

1 IN THE HOUSE

BY STEVENS AND JOSEPHSON

2 HOUSE BILL NO. 331

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a Construction Con-
7 tractor's Licensing Board; and providing
8 for an effective date."

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

10 * Section 1. AS 08 is amended by adding a new chapter to read:

11 CHAPTER 18. CONSTRUCTION CONTRACTORS.

12 ARTICLE 1. CONSTRUCTION CONTRACTOR'S LICENSING BOARD.

13 Sec. 08.18.010. CREATION AND COMPOSITION OF BOARD. (a)

14 There is created within the Department of Commerce a Con-
15 struction Contractor's Licensing Board composed of five
16 members. The governor shall appoint the members of the
17 board. The members shall be confirmed by the legislature.

18 (b) The board shall be composed of

19 (1) one member who is a general building con-
20 tractor;

21 (2) one member who is a highway and heavy con-
22 struction general contractor;

23 (3) one member who is a plumbing and heating
24 contractor;

25 (4) one member who is a residential builder;

26 (5) one member who is a specialty subcontractor.

27 Sec. 08.18.020. QUALIFICATIONS OF MEMBERS. To be
28 eligible for appointment as a member of the board, a person
29 must

- 1 (1) be a resident of Alaska,
- 2 (2) have engaged in the construction contracting
- 3 business in Alaska for not less than five years immediately
- 4 preceding his appointment,
- 5 (3) have a reputation for integrity and responsi-
- 6 bility in the construction industry;
- 7 (4) not have been adjudged bankrupt;
- 8 (5) unless an initial appointee to the board, be
- 9 licensed under this chapter.

10 Sec. 08.18.030. TERMS OF OFFICE. The term of office
11 of a member of the board is three years, except that initial
12 appointments to the board are as follows: one member for
13 a one-year term; two members for a two-year term; and two
14 members for a three-year term. Except in the case of a
15 vacancy, a person appointed to succeed a member must be en-
16 engaged in the same type of contracting as the member he
17 replaces.

18 Sec. 08.18.040. OFFICERS OF THE BOARD. The board shall
19 annually elect a chairman and secretary-treasurer from its
20 membership.

21 Sec. 08.18.050. MEETINGS AND QUORUM. (a) The board
22 shall meet to transact business on those dates which it
23 specifies. The board may not meet more than six times during
24 a fiscal year.

25 (b) A majority of the board constitutes a quorum.

26 Sec. 08.18.060. EXECUTIVE DIRECTOR. The board shall
27 appoint an executive director to serve as the executive
28 officer of the board. The executive director shall perform
29 those duties delegated to him by the board. The board shall

1 establish the salary of the executive director.

2 Sec. 08.18.070. EXPENSES. Members of the board receive
3 no salary but are entitled to per diem and travel expenses
4 provided by law. The executive director of the board is
5 entitled to per diem and travel expenses provided by law.

6 Sec. 08.18.080. INSPECTION OR INVESTIGATION BY BOARD.
7 The board may make or cause to be made a special investiga-
8 tion or investigation of the work of a licensee if necessary
9 to carry out the purposes of this chapter. The board may
10 issue subpoenas, subpoenas duces tecum, and process compelling
11 the testimony of any person and the production of records,
12 papers and books, for the purpose of investigation or
13 examination. The board may administer oaths when required
14 and may petition a court of this state to enforce subpoenas,
15 subpoenas duces tecum or to compel testimony.

16 Sec. 08.18.090. REGULATIONS OF THE BOARD. (a) The
17 board shall adopt substantive regulations making more
18 specific the experience standards which an applicant must
19 meet to qualify for a license, the reasons for which a
20 license may be suspended or revoked and the classifications
21 of construction contractors. In adopting regulations under
22 this section, the board shall be guided by established
23 practices in the construction industry and recognized ethical
24 procedures required for the protection of persons and agencies
25 in the state.

