

3-18-82

(NIGHT
MEETING)

HB 832

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 18, 1982
7:15 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 832 An Act relating to the regulation of
contractors; and providing for an effective
date.

WITNESS REGISTER

Joe Guthrie
725 Fifth Street
Juneau, Alaska 99801
586-6250
Position Statement: Supported bill.

George Imbsen
2113 2nd Street
Douglas, Alaska
364-2242
Position Statement: Supported need for bill.

Edith Brand
4617 River Road
Juneau, Alaska
465-4855
Position Statement: Supported need for bill.

Phil Morris
no phone or address given
Position Statement: Supported need for bill.

Jim McConaghy
Box 273
Auke Bay, Alaska
789-9547
Position Statement: Comments on previous testimony and on bill.

PREVIOUS ACTION

HB 832 See minutes of 3/2/82.

Statutory Reference: AS 08.01.010; AS 08.18

Action Taken: This was a special night meeting to allow Juneau area residents the opportunity to testify outside normal working hours. No formal action was taken.

ACTION NARRATIVE

Tape #40
Recording
Number 000

The meeting was called to order by Chairman Martin at 7:15 p.m. Members present were: Reps. Martin, Bylsma, Randolph, Rogers. Rep. Gardiner was absent. The purpose of the meeting was to allow Juneau area residents the opportunity to testify on HB 832 outside their normal working hours.

Number 017

Joe Guthrie said, since the last meeting, it seems there's an emerging consensus that elements of the bill will be enacted, but there is some doubt whether the surety fund will remain in the bill. He still supports the surety fund, but thinks the objective can be achieved in other ways. He has heard some contractors maintain that they should not have to pay for someone else's mistakes, but they carry other kinds of insurance, so this fund is not a novel idea. He felt the legislature has the prerogative to require it. He said there is a real need for some kind of risk pool.

Number 062

Guthrie said he has also heard contractors say problems would be solved if the existing laws were enforced. Guthrie felt that many problems have been caused by licensed contractors. He said many people are careful consumers. In many cases, the people injured have taken every precaution, but they often suffer losses because of gross negligence on the part of the contractor. He related his personal experience. Guthrie said the surety fund is really needed to protect consumers.

Number 120

Rep. Martin asked if small claims court could not clear up many of the problems Guthrie spoke of. Guthrie said the bill would provide for an adjudicator to hear claims cheaply and expeditiously, and said the courts aren't set up to provide this

quick, inexpensive service.

Number 150

The committee discussed Guthrie's particular situation. Rep. Bylsma noted there is no time limit provided in which claims can be brought. He said one could wait twenty years to make a claim, in some cases. This was discussed.

Number 175

George Imbsen told of his experience with a contractor. He began building a house, and hired a framing contractor. The contractor hired a subcontractor to do the roofing. The contractor then came to Imbsen for funds to pay the subcontractor; took the funds; never paid the subcontractor; and left town.

Number 227

Edith Brand said she had, over a period of time, had three houses constructed. She had no problems with the first contractor. On the second house, the contractor did not put in enough pilings. The house settled and warped (doors would not shut, etc.). She got a judgment against the piledriver, but still lost money. The house would have been worth \$90,000, but the Borough assessed it at only \$42,000. She contracted a third house to be built. Six months after the contractor began building, he presented her with a bill. She refused to pay a portion of the bill because he had not complete all the work. He refused to do the work she wanted; she refused to pay. The bank refused to finance the house because the contractor put a lien against it, so she had to pay construction loan interest for a year while the matter was in court.

Number 312

Rep. Rogers did not see how the bill would address Brand's situation. There was discussion. Rep. Rogers said, as provided in the bill, the process in a dispute would be the same as now exists--the matter would go to court, or, if the bill were enacted, might go before the administrative arbitrator. Rep. Bylsma suggested contacting the Consumer Protection Agency. Rep. Martin had questions about how Brand went about selecting her contractors.

Number 385

Phil Morris had a home built which was finished about a year ago June. The contractor estimated the house would cost \$100,000. Morris was paying the contractor

as work was being completed; by the time he had paid \$90,000, the house was not even fully framed. He lost money on the deal. Morris felt part of the problem was that, as a contractor's business grows, he spends less time personally supervising construction. He was also concerned that contractors aren't required to bond high enough to cover costs.

Number 471

Rep. Rogers said that was a good point, but that the problem with bonding for a small or new contractor was that bonding is not available. He said increasing bond requirements would be a barrier to new people getting into the business, because, as they cannot get bonds, they would have to put up cash, which most new or small businesses don't have. Rep. Rogers asked Rep. Randolph if there was any way to make it easier for new contractors to get bonding, so that the bonding limit could be raised. Rep. Randolph said the cost would be prohibitive, thousands of dollars per year. Jeff Barry, committee aide, suggested that basing the bond on the percentage of business the contractor does might be easier. Rep. Randolph felt the best approach was to have an effective, efficient, and economical arbitration system. He thought the arbitration process which might be established by the bill would be more efficient than the court system.

Number 585

Rep. Rogers suggested setting up a loan program for homebuilders associations to set up their own surety funds. This would give people the option of going to the homebuilders association, where they had some security in their investment, or of choosing a "fly-by-night" contractor. Rep. Randolph thought that was a great idea. Also, each association could set their own criteria, which would benefit the consumer.

