

Introduced: 2/1/80  
Referred: Commerce

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 658

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to registration of, and surety for  
7 claims against, construction contractors; and providing  
8 for an effective date."

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

10 \* Section 1. AS 08.18.011 is amended to read:

11 Sec. 08.18.011. REGISTRATION REQUIRED. It is unlawful for a  
12 person to be awarded a public contract [SUBMIT A BID] or work as a  
13 contractor until he has been issued a certificate of registration by  
14 the Department of Commerce and Economic Development. A partnership or  
15 joint venture is [SHALL BE] considered registered if one of the general  
16 partners or venturers whose name appears in the name under which the  
17 partnership or venture does business is registered.

18 \* Sec. 2. AS 08.18.031 is amended to read:

19 Sec. 08.18.031. CERTIFICATE OF REGISTRATION -- ISSUANCE, DURATION,  
20 RENEWAL. A certificate of registration expires on March 31 [JUNE 30]  
21 of each even-numbered year following the date of issuance or renewal  
22 and shall be renewed under the same requirements as for an original  
23 registration. The commissioner shall issue to the applicant a certi-  
24 ficate of registration upon compliance with the registration require-  
25 ments of this chapter.

26 \* Sec. 3. AS 08.18.041 is amended to read:

27 Sec. 08.18.041. REGISTRATION, [AND] RENEWAL, AND SURETY FUND  
28 FEES. (a) The applicant shall pay to the commissioner a registration  
29 or renewal fee as follows:

- 1 (1) general contractor . . . . . \$200 [\$100]
- 2 (2) specialty contractor . . . . . \$100 [\$50]

3 (b) In addition to the registration or renewal fee, the applicant  
4 shall pay to the commissioner the amount established in AS 45.84.020  
5 for deposit into the construction contractor surety fund.

6 \* Sec. 4. AS 08.18 is amended by adding a new section to read:

7 Sec. 08.18.072. REIMBURSEMENT OF SURETY FUND UPON PAYMENT OF  
8 CLAIM. When payment is made from the construction contractor surety  
9 fund under AS 45.84 toward satisfaction of a judgment against a  
10 registered general or specialty construction contractor for any of the  
11 grounds enumerated in AS 45.84.030(a), the contractor shall reimburse  
12 the construction contractor surety fund for all amounts paid from the  
13 fund.

14 \* Sec. 5. AS 08.18.121(d) is amended to read:

15 (d) If a registered [LICENSED] contractor fails to fulfill his  
16 obligations under [AS SET OUT IN] AS 08.18.072, his registration  
17 [LICENSE] shall be suspended for a period of time the commissioner  
18 determines is appropriate. After three suspensions his registration  
19 [LICENSE] may be permanently revoked.

20 \* Sec. 6. AS 45 is amended by adding a new chapter to read:

21 CHAPTER 84. CONSTRUCTION CONTRACTOR SURETY FUND.  
22 Sec. 45.84.010. CONSTRUCTION CONTRACTOR SURETY FUND. There is  
23 established a special account in the general fund known as the con-  
24 struction contractor surety fund to carry out the purposes of this  
25 chapter. The commissioner shall deposit into this account all pay-  
26 ments made by general and specialty construction contractors under AS  
27 45.84.020.

28 Sec. 45.84.020. PAYMENTS BY GENERAL AND SPECIALTY CONSTRUCTION  
29 CONTRACTORS. (a) A construction contractor, when applying for the

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issuance or renewal of a certificate of registration under AS 08.18, shall pay to the commissioner of commerce and economic development, in addition to the registration or renewal fee, a surety fund fee as follows:

- (1) general contractor . . . . . \$500
- (2) specialty contractor . . . . . \$250.

(b) When the fund reaches \$2,000,000, the commissioner shall by regulation adjust the surety fund fees so that, taking into account anticipated expenditures for claims against the fund, the fund is maintained at a level not less than \$2,000,000.

Sec. 45.84.030. LIABILITY OF FUND. (a) Payments from the construction contractor surety fund may be made only for the following claims against a registered contractor arising from activities requiring registration under AS 08.18:

- (1) for taxes and contributions due the state or political subdivisions of the state;
- (2) for labor furnished, for materials supplied to the contractor and fabricated into a fixed part of a structure or consumed in the construction of a structure, or for equipment rented to the contractor and used in the construction of a structure;
- (3) for negligent or improper work or for breach of contract in the conduct of the contracting business or for damage to a public facility.