26 (b) The board may adopt procedural regulations neces-
27 sary to administer this chapter.

28 ARTICLE 2. LICENSING.

29 Sec. 08.18.100. LICENSE REQUIRED. A person may not

1 engage in business as a construction contractor unless
2 licensed under this chapter.

3 Sec. 08.18.110. CLASSIFICATION OF LICENSES. (a) The
4 board shall issue construction contractor licenses for each
5 of the following classifications:

- 6 (1) general building contractor,
- 7 (2) highway and heavy construction general con-
8 tractor,
- 9 (3) plumbing and heating contractor,
- 10 (4) residential builder,
- 11 (5) specialty subcontractor.

12 (b) A person may apply for a construction contractor
13 license for one or more of the classifications listed in (a)
14 of this section. A licensee holding a construction contrac-
15 tor license valid for one classification may apply for a
16 license in any other classification.

17 (c) The board shall require separate application,
18 examination, and qualification for each license classifica-
19 tion.

20 (d) A person who is a licensed general building con-
21 tractor may engage in business as a residential builder
22 without obtaining a residential builder license.

23 Sec. 08.18.130. REQUIREMENT FOR LICENSE. To qualify
24 for a construction contractors license of any classification,
25 a person must

- 26 (1) submit a verified application on the form
27 prescribed by the board;
- 28 (2) submit, with the application, a bond required
29 by sec. 180 of this chapter;

1 (3) show, to the satisfaction of the board, that
2 he

3 (A) is of good reputation,

4 (B) has not been previously denied a license
5 or had a license revoked,

6 (C) if applying for a license more than one
7 year after the effective date of this chapter, has not
8 been illegally engaged in business as a construction
9 contractor in Alaska for a period of one year before
10 the date of application,

11 (D) if a foreign corporation, has received
12 a certificate of authority from the commissioner of
13 commerce to transact business in the state;

14 (4) pass the written examination given by the
15 board;

16 (5) submit, with the application, the appropriate
17 fee for the license classification applied for.

18 Sec. 08.18.140. PERSONS EXEMPT FROM WRITTEN EXAMINATION.
19 An applicant who actively engaged in business as a construc-
20 tion contractor in Alaska for at least three years before the
21 effective date of this chapter must qualify for a license
22 according to sec. 130 of this chapter, except that he need
23 not take and pass a written examination. To be eligible for
24 a license, an applicant who is not required to take a written
25 examation must show that he satisfactorily complied with all
26 laws relating to workmen's compensation, employment security,
27 social security, business license and income taxes, and com-
28 prehensive liability during that period in which he engaged
29 in business as a construction contractor.

1 Sec. 08.18.150. APPLICATION. The board shall prescribe
2 the form of an application for a license. The form shall,
3 in addition to other information considered necessary by the
4 board, require

5 (1) the name and address of the person applying,
6 if the applicant is an individual;

7 (2) the names and addresses of all general and
8 limited partners, if the applicant is a partnership;

9 (3) the names and addresses of the president,
10 vice president, secretary and chief construction managing
11 officer or officers, if the applicant is a corporation or
12 firm;

13 (4) a complete statement of the general nature of
14 the applicant's contracting business;

15 (5) a statement which recites the applicant's
16 experience in the type of contracting which he proposes to
17 engage in if granted a license;

18 (6) if the applicant holds a license valid for
19 another classification, proof that he has satisfactorily
20 complied with all laws relating to workmen's compensation,
21 employment security, social security, business license and
22 income taxes, and comprehensive liability while engaged in
23 business under that license.

24 Sec. 08.18.160. WRITTEN EXAMINATION. The board shall
25 administer a written examination which tests the applicant's
26 knowledge of elementary administrative principles of the
27 contracting business, those uniform, state, and local codes,
28 and safety, health, and lien laws, which pertain to the
29 license classification being applied for, and the regulations

1 of the board.

