

Original Sponsor: Labor and
Management Committee

Offered: 3/13/68
Referred: Labor and
Management

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

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HOUSE CS FOR SENATE BILL NO. 161

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the bonding and licensing require-
7 ments for construction contractors."

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

9

* Section 1. AS 08.18.010 - 08.18.350 are repealed.

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* Sec. 2. AS 08.18 is amended by adding new sections to read:

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ARTICLE 1. REGISTRATION.

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Sec. 08.18.011. REGISTRATION REQUIRED. It is unlawful for a
13 person to submit a bid or work as a contractor until he has been issued
14 a certificate of registration by the Department of Commerce. A partner-
15 ship or joint venture shall be considered registered if one of the
16 general partners or venturers whose name appears in the name under
17 which the partnership or venture does business is registered.

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Sec. 08.18.021. APPLICATION FOR REGISTRATION. (a) An applicant
19 for registration as a contractor shall submit an application under
20 oath upon a form to be prescribed by the commissioner and which
21 shall include the following information pertaining to the applicant:

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(1) employer social security number;

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(2) type of contracting activity, whether a general or a
24 specialty contractor and if the latter, the type of specialty;

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(3) the name and address of each partner if the applicant is
26 a firm or partnership, or the name and address of the owner if the
27 applicant is an individual proprietorship, or the name and address of
28 the corporate officers and statutory agent, if any, if the applicant
29 is a corporation.

1 (b) The information contained in the application shall be a
2 matter of public record and open to public inspection.

3 Sec. 08.18.031. CERTIFICATE OF REGISTRATION -- ISSUANCE, DURATION,
4 RENEWAL. A certificate of registration is valid for one year and
5 shall be renewed by the same procedure as for an original registration.
6 The commissioner shall issue to the applicant a certificate of
7 registration upon compliance with the registration requirements of
8 this chapter.

9 Sec. 08.18.041. REGISTRATION AND RENEWAL FEES. The applicant
10 shall pay to the commissioner a registration or renewal fee as follows:

- 11 (1) general contractor. \$100
12 (2) specialty contractor. 50

13 Sec. 08.18.051. REGISTERED NAME. Except as provided otherwise by
14 state law, no person who has registered under one name as required by
15 this chapter may act in the capacity of a contractor under any other
16 name unless that name also is registered. All advertising, contracts,
17 correspondence, cards, signs, posters, papers and documents prepared
18 by a contractor which show his name and address shall show his name and
19 address as registered under this chapter. Individual contractors and
20 partners, associates, agents, salesmen, solicitors, officers and
21 employees of contractors shall use their true names and addresses at
22 all times while acting in the capacity of a contractor or performing
23 related activities.

24 Sec. 08.18.061. REQUIREMENTS OF POLITICAL SUBDIVISION. A con-
25 tractor who is licensed by the state under this chapter shall not be
26 required to give bond in applying for or holding a license issued by
27 a political subdivision.

28 **ARTICLE 2. BOND AND INSURANCE.**

29 Sec. 08.18.071. BOND REQUIRED. Each applicant shall, at the time

1 of applying for a certificate of registration, file with the commis-
2 sioner a surety bond running to the State of Alaska conditioned upon
3 the applicant's promise to pay all taxes and contributions due to the
4 state and political subdivisions and pay all persons furnishing labor
5 or material or renting or supplying equipment to the applicant and will
6 pay all amounts that may be adjudged against him by reason of negligent
7 or improper work or breach of contract in the conduct of the contracting
8 business or damage to public facilities occurring in the course of a
9 construction project. If the applicant is a general contractor the
10 amount of the bond shall be \$5,000; if he is a specialty contractor
11 the amount of the bond shall be \$2,000. In lieu of the surety bond
12 the applicant may file with the commissioner a cash deposit or other
13 negotiable security acceptable to the commissioner of commerce, in the
14 amount specified for bonds.

15 Sec. 08.18.081. CLAIMS AGAINST CONTRACTOR. A person having a
16 claim against a contractor for any of the items referred to in sec. 61
17 of this chapter may bring suit upon the bond in the superior court of
18 the judicial district in which the work is done or of any judicial
19 district in which jurisdiction of the contractor may be had. A copy
20 of the complaint shall be served by registered or certified mail upon
21 the commissioner at the time suit is filed and the commissioner shall
22 maintain a record available for public inspection of all suits commenced
23 This service shall constitute service on the surety and the commissioner
24 shall transmit the complaint or a copy of it to the surety within 72
25 hours after it has been received. The surety upon the bond is not
26 liable in an aggregate amount in excess of that named in the bond,
27 but in case claims pending at any one time exceed the amount of the
28 bond, the claims shall be satisfied from the bond in the following
29 order:

- 1 (1) labor, including employee benefits;
- 2 (2) taxes and contributions due the state, city and borough,
- 3 in that order;
- 4 (3) material and equipment;
- 5 (4) claims for breach of contract;
- 6 (5) repair of public facilities.

7 (b) If a judgment is entered against the cash deposit, the com-
8 missioner shall upon receipt of a certified copy of a final judgment
9 pay the judgment from the amount of the deposit, in accordance with the
10 priorities set out in (a) of this section.

11 Sec. 08.18.091. CANCELLATION OF BOND. Nothing in this chapter
12 impairs the right of a bonding company to cancel its bond of a con-
13 tractor for lawful reasons.

14 Sec. 08.18.101. INSURANCE REQUIRED. Each applicant shall, at the
15 time of applying for registration, file with the commissioner satis-
16 factory evidence that the applicant has in effect public liability and
17 property damage insurance covering his contracting operations in the
18 sum of not less than \$20,000 for damage to property and \$50,000 for
19 injury, including death, to any one person and \$100,000 for injury,
20 including death, to more than one person.

