fiscal year.

24           b. Upon failure to file the application for a renewal  
25 license and pay the fee before July 1, a license shall thereupon  
26 be suspended and shall be renewable only upon payment of a  
27 fee double the amount of the fee provided in this Act for  
28 renewal of a license. Unless so renewed a license remains  
29 suspended for the remainder of the fiscal year. When a license

1 has been suspended for nonpayment of the renewal fee for one  
2 year an application for an original license shall be made as  
3 provided in this Act.

4 Sec. 14. LICENSE: FEE. a. The fees prescribed by  
5 this Act are as follows:

6 (1) For an original license for any branch or any  
7 division of general engineering contracting or general building  
8 contracting the fee is \$125.00. The annual renewal fee is  
9 \$100.00.

10 (2) For an original license for any branch or  
11 division of electrical, plumbing or specialty contracting the  
12 fee is \$100.00. The annual renewal fee is \$75.00.

13 b. The penalty for failure to apply for renewal of a  
14 license within the time prescribed in this Act is double  
15 the annual renewal fee prescribed in this section.

16 c. The board may increase an original or a renewal fee  
17 in any fiscal year by an amount not to exceed 50 percent of that  
18 provided in this section. The board may reduce an original  
19 or a renewal fee in any fiscal year in an amount not to exceed  
20 25 per cent of the fees provided in this section.

21 Sec. 15. LICENSE: SUSPENSION AND REVOCATION. The board  
22 may, upon its own motion, and shall upon the verified complaint  
23 in writing of any person, investigate acts of a contractor in  
24 this state, and may temporarily suspend or permanently revoke  
25 a license issued under this Act if the licensee is guilty of or  
26 commits any of the following acts or omissions: a. abandonment  
27 of a contract or refusal to perform after submitting a bid on  
28 work without legal excuse therefor;

29 b. diversion of funds or property received for prosecution

1 or completion of a specific contract, or for a specified  
2 purpose in the prosecution or completion of a contract, and  
3 their application or use for any other contract, obligation  
4 or purpose, where the contractor does not have immediately  
5 available other funds to complete the original contract;

6 c. fraudulent, gross or negligent departure from or  
7 disregard of plans or specifications in any material respect,  
8 without consent of the owner or his duly authorized representa-  
9 tive;

10 d. wilful and deliberate disregard and violations of  
11 rules and regulations promulgated by the board to carry out the  
12 provisions of this Act pertaining to construction of buildings,  
13 or of safety laws or labor laws of the federal government or  
14 the state, or failure to carry unemployment and social  
15 security insurance, workmen's compensation insurance, or failure  
16 to pay premiums or charges for workmen's compensation insurance  
17 before they become delinquent;

18 e. failure to keep records for a period of five years  
19 showing all receipts and disbursements of the licensee in all  
20 his transactions as a contractor, as that term is defined in  
21 this Act;

22 f. misrepresentation of a material fact by the applicant  
23 in obtaining a license;

24 g. the doing of a wilful, fraudulent act by the licensee  
25 as a contractor resulting in another person being substantially  
26 injured;

27 h. filing a voluntary or involuntary petition in bank-  
28 ruptcy;

29 i. failure in a material respect by the licensee to

1 complete a construction project or operation for the price  
2 stated in the contract therefor, or in any modification of the  
3 contract;

4 j. aiding and abetting an unlicensed person to evade  
5 the provisions of this Act or knowingly combining or conspiring  
6 with an unlicensed person, or allowing one's license to be used  
7 by an unlicensed person or act as agent, partner, associate  
8 or otherwise, of an unlicensed person with intent to evade  
9 provisions of this Act;

10 k. wilful or deliberate failure by a licensee or agent  
11 or official thereof to pay money when due for material or  
12 services rendered in connection with his operations as a  
13 contractor when he has the capacity to pay or when he has  
14 received sufficient funds therefor as payment for the  
15 particular construction work project or operation for which  
16 the services or materials were rendered or purchased;

17 l. failure of a contractor to comply with any building  
18 code of the state or a political subdivision.

19 Sec. 16. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

20 Upon the filing of a verified complaint with the board charging  
21 a licensee with the commission of an act or omission which is  
22 cause for disciplinary action as provided in this Act, the board  
23 shall proceed under the Administrative Procedure Act.

24 Sec. 17. RENEWAL OF LICENSE FOLLOWING SUSPENSION. a.

25 After suspension of the license upon any of the grounds set  
26 forth in Sec. 15, the board shall renew a license upon proof  
27 of compliance by the contractor with provisions of the decision  
28 relating to renewal of a license, or in the absence of a  
29 decision or provisions therein as to renewal, upon proper

1 showing that all loss caused by the act or omission for which  
2 the license was suspended has been fully satisfied.

3 b. After suspension of a license upon any of the grounds  
4 set forth in Sec. 15, the license shall not be renewed or  
5 reinstated for one year after final determination of suspension  
6 and then only on proper showing that all loss caused by the act  
7 or omission for which the license was suspended has been fully  
8 satisfied.

9 c. The board may require, as a condition precedent to  
10 the issuance or renewal of a license to an applicant whose  
11 license has been suspended or revoked, that the applicant file  
12 or have on file with the board a cash deposit or a bond issued  
13 by a surety company in a sum to be fixed by the board based  
14 upon the magnitude of the operations of the applicant, and  
15 running to the state, to be conditioned upon his compliance  
16 with all the provisions of this Act. When the cash deposit  
17 or bond is required, every person injured by the unlawful acts  
18 or omissions of that contractor may bring an action in a proper  
19 court on the bond or a claim against the cash deposit for the  
20 amount of the damage suffered as a result thereof to the  
21 extent covered by the bond or the cash deposit.

22 Sec. 18. LIEN LAW. Nothing in this Act shall be  
23 deemed to affect any applicable lien law.

24 Sec. 19. FEDERAL LAW. If any provision or condition  
25 contained in this Act conflicts with any provision of federal  
26 law, or a rule or regulation made under federal law pertaining  
27 to federal aid contracts, such provision in conflict with the  
28 federal law, rule or regulation shall not apply on federal  
29 aid contracts to the extent such conflict exists, but all

1 provisions of this Act with which there is no such conflict  
2 shall apply to federal aid contracts.

3       Sec. 20. PENALTY. Any person who wilfully violates any  
4 of the provisions of this Act, or who wilfully violates any  
5 valid regulation of the State Contractors Licensing Board  
6 shall be guilty of a misdemeanor, and upon conviction thereof  
7 may be fined not more than \$300.00 or be imprisoned for  
8 not more than 60 days, or both.

9       Sec. 21. PER DIEM & TRANSPORTATION. Members of boards  
10 established by this Act shall receive such payments per diem  
11 allowances and transportation expenses as are allowed and paid  
12 members of other state examining and licensing boards.

13       Sec. 22. REPEALER. Ch. 158, SLA 1960 is repealed.

14       Sec. 23. SHORT TITLE. This Act may be cited as the  
15 Contractors License Act.

16       Sec. 24. EFFECTIVE DATE. This Act takes effect on the  
17 day after its passage and approval or on the day it becomes law  
18 without such approval.

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