2 Sec. 08.18.170. LICENSING OF APPLICANTS OTHER THAN
3 INDIVIDUALS. Each applicant, other than an individual who is
4 applying in his own name, shall designate a supervisor or
5 member of the corporation, partnership, or firm to take the
6 written examination. The person designated by the applicant
7 to take the examination shall substitute his experience for
8 that of the applicant for the purposes of sec. 150(5) of
9 this chapter. The person designated by the applicant under
10 this section is known as the administrator of the license.
11 A license issued subject to this section is contingent upon
12 the administrator remaining in a responsible supervisory
13 capacity with the licensee for construction contracting
14 performed in Alaska.

15 Sec. 08.18.180. BOND. (a) An applicant shall submit
16 with his application a bond written by an acceptable surety
17 company in the amount of not less than \$5,000, payable to
18 the board. The bond shall guarantee that the applicant, if
19 granted a license, will comply with the provisions of this
20 chapter. The aggregate liability of the surety shall not
21 exceed the amount of the bond. The bond shall be continuous
22 until the license is revoked or otherwise terminated by the
23 board. If the surety desires to cancel the bond, the can-
24 cellation is effective 30 days after the surety sends written
25 notice of cancellation to the board and to the licensee by
26 registered mail.

27 (b) Persons injured by a licensee's failure to comply
28 with the provisions of this chapter may commence a right of
29 action against the board, but actions collectively may not

1 exceed the amount of the bond.

2 Sec. 08.18.190. ISSUANCE OF LICENSE. If the board
3 determines that an applicant qualifies for a license, the
4 board shall issue a license for the classification applied
5 for. The license authorizes the licensee to engage in con-
6 struction contracting for the remainder of the current fiscal
7 year. The board may issue a license contingent upon the
8 applicant passing the written examination within a period
9 established by the board, if the applicant meets all other
10 requirements established in sec. 130 of this chapter.

11 Sec. 08.18.200. EFFECT OF LICENSE. A license issued
12 under this chapter authorizes the licensee to engage only in
13 construction contracting within that classification stated
14 on the license. Nothing in this chapter shall be construed
15 to prohibit a licensee from performing work of an intrinsic
16 or minor nature on a project which he has under contract,
17 although that intrinsic or minor work is not within the
18 licensee's classification, if the work is necessary to the
19 prompt completion of the licensee's contract.

20 Sec. 08.18.210. FORM AND CONDITIONS OF LICENSE. (a)
21 A license issued under this chapter shall be signed by a
22 member of the board or a person designated by the board. A
23 license is not transferable. A licensee, upon demand, must
24 show satisfactory evidence that he possesses a license.

25 (b) A license shall clearly state the contracting
26 classification for which it is valid.

27 (c) The name, license classification and license
28 number of a licensee must be conspicuously placed upon the
29 premises where contracting work is being performed by the

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licensee.

(d) A licensee shall include the license number in all written bids which he submits.

Sec. 08.18.220. LICENSE FEES. (a) The fees for licenses issued under this chapter are:

	Original Fee	Annual Renewal Fee
Building contractor	\$200	\$100
Highway and heavy construction general contractor	200	100
Residential builder	150	75
Plumbing and heating and specialty subcontractors	100	50

(b) If an application for a license is denied, one-half of the fee accompanying the application is forfeited, and the remainder shall be returned to the applicant.

(c) If an applicant, after having been notified to do so, fails to appear for a written examination within six months after the date of filing his application, the fee submitted with his application is forfeited and the application voided.

(d) A re-application for a license must be accompanied by the original fee established for the classification applied for.

(e) A licensed residential builder, plumbing and heating contractor, or specialty subcontractor who obtains a building contractor or highway and heavy construction general contractor license is required to pay an original

1 fee for either of those licenses which equals the difference
2 between the original fee for his current license and \$200.