(b) The maximum amount that may be paid from the fund for a single judgment against a registered contractor during the two-year period in which his then current certificate of registration is valid is \$10,000 for a general contractor and \$5,000 for a specialty contractor.

(c) The total amount that may be paid from the fund during any

1 two year registration period for judgments entered against a registered  
2 contractor may not exceed \$30,000 for a general contractor and \$15,000  
3 for a specialty contractor.

4 Sec. 45.84.040. CLAIM FOR PAYMENT. (a) When the state, a  
5 political subdivision of the state, or a person obtains a final judg-  
6 ment in a court against a specialty or general contractor registered  
7 under AS 08.18 for a claim described in AS 45.84.030(a), and 30 days  
8 have elapsed since the entry of the judgment, the state, political  
9 subdivision, or person may file with the commissioner a claim for  
10 payment out of the construction contractor's surety fund. The claimant  
11 shall serve a copy of the claim on the contractor.

12 (b) The claim for payment must be signed by the claimant, must  
13 be accompanied by a certified copy of the judgment and must include a  
14 statement

15 (1) of the nature of the claim for which the judgment was  
16 entered;

17 (2) of the amounts, if any, that have been collected or paid  
18 on the judgment;

19 (3) that as of the date of the claim, execution of the  
20 judgment has not been stayed nor has an application for a stay been  
21 filed; and

22 (4) that all persons entitled to share in the judgment have  
23 joined and signed the claim or have been served, more than 30 days  
24 previously, with notice that they will lose their right to share in  
25 the payment from the fund unless they join the claim.

26 (c) The commissioner may require a claimant to submit additional  
27 information in support of a claim.

28 (d) The statements of fact contained in a claim must be verified  
29 under oath if signed by a person other than an officer or employee of

1 the state or of a political subdivision acting in his official capacity.

2 (e) Payment from the fund may not be made unless the claim is  
3 filed with the commissioner within one year from the date on which the  
4 judgment is entered. If a stay of execution of the judgment is  
5 granted within one year after entry of the judgment, the time during  
6 which the stay is in effect may not be counted in computing the one-  
7 year period.

8 Sec. 45.84.050. PAYMENT. (a) If the commissioner determines  
9 that the judgment is against a contractor who has paid to the com-  
10 missioner the amount required by AS 45.84.020, and the judgment is for  
11 a claim described in AS 45.84.030(a), he shall pay to the claimant or  
12 claimants from the fund the amount of the actual damages plus costs,  
13 attorney fees, and interest, up to the maximum amount allowable under  
14 AS 45.84.030(b) and (c).

15 (b) In the case of multiple claimants under a single judgment,  
16 the commissioner shall make the payment jointly to all claimants  
17 unless he receives other written instructions signed by all claimants.

18 Sec. 45.84.060. ORDER OF PAYMENT. (a) Claims will be paid in  
19 the order in which they are filed with the commissioner until the  
20 maximum amounts under AS 45.84.030(b) and (c) are reached.

21 (b) If the money deposited in the fund is insufficient at a  
22 given time to satisfy one or more valid claims that are within the  
23 limits provided in AS 45.84.030(b) and (c), the commissioner shall,  
24 when sufficient money has been deposited in the fund, pay these claims  
25 plus accumulated interest at the rate of eight per cent a year, before  
26 paying a later filed claim.

27 Sec. 45.84.070. RIGHT TO SUBROGATION. The commissioner is sub-  
28 rogated to all of the rights of a judgment creditor to the amount paid  
29 on the judgment from the construction contractor surety fund, and as

1 a condition of receiving payment from the fund, the judgment creditor  
2 shall assign all of his right, title, and interest in that portion of  
3 the judgment to the commissioner. Amounts subsequently realized by  
4 the commissioner on the judgment under this section shall be deposited  
5 in the fund.

6 Sec. 45.84.080. DISCIPLINARY ACTION AGAINST SPECIALTY AND GENERAL  
7 CONTRACTORS. This chapter neither limits the authority of the Depart-  
8 ment of Commerce and Economic Development to take disciplinary action  
9 against any construction contractor licensed under AS 08.18, nor does  
10 it nullify or modify the effect of disciplinary proceedings brought  
11 under the provisions of AS 08.18.

12 \* Sec. 7. AS 08.18.071, 08.18.081, 08.18.091, 08.18.115, 08.18.121(b)  
13 and (c), and 08.18.171(3) are repealed.

14 \* Sec. 8. AS 08.18.021(a)(1) is repealed.

15 \* Sec. 9. Sections 2, 3, 4, 5, 6, and 7 of this Act take effect March  
16 31, 1982.