21 Sec. 08.18.111. ADVERTISING BOND AND INSURANCE. No contractor
22 may advertise that he is bonded and insured simply because he has
23 complied with the bond and insurance requirements of this chapter.

24 ARTICLE 3. MISCELLANEOUS PROVISIONS.

25 Sec. 08.18.121. SUSPENSION AND REVOCATION OF REGISTRATION. (a)
26 If the insurance required in sec. 91 of this chapter ceases to be in
27 effect, the registration of the contractor shall be suspended until the
28 insurance has been reinstated.

29 (b) If a final judgment impairs the liability of the surety upon

1 the bond or depletes the cash deposit so that there is not in effect
2 a bond undertaking or cash deposit in the full amount prescribed in
3 sec. 61 of this chapter, the registration of the contractor involved
4 shall be suspended until the bond liability in the required amount
5 unimpaired by unsatisfied judgment claims has been furnished.

6 (c) If a bonding company cancels its bond of a contractor the
7 contractor's registration shall be revoked. He may again obtain
8 registration by complying with the requirements of this chapter.

9 (d) If a licensed contractor fails to fulfill his obligations
10 as set out in sec. 61 of this chapter his license shall be suspended
11 for a period of time the commissioner determines is appropriate. After
12 three suspensions his license may be permanently revoked.

13 (e) Proceedings to suspend or revoke a license issued under this
14 chapter are governed by the Administrative Procedure Act (AS 44.62).

15 Sec. 08.18.131. INJUNCTION. In an action instituted in the
16 superior court by the commissioner or his representative a person
17 acting in the capacity of a contractor in violation of this chapter
18 may be enjoined from doing so.

19 Sec. 08.18.141. MISDEMEANOR. A person acting in the capacity
20 of a contractor in violation of this chapter is guilty of a misdemeanor.

21 Sec. 08.18.151. LEGAL ACTIONS BY CONTRACTOR. No person acting
22 in the capacity of a contractor may bring an action in a court of this
23 state for the collection of compensation for the performance of work
24 or for breach of a contract for which registration is required under
25 this chapter without alleging and proving that he was a duly registered
26 contractor at the time he contracted for the performance of the work.

27 **ARTICLE 4. GENERAL PROVISIONS.**

28 Sec. 08.18.161. EXEMPTIONS. This chapter does not apply to:

- 29 (1) an authorized representative of the United States

1 government, the State of Alaska, or a political subdivision or agency
2 of the state;

3 (2) an officer of a court when acting within the scope of
4 his office;

5 (3) a public utility operating under the regulations of
6 the public service commission in construction, maintenance or develop-
7 ment work incidental to its own business;

8 (4) a construction, repair or operation incidental to the
9 discovering or producing of petroleum or gas, or the drilling, testing,
10 abandoning or other operation of a petroleum or gas well or a surface
11 or underground mine or mineral deposit when performed by an owner or
12 lessee;

13 (5) the sale or installation of finished products, materials
14 or articles of merchandise which are not actually fabricated into and
15 do not become a permanent fixed part of a structure;

16 (6) construction, alteration, or repair of personal
17 property;

18 (7) construction, alteration, or repair carried on within
19 the boundaries of a site under the legal jurisdiction of the federal
20 government;

21 (8) a person who only furnished materials, supplies or
22 equipment without fabricating them into, or consuming them in the
23 performance of, the work of the contractor;

24 (9) work on one undertaking by one or more contracts, the
25 aggregate contract price of which for labor and materials and all
26 other items is less than \$1,000, this work being considered as of a
27 casual, minor, or inconsequential nature; this exemption does not
28 apply when the work is only a part of a larger or major operation,
29 whether undertaken by the same or a different contractor, or in which

1 division of the operation is made into contracts of amounts less
2 than \$1,000 for the purpose of evasion of this chapter or otherwise;
3 this exemption does not apply to a person who advertises or puts out a
4 sign or card or other device which might indicate to the public
5 that he is a contractor, or that he is qualified to engage in the
6 business of contractor;

7 (10) an owner who contracts for a project with a registered
8 contractor;

9 (11) a person working on his own property, whether occupied
10 by him or not, and a person working on his residence, whether owned by
11 him or not;

12 (12) an owner or tenant of commercial property who uses his
13 own employees to do maintenance, repair and alteration work upon that
14 property;

15 (13) an owner who acts as his own contractor and in doing so
16 hires workmen on an hourly basis, hires subcontractors, purchases
17 materials and as such, sees to the paying for all labor, subcontractors
18 and materials; in this case, the owner shall be limited to construction
19 of one home or duplex or one commercial building per year;

20 (14) a person performing construction work incidental to
21 farming, dairying, agriculture, horticulture, or stock or poultry
22 raising, mining activities, logging activities, fishing activities,
23 clearing or other work upon the land in rural districts for fire pre-
24 ventation purposes, or access road building, unless the person is a
25 licensee.

26 Sec. 08.18.171. DEFINITIONS. In this chapter

27 (1) "commissioner" means the commissioner of the Department
28 of Commerce;

29 (2) "contractor" means a person who, in the pursuit of an

1 independent business, undertakes or offers to perform, or claims to
2 have the capacity to perform, or submits a bid for, or who performs,
3 a project to construct, alter, repair, move or demolish a building,
4 highway, road, railroad, or any type of fixed structure, including
5 excavation and site development and erection of scaffolding; a
6 "general contractor" is a contractor whose business operations require
7 the use of more than two distinct trades whose work the general con-
8 tractor superintends; the terms "general contractor" and "builder"
9 are synonymous; a "specialty contractor" is a contractor whose
10 operations do not fall within the definition of "general contractor."
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