3 Sec. 08.18.230. LICENSE RENEWAL. (a) Licenses issued
4 under this chapter shall expire June 30 each year. An appli-
5 cation for the renewal of a license which is accompanied by
6 the appropriate renewal fee and received by the board before
7 July 1 authorizes a licensee to engage in business as a con-
8 struction contractor until the license is formally renewed by
9 the board for the next fiscal year.

10 (b) If a licensee fails to file an application to renew
11 a license, or to pay the appropriate renewal fee, before July
12 1, the license shall be suspended and is renewable only upon
13 payment of a fee which equals one and one-half times the
14 amount of the appropriate renewal fee. Unless renewed, a
15 license remains suspended for the remainder of the fiscal
16 year. If a license is suspended for nonpayment of the
17 renewal fee for one year or more, the renewal privilege is not
18 available to the former licensee and he must apply for an
19 original license.

20 Sec. 08.18.240. SUSPENSION AND REVOCATION OF LICENSES.

21 (a) The board shall make every effort to investigate all
22 complaints about licensees which it receives.

23 (b) The board may suspend or revoke a license if it
24 finds that a licensee has

25 (1) abandoned, without good cause, a contract or
26 construction project which has been awarded to him;

27 (2) diverted funds or property received for the
28 execution or completion of a contract and applied or used
29 them for another contract, obligation or purpose in cases

1 where the contractor did not complete the first contract or
2 did not have immediately available other funds or property;

3 (3) fraudulently, deliberately, grossly, or
4 negligently departed from, or disregarded, plans or speci-
5 fications in any material respect without the consent of
6 the owner or his duly authorized representative;

7 (4) been careless or negligent in providing
8 minimum safety measures required by state law, including
9 appliances and equipment, to protect workmen and the public,
10 or failed to observe any applicable ordinances of a political
11 subdivision of this state which prescribe measures for the
12 safety of workmen and the public;

13 (5) failed to make unemployment and social
14 security payments or failed to provide workmen's compensation
15 insurance;

16 (6) failed to comply with all applicable state
17 laws pertaining to the employment of laborers, mechanics,
18 and other employees;

19 (7) failed to pay wages and other benefits, when
20 due, for services rendered by employees;

21 (8) failed to furnish or provide transportation as
22 required by state law;

23 (9) misrepresented any material fact in obtaining
24 a license;

25 (10) committed a wilful or fraudulent act which
26 resulted in another person being substantially injured;

27 (11) filed a voluntary or involuntary petition in
28 bankruptcy;

29 (12) failed in any material respect to complete

1 a construction project or operation for the price stated in
2 the contract or in any modification of the contract which
3 was agreed upon;

4 (13) aided or abetted an unlicensed person to
5 evade the provisions of this chapter or knowingly combined
6 or conspired with an unlicensed person or acted as an agent,
7 partner, associate or otherwise of the unlicensed person with
8 the intent to evade the provisions of this chapter;

9 (14) wilfully or deliberately failed to pay money
10 when due for material or services rendered in connection with
11 his operations as a licensee when he had the capacity to pay
12 or when he had received sufficient funds as payment for the
13 particular construction work, project or operation for which
14 the services or materials were rendered or purchased; or

15 (15) failed to comply with the applicable building
16 code requirements of the political subdivision in which con-
17 struction work was performed.

18 Sec. 08.18.250. HEARING. Proceedings to suspend or
19 revoke a license issued under this chapter are governed by
20 the Administrative Procedure Act (AS 44.62), except that the
21 board may suspend or revoke a license without hearing if

22 (1) a licensee is convicted of, or has a final
23 judgment entered against him, for performing or failing to
24 perform an act which is a reason for suspension or revocation
25 under sec. 240 of this chapter, provided that the board
26 receives a notification of conviction or judgment from the
27 court having jurisdiction over the case;

28 (2) the official records of a state agency reveal
29 that a licensee has not complied with a law or regulation,

1 which noncompliance is a reason for suspension or revocation
2 under sec. 240 of this chapter, provided that the board
3 receives a certified copy of the record from the appropriate
4 state agency; or

5 (3) the records of the board indicate that the
6 licensee committed an act or failed to perform an act which
7 is a reason for suspension or revocation under sec. 240 of
8 this chapter.

