

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:

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* 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 AS 08.18.010 - 08.18.350 are repealed.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

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

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Sec. 08.18.021. APPLICATION FOR REGISTRATION. (a) An applicant

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20 for registration as a contractor shall submit an application under
21 oath upon a form to be prescribed by the commissioner and which
22 shall include the following information pertaining to the applicant:

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(1) employer social security number;

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

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

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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. (a) 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

4 (1) all taxes and contributions due the state and political
5 subdivisions,

6 (2) all persons furnishing labor or material or renting or
7 supplying equipment to the applicant, and

8 (3) all amounts that may be adjudged against him by reason
9 of negligent or improper work or breach of contract in the conduct of
10 the contracting business or by reason of damage to public facilities
11 occurring in the course of a construction project.

12 (b) If the applicant is a general contractor the amount of the
13 bond shall be \$5,000; if he is a specialty contractor the amount of
14 the bond shall be \$2,000. In lieu of the surety bond the applicant
15 may file with the commissioner a cash deposit or other negotiable
16 security acceptable to the commissioner of commerce, in the amount
17 specified for bonds.

18 Sec. 06.15.061 CLAIMS AGAINST CONTRACTOR. A person having a
19 claim against a contractor for any of the items referred to in sec. 71
20 of this chapter may bring suit upon the bond in the superior court of
21 the judicial district in which the work is done or of any judicial
22 district in which jurisdiction of the contractor may be obtained. A
23 copy of the complaint shall be served by registered or certified mail
24 upon the commissioner at the time suit is filed and the commissioner
25 shall maintain a record, available for public inspection, of all suits
26 commenced. This service shall constitute service on the surety and
27 the commissioner shall transmit the complaint or a copy of it to the
28 surety within 72 hours after it has been received. The surety upon
29 the bond is not liable in an aggregate amount in excess of that named

1 in the bond, but in case claims pending at any one time exceed the
2 amount of the bond, the claims shall be satisfied from the bond in
3 the following order:

4 (1) labor, including employee benefits;

5 (2) taxes and contributions due the state, city and borough
6 in that order;

7 (3) material and equipment;

8 (4) claims for breach of contract;

9 (5) repair of public facilities.

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

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

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

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

27 **ARTICLE 3. MISCELLANEOUS PROVISIONS.**

28 Sec. 08.18.121. SUSPENSION AND REVOCATION OF REGISTRATION. (a)

29 If the insurance required in sec. 101 of this chapter ceases to be in

1 effect, the registration of the contractor shall be suspended until the
2 insurance has been reinstated.

3 (b) If a final judgment impairs the liability of the surety upon
4 the bond or depletes the cash deposit so that there is not in effect
5 a bond undertaking or cash deposit in the full amount prescribed in
6 sec. 71 of this chapter, the registration of the contractor involved
7 shall be suspended until the bond liability in the required amount,
8 unimpaired by unsatisfied judgment claims, has been furnished.

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

12 (d) If a licensed contractor fails to fulfill his obligations
13 as set out in sec. 71 of this chapter his license shall be suspended
14 for a period of time the commissioner determines is appropriate. After
15 three suspensions his license may be permanently revoked.

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

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

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

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

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ARTICLE 4. GENERAL PROVISIONS.

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

(1) an authorized representative of the United States government, the State of Alaska, or a political subdivision or agency of the state;

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

(3) a public utility operating under the regulations of the public service commission in construction, maintenance or development work incidental to its own business;

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

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

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

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

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

(9) work on one undertaking by one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than \$1,000, this work being considered as of a

1 casual, minor, or inconsequential nature; this exemption does not
2 apply when the work is only a part of a larger or major operation,
3 whether undertaken by the same or a different contractor, or in which
4 division of the operation is made into contracts of amounts less
5 than \$1,000 for the purpose of evasion of this chapter or otherwise;
6 this exemption does not apply to a person who advertises or puts out a
7 sign or card or other device which might indicate to the public
8 that he is a contractor, or that he is qualified to engage in the
9 contracting business;

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

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

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

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

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

28 Sec. 06.18.171. DEFINITIONS. In this chapter

29 (1) "commissioner" means the commissioner of the Department

1 of Commerce;

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