

S B

3 3 2

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 310 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public construction and public
7 works contracts."

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

9 * Section 1. AS 36.25.020(b) is amended to read:

10 (b) However, a person having direct contractual relationships
11 with a subcontractor but no contractual relationship express or im-
12 plied with the contractor furnishing the payment bond has a right of
13 action on the payment bond upon giving written notice to the contrac-
14 tor within 90 days from the last date on which the person performed
15 labor or furnished material for which the claim is made. The notice
16 must state with substantial accuracy the amount claimed and the name
17 of the person to whom the material was furnished or for whom the labor
18 was performed. The notice shall be served by mailing it by registered
19 mail, postage prepaid, in an envelope addressed to the contractor at a
20 [ANY] place where the contractor maintains an office or conducts
21 business, or the contractor's residence, or in a [ANY] manner in which
22 a peace officer is authorized to serve summons. In this subsection,
23 "subcontractor" includes a subcontractor of another subcontractor,
24 whether or not the other subcontractor has a direct contractual rela-
25 tionship with the contractor.

26 * Sec. 2. AS 36.30.635(a) is amended to read:

27 (a) ~~Except as provided otherwise under (d) of this section,~~
28 ~~after [AFTER] consultation with the using agency and the attorney~~
29 ~~general and after a hearing conducted under [ACCORDING TO]~~

Marked-up
version provided
by Dwight Perkins
x x x x x x
Evidently he feels
this bill approaches
the problem in a
better fashion.

1 AS 36.30.670 and regulations adopted by the commissioner of adminis-
2 tration, the commissioner of administration or the commissioner of
3 transportation and public facilities may debar a person for cause from
4 consideration for award of contracts. Notice of a debarment hearing
5 shall be provided in writing at least seven days before the hearing.
6 The debarment may not be for a period of more than three years.

7 * Sec. 3. AS 36.30.635 is amended by adding new subsections to read:

8 (d) After consultation with the using agency and the attorney
9 general and after a hearing conducted under AS 36.30.670 and regula-
10 tions adopted by the commissioner of administration, the commissioner
11 of transportation and public facilities shall debar a person from
12 consideration for award of contracts if the person was the prime
13 contractor on an agency construction contract and failed to pay a
14 subcontractor on the project within the time established for the
15 payment in the construction contract.

16 (e) If a subcontractor on an agency construction contract com-
17 plains to the Department of Transportation and Public Facilities that
18 the prime contractor on the construction project has not paid the
19 subcontractor within the time established in the prime contractor's
20 contract with the agency, the commissioner shall investigate the
21 complaint. If the commissioner's investigation determines that the
22 complaint is valid, the commissioner shall proceed under (d) of this
23 section.

24 (f) In (d) - (f) of this subsection

25 (1) "construction contract" does not include a contract for
26 architectural, engineering, or land surveying services, unless the
27 contract includes other construction services;

28 (2) "prime contractor" means a person who has contracted
29 with an agency to perform a construction project;

1 (3) "subcontractor" means a person who has a direct con-
2 tractual relationship with a prime contractor to provide services,
3 materials, or labor for an agency construction project, but does not
4 include an employee.

5 * Sec. 4. AS 36.30.685(a) is amended to read:

6 (a) A final decision of the commissioner of administration or
7 the commissioner of transportation and public facilities under AS 36.-
8 30.610, 36.30.635(a), 36.30.635(d), 36.30.650, or 36.30.680 may be
9 appealed to the superior court in accordance with the Alaska Rules of
10 Appellate Procedure.

11 * Sec. 5. AS 36.90 is amended by adding a new section to read:

12 Sec. 36.90.020. NOTICE BY SUBCONTRACTOR. A person who contracts
13 other than as an employee to furnish services, materials, or equipment
14 for a public construction or public works project shall give the prime
15 contractor on the project written notice of the contract within 10
16 days of entering into the contract. In this section, "p ime contrac-
17 tor" means the person who has contracted with the state to perform the
18 project.

19 * Sec. 6. This Act applies to contracts that are entered into on or
20 after the effective date of this Act.



Linda, Reply Info provided by Dwight Perkins
OK Lumber Company, Inc.
Building Supply Center & Hardware

February 18, 1988

P. O. BOX 10449
FAIRBANKS, ALASKA 99710
(907) 457-6270
FAX (907) 457-3122

Representative Boucher
P.O. Box V
Juneau, Alaska 99811

Ref: S-B 332 - Relating to Mechanic' & Materialmen's Liens.

I cannot believe that Mr. Fischer could have possibly let Bill 332 by him or his staff. All this talk of helping business' in Alaska and you insert an amendment that gives the Alaskan Supplier and Subcontractor absolutely NO RECOURSE!

Again, as in the late 70s, This senate bill 332, gives General contractors the opportunity to take the money for jobs that they do from their customers and skip town with all thier sub and materialmen HOLDING THE BAG!

You legislators certainly know how to encourage the "fly by night" contractors to come to Alaska, Do a construction job, per construction standards not in unison of Alaska's needs, Charging the customer at a lower price, and then getting his money up front, and leave all the Alaskan Subs and Alaskan Materialmen UNPAID!

I urge you to oppose this bill! I will expect that you will send your affidavit to this amendment on Senate Bill 332. I will want to know how you vote on this piece of legislation!

On a positive note, I believe that even though our lien bill may still have some loopholes, it