9 Sec. 08.18.260. RENEWAL OF LICENSE AFTER SUSPENSION OR
10 REVOCATION. (a) If a license is suspended or revoked for
11 any of the reasons listed in sec. 240 of this chapter, the
12 board may, on its own motion, renew a license upon proof that
13 the former licensee has complied with provisions of the
14 decision relating to renewal of a license, or in the absence
15 of a decision or provisions in a decision relating to renewal,
16 may renew a license upon proof that all loss caused by the
17 act or omission for which the license was suspended or re-
18 voked has been fully satisfied.

19 (b) The board may reissue or renew a revoked or
20 suspended license subject to such conditions as the board
21 may prescribe which are necessary to prevent a recurrence of
22 those acts or omissions by the licensee which resulted in the
23 suspension or revocation of the license.

24 ARTICLE 3. MISCELLANEOUS PROVISIONS.

25 Sec. 08.18.270. PROHIBITED ACTS. (a) It is unlawful
26 for a person to engage in business as a construction con-
27 tractor, or to act or offer to act in that capacity, or to
28 purport to have the capacity to act as a construction con-
29 tractor, unless he has obtained a license under this chapter,

1 unless the person is exempted from the effect of this
2 chapter under sec. 320 of this chapter.

3 (b) Evidence that a person has applied for, or secured,
4 a permit to construct, alter, add to, repair, or do wrecking
5 work from a political subdivision of this state, or that a
6 person has employed another person on a construction project,
7 shall be accepted in a court of this state as prima facie
8 evidence of violation of (a) of this section.

9 Sec. 08.18.280. DISABILITY. No person may act as
10 agent, or commence or maintain an action in a court of this
11 state, for the collection of compensation for the performance
12 of an act for which a license is required by this chapter
13 unless he alleges and proves that he was licensed under this
14 chapter during the performance of that act.

15 Sec. 08.18.290. LIEN LAWS. Nothing in this chapter
16 shall be construed to affect an applicable lien law. A bond
17 submitted to the board under sec. 180 of this chapter is
18 available to satisfy a judgment in a lien foreclosure suit.

19 Sec. 08.18.300. FEDERAL LAW. If a provision of this
20 chapter conflicts with a federal law, or a rule or regulation
21 made under federal law pertaining to federal aid contracts,
22 the provision in conflict with the federal law, rule or
23 regulation shall not apply to federal aid contracts to the
24 extent that the conflict exists, but all provisions of this
25 chapter which do not conflict shall apply to federal aid
26 contracts.

27 Sec. 08.18.310. PENALTY. A person who wilfully vio-
28 lates a provision of this chapter, or who wilfully violates
29 a regulation of the board, is guilty of a misdemeanor.

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ARTICLE 4. GENERAL PROVISIONS.

Sec. 08.18.320. EXCEPTIONS. This chapter does not apply to

(1) employees of the federal government, the state, or a political subdivision of the state, if these employees are performing construction work while on the payrolls of these governmental entities, or to construction, alteration, improvement or repair work within the limits and boundaries of a federal site or reservation, if the work is performed by employees of the federal government;

(2) an owner or lessee performing construction work for repair or operations which are incidental to the discovery or production of petroleum or gas;

(3) a person who performs normal maintenance work which is incidental to the operation of a public utility;

(4) a property owner, occupant, or person acting as his own contractor who is building or improving a structure either for personal use or for sale, if no more than two residential units or commercial construction not in excess of \$25,000 in value is performed during a calendar year;

(5) work or operation on one undertaking or project by one or more contracts, the work or operation being considered as being of casual, minor or inconsequential nature; provided that this exemption does not apply in a case where the construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in a case in which a division of the operation is made in contracts of amounts less than \$100 for

1 the purpose of evasion of this chapter or otherwise; and
2 this exemption does not apply to anyone who advertises or
3 puts out a sign or card or other device which might indicate
4 to the public that he is a contractor or that he is qualified
5 to engage in the business of contracting;

6 (6) a person performing construction work inci-
7 dental to farming, dairying, agriculture, horticulture, or
8 stock or poultry raising, mining activities, clearing or
9 other work upon the land in rural districts for fire pre-
10 vention purposes, or access road building, unless the person
11 is a licensee;

12 (7) a licensed architect or a registered civil or
13 professional engineer acting solely in his professional
14 capacity;

15 (8) a person who only furnishes materials or
16 supplies without fabricating them into, or consuming them,
17 in the performance of the work of the contractor;

18 (9) a person who engages in the activities regu-
19 lated under this chapter as an employee with wages being his
20 sole compensation; or

21 (10) persons engaged in performing construction
22 contracting in areas which are not within an organized
23 borough or which do not meet the population, economic, and
24 geographical standards for an organized borough as prescribed
25 in AS 07.

26 Sec. 08.18.330. DEFINITIONS. In this chapter

27 (1) "board" means the Construction Contractor's
28 Licensing Board;

29 (2) "construction contractor" means a person who

1 for a price, fee or percentage or other compensation, under-
2 takes or offers to perform, or claims to have the capacity
3 to undertake or perform, or submits a bid for, or who per-
4 forms for others, a construction project to construct, build,
5 alter, repair, add to, subtract from, improve, move, wreck or
6 demolish any building, highway, road, railroad, or any type
7 of fixed structures including excavation and site development,
8 but does not include either a supplier of materials or
9 services who is not directly involved in the installation of
10 the materials or services on a construction project or an
11 electrical contractor, but does include all other subcon-
12 tractors and specialty contractors;

13 (3) "general building contractor" means a con-
14 struction contractor engaged in the construction by contract
15 of all types of building structures, including modification
16 thereof, or additions or repairs thereto, designed and in-
17 tended for commercial, industrial, institutional, private or
18 residential use for shelter, protection, comfort or con-
19 venience of persons, animals, merchandise, chattels, vehicles
20 or equipment or other movable property;

21 (4) "highway and heavy construction general
22 contractor" means a construction contractor engaged in the
23 construction, by contract, of any type of fixed works for
24 public or private agencies, which includes any work related
25 to the construction of streets, roads, highways, bridges,
26 towers, tunnels, airports and runways, irrigation, drainage,
27 and flood control works, dams, water power installations,
28 sewerage systems, pipelines, inland waterways, harbors, rail-
29 roads and any other similar types of construction whether

1 public works or private developments and who although
2 specializing in the construction of one or more of the works
3 listed above, has a general knowledge of the construction of
4 all works;

5 (5) "plumbing and heating contractor" means a
6 construction contractor who performs work of a specialized
7 nature in the installation, repair and maintenance of a plumb-
8 ing, heating, and piping, air conditioning and duct systems
9 of all kinds in and connected with buildings and structures
10 of all types and outside pressure piping systems;

11 (6) "residential builder" means a construction
12 contractor whose specialty is the construction of residential
13 buildings and homes for occupancy as family dwellings and who
14 may operate on a contract basis, but may also construct homes
15 as a speculative business, and who does not construct or
16 repair residential buildings for more than four-family
17 occupancy;

18 (7) "specialty subcontractor" means a construction
19 contractor who performs a specific type of work requiring
20 special skill and the use of specialized craftsmen on con-
21 struction projects and on renovation and remodelling work
22 for both contractors and owners.

23 Sec. 08.18.340. SHORT TITLE. This chapter may be
24 cited as the Construction Contractor's Licensing Act.

25 * Sec. 2. This Act takes effect on the day after its passage
26 and approval or on the day it becomes law without such approval.
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