Number 635

Jim McConaghy, president of Juneau Homebuilders Association, said the association would be represented at the teleconference, and would present formal recommendations and resolutions for the committee's consideration. In response to previous testimony, McConaghy said he would like figures on how many problems are caused by licensed contractors. He said he met

with the Department of Commerce and another agency, who indicated that the majority of problems were with unlicensed contractors. McConaghy gave examples. He wondered how far the state should go in protecting people from themselves. There was discussion.

Side B, Number 008

As there was no further business to come before the committee, the meeting was adjourned at 8:04 p.m.

Absent:
Gardiner

H. Labor & Commerce

3/18/82

HB 832 - Special night mtg

Tape #40

7:15

000 Call to order; int'd HB 832

017

Joe Guthrie - since last mtg, seems there's emerging ^{elements of} consensus, bill will be enacted, but some doubt whether surety fund will remain in bill. Still supports surety fund, but thinks objective can be achieved in other ways. Has heard contractors maintain they shouldn't have to pay for someone else's mistakes, but they carry other kinds of insurance, so this fund is not a novel idea, & legis has prerogative to require it. Real need for some kind of risk pool.

062

Has also heard contractors say probs wd be solved if existing laws were enforced; he thinks many probs have been caused by licensed contractors.

071

Many people damaged are careful consumers. In many cases, people injured take every precaution. Often suffer loss because of gross negligence. ~~Wesley~~ Have an example of his personal experience.

116

Surety fund is really needed; it's not the consumer's fault.

120

Martin asked if small courts claim cd clear this up. Guthrie said they are going to it, but bill wd provide ^{for} adjudicator to hear claims cheaply & quickly. Courts aren't set up to handle these problems expeditiously & cheaply.

- 150 ~~Bylsma asks~~ Discussion of Guthrie's particular sit'n. Bylsma noted no time limit for claims; could wait 20 yrs to make a claim in some cases.
- 175 George ~~Janson~~^{Imbison} - related personal experience. Began bldg house 5 yrs ago; hired framing contractor. One thing in contract was job shd be done in a timely manner. Contractor subbed roofing to another contractor; Contractor then asked for money to pay roofers, got it, & never paid roofers; subsequently left town.
- 227 Edith Brand - Contractor didn't put enough joistings in house; floor settled & warped (doors wdn't shut, etc) Got judgment against joistdrives, but still lost money. Wd have been \$90,000 house, but only worth \$60,000 w/ found'n prob. Average assessed it at \$42,000. - Built another house, contracted out. 6 mos after he began bldg, he presented bill; she wdn't pay a portion of bill because he hadn't completed everything. He refused to do work she wanted, she wouldn't pay. Bank wdn't finance house because he liened it. Had to pay construction loan 9% for a yr while matter was in court.
- 314 Rogers didn't see how bill wd address this; ^{Brand} Janson said, p 9, item 6, wd cover it. Discussion Rogers said, ^{process in a} ~~dispute~~ wd be same as process now - court (or, in bill, administrative arbitrator). Bylsma suggested CPA.

350 Martin asked how she selected contractors — 1st house, she knew guy; second house, went to Capp Homes; third house she bid.

385 ^{Morris} Phil Morris — had home built, finished abt a yr ago June. Estimated \$100,000; at \$90,000, house was not fully framed (he was paying contractor on demand). Had to put out \$50,000

Felt part of prob was, as contractors business grows, he spends less time personally supervising construction. Also concerned contractors aren't req'd to bond high enough to cover costs

471 Rogers said that's a good point, but prob w/ bonding for small, new contractor is it's not available. Barriers to new people getting into business, as, especially if bond reqmt is raised, because small businesses have to put up cash, & they don't have it.

503 Rogers asked Randolph if there was any way to make it easier for new contractors to get bonding, so that bonding limit can be raised.

Randolph said cost of 30-40,000 bond wd be prohibitive (thousands per yr.)

Barry said basing bond on %age of business might be easier. Randolph felt best approach was to have effective efficient concial arbitration system. Thought arbit'n process cd be established thought wd be more efficient than ct system.

585 Rogers suggested setting up loan pgm for homebuilders, to ^{assn} set up their own surety fund. This wd give people the option of going to assn or a fly by night operation. Randolph thought that was a great idea; each assn wd set their own criteria, which wd benefit consumers.

635 Jim Mc ^{Conaghy} ~~Conaghy~~, pres, gnu Homebuilders - Assn will attend teleconf w/ formal recommendations & resolutions.

Commented on tonight's testimony - re "lots of pblms caused by licensed contractors" - he'd like figures on that.

Met w/ dept of Commerce, who said majority of probs were with unlicensed contractors. Checked on ~~some other~~

~~past problems in the~~, per Phil Wolton. Have examples. Wondered how far state shd go in protecting people from themselves.

~~743 Randolph had notes. Discussion~~

side B
008

~~Re~~ Martin adjourned public mtg 8:04 pm

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 3/18/80

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	_____ ✓	_____	7:00	
Rep. D. Randolph	_____ ✓	_____	7:18	
Rep. B. Rogers	_____ ✓	_____	7:15	
Rep. T. Gardiner				
Rep. T. Martin, Chair	_____ ✓	_____	6:30	

Subject Matter:

House Bill No. 832 _____

Senate Bill No. _____

Special Orders:

*Special night mtg to allow junau residents
to testify on bill*