

Introduced: 2/13/84  
Referred: Labor & Commerce and  
Finance

1 IN THE HOUSE

BY FURNACE

2

HOUSE BILL NO. 610

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to construction contractors, estab-  
7 lishing the Board of Builders; and providing for an  
8 effective date."

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

10 \* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

11 (24) Board of Builders (AS 08.18.120).

12 \* Sec. 2. AS 08.01.050(a)(19) is amended to read:

13 (19) provide investigative services to the boards estab-  
14 lished under AS 08.04, AS 08.18, AS 08.20, AS 08.36, AS 08.64,  
15 AS 08.68, AS 08.70, AS 08.71, AS 08.72, AS 08.80, AS 08.84, and  
16 AS 08.86, for the purpose of assisting those boards in matters of  
17 professional discipline and in responding to consumer complaints.

18 \* Sec. 3. AS 08.01.070 is amended by adding a new subsection to read:

19 (b) (a)(3), (5), (6), and (8) of this section do not apply to  
20 the Board of Builders established under AS 08.18.120.

21 \* Sec. 4. AS 08.01.087(b) is amended to read:

22 (b) If it appears to the commissioner that a person has engaged  
23 in or is about to engage in an act or practice in violation of a  
24 provision of this chapter or a regulation adopted under it, or any of  
25 the laws pertaining to or regulations adopted by the boards listed in  
26 AS 08.01.010, the commissioner may, if the commissioner considers it  
27 in the public interest, and after notification to all board members by  
28 telephone or telegraph of a proposed order or action unless a majority  
29 of the members of the board object within 10 days,

1 (1) issue an order directing the person to stop the act or  
2 practice; however, reasonable notice of and an opportunity for a  
3 hearing must first be given to the person, except that the commis-  
4 sioner may issue a temporary order before a hearing is held; a tempo-  
5 rary order remains in effect until a final order affirming, modifying,  
6 or reversing the temporary order is issued or until 15 days after the  
7 person receives the notice and has not requested a hearing by that  
8 time; a temporary order becomes final if the person to whom the notice  
9 is addressed does not request a hearing within 15 days after receiving  
10 the notice; the commissioner or the commissioner's designee shall be  
11 the hearing officer at the hearing and shall issue a final order  
12 within 10 days after the hearing;

13 (2) bring an action in the superior court to enjoin the  
14 acts or practices and to enforce compliance with this chapter, a  
15 regulation adopted under it, or an order issued under it, or any of  
16 the laws pertaining to or regulations adopted by the boards listed in  
17 AS 08.01.010;

18 (3) examine or have examined the books and records of a  
19 [ANY] person whose business activities require licensure under  
20 AS 08.18 or by a board listed in AS 08.01.010 and [HE] may require  
21 that person to pay the reasonable costs of the examination; and

22 (4) issue subpoenas for the attendance of witnesses, and  
23 the production of books, records and other documents.

24 \* Sec. 5. AS 08.01.110(4) is amended to read:

25 (4) "license" means any license, certificate, permit, or  
26 registration or similar evidence of authority issued under AS 08.18 or  
27 by one of the boards listed in AS 08.01.010;

28 \* Sec. 6. AS 08.01.110(6) is amended to read:

29 (6) "occupation" means any of the trades or professions for

1       which licensure is required under AS 08.18 or by one of the boards  
2       listed in AS 08.01.010.

3       \* Sec. 7. AS 08.02.020 is amended to read:

4               Sec. 08.02.020. LIMITATION OF LIABILITY FOR MEMBERS OF [LICENS-  
5       ING] BOARDS. A person is not liable for damages or other relief in an  
6       action by reason of the person's performance of a duty, function, or  
7       activity as a member of a [LICENSING] board listed in AS 08.01.010 or  
8       by reason of a recommendation or action of the board when the person  
9       acts in the reasonable belief that the action or recommendation is  
10       warranted by facts known to the person or to the board after reason-  
11       able efforts to ascertain the facts upon which the action or recommen-  
12       dation is made.

13       \* Sec. 8. AS 08.03.010(c) is amended by adding a new paragraph to read:

14               (21) Board of Builders (AS 08.18.120) - June 30, 1988.

15       \* Sec. 9. AS 08.18.011 is amended by adding a new subsection to read:

16               (b) It is unlawful for a general contractor to accept the bid of  
17       or hire a person to work as a specialty contractor unless the person  
18       is registered under this chapter.

19       \* Sec. 10. AS 08.18.031 is amended by adding a new subsection to read:

20               (b) The commissioner may not issue a certificate of registration  
21       or renew the registration of an applicant whose registration has been  
22       revoked or suspended or against whom a civil penalty has been imposed  
23       by the board until the period of revocation or suspension has expired  
24       and any penalty has been paid.

25       \* Sec. 11. AS 08.18.051 is amended to read:

26               Sec. 08.18.051. IDENTIFICATION REQUIREMENTS [REGISTERED NAME].  
27       (a) Except as provided otherwise by [STATE] law, no person who has  
28       registered under one name as required by this chapter may act in the  
29       capacity of a contractor under any other name unless that name also is

1 registered.

2 (b) All advertising, contracts, correspondence, cards, signs,  
3 posters, papers and documents prepared by a contractor that [WHICH]  
4 show the contractor's name and address shall show the name and address  
5 as registered under this chapter and shall include the registration  
6 number.

7 (c) Every motor vehicle used primarily in the business of a  
8 contractor shall have displayed on each side the registered name and  
9 registration number of the contractor.

10 (d) Individual contractors and partners, associates, agents,  
11 salesmen, solicitors, officers and employees of contractors shall use  
12 their true names and addresses at all times while acting in the capac-  
13 ity of a contractor or performing related activities.

14 \* Sec. 12. AS 08.18.071(b) is amended to read:

15 (b) If the applicant is a general contractor the amount of the  
16 bond shall be \$10,000 [\$5,000]; if the applicant is a specialty con-  
17 tractor the amount of the bond shall be \$5,000 [\$2,000]. In lieu of  
18 the surety bond the applicant may file with the commissioner a cash  
19 deposit or other negotiable security acceptable to the commissioner  
20 [OF COMMERCE] in the amount specified for bonds.

21 \* Sec. 13. AS 08.18 is amended by adding a new section to Article 3 to  
22 read:

23 Sec. 08.18.120. CREATION AND MEMBERSHIP OF THE BOARD. There is  
24 established the Board of Builders consisting of

25 (1) three general contractors registered under this chap-  
26 ter, one of whom is a remodeling specialist and one of whom is a  
27 highway specialist;

28 (2) two specialty contractors registered under this chap-  
29 ter, one of whom is a plumbing specialist or electrical specialist;

1                   (3) one municipal employee or official responsible for  
2 local licensing of contractors; and

3                   (4) one public member.

4 \* Sec. 14. AS 08.18 is amended by adding new sections to read:

5                   Sec. 08.18.122. TERM OF OFFICE. Members of the board serve  
6 staggered terms of three years. A member may be appointed to serve no  
7 more than two consecutive full terms.

8                   Sec. 08.18.123. POWERS AND DUTIES OF THE BOARD. (a) The board  
9 may on its own motion or on receipt of a complaint request the depart-  
10 ment to investigate the practices of a contractor or a person who  
11 appears to be engaged in contracting and hold disciplinary hearings.

12                   (b) If the board finds after a hearing that a person has vio-  
13 lated this chapter or a regulation adopted under this chapter, or does  
14 not qualify for registration under this chapter, the board may

15                   (1) revoke or suspend the registration of a person regis-  
16 tered under this chapter; or

17                   (2) impose a civil penalty not to exceed \$1,000 for each  
18 violation and deny registration under this chapter until the depart-  
19 ment receives payment of the penalty.

20                   (c) The board shall notify the department of any action taken  
21 under (b) of this section.

22                   (d) The board may adopt regulations to carry out the provisions  
23 of this chapter.

24 \* Sec. 15. AS 08.18.131 is amended to read:

25                   Sec. 08.18.131. INJUNCTION. In an action instituted in the  
26 superior court by the board [COMMISSIONER OF LABOR OR THE COMMIS-  
27 SIONER'S REPRESENTATIVE], a person acting in the capacity of a con-  
28 tractor in violation of this chapter may be enjoined from doing so.  
29 In addition to other relief, a civil penalty not to exceed \$250 may be

1 imposed for each violation. Each day that an unlawful act continues  
2 constitutes a separate violation.

3 \* Sec. 16. AS 08.18.141 is amended to read:

4 Sec. 08.18.141. MISDEMEANOR. A person acting in the capacity of  
5 a contractor in violation of this chapter is guilty of a class A  
6 misdemeanor.

7 \* Sec. 17. AS 08.18 is amended by adding new sections to read:

8 Sec. 08.18.162. LIST OF REGISTERED CONTRACTORS. The department  
9 shall prepare and update every two weeks a list of persons registered  
10 under this chapter. The list shall include the registered name, the  
11 registration number, type of construction services offered, business  
12 address and telephone number of the contractor. The list shall be  
13 made available upon request and payment of a charge established by the  
14 department.

15 Sec. 08.18.163. PROHIBITION ON STATE LOANS. A state agency,  
16 corporation, or authority may not lend money for construction of a  
17 project or building that is constructed in violation of AS 08.18.011.  
18 The state agency, corporation, or authority shall make reasonable  
19 efforts to determine whether construction is proceeding in accordance  
20 with AS 08.18.011 before releasing money under a construction loan.

21 \* Sec. 18. AS 08.18.171 is amended by adding new paragraphs to read:

22 (4) "board" means the Board of Builders;

23 (5) "department" means the Department of Commerce and  
24 Economic Development.

25 \* Sec. 19. AS 34.35.069(a) is amended to read:

26 (a) A person other than an individual as defined in AS 34.35.-  
27 120(10) may not claim a lien under AS 34.35.050 - 34.35.120 for fur-  
28 nishing labor, materials, services, or equipment to a person other  
29 than the owner of the real property being improved unless

1           (1) at the time [HE RECORDS] a claim of lien as provided in  
2 AS 34.35.070 or a notice of right to lien as provided in AS 34.35.067  
3 is recorded [HE ALSO RECORDS], an authenticated copy of an acknowledg-  
4 ment of right to lien received from the owner is also recorded; and

5           (2) if the lien is for furnishing materials, the person to  
6 whom they were furnished was registered under AS 08.18 at the time  
7 they were furnished.

8 \* Sec. 20. AS 44.62.330(a) is amended by adding a new paragraph to  
9 read:

10           (53) Board of Builders (AS 08.18.120).

11 \* Sec. 21. AS 08.18.121 is repealed.

12 \* Sec. 22. Notwithstanding AS 08.18.120 as enacted in sec. 13 of this  
13 Act, the first members of the Board of Builders shall be appointed for the  
14 following terms: two members shall serve one-year terms; two members shall  
15 serve two-year terms; and three members shall serve three-year terms.

16 \* Sec. 23. This Act takes effect July 1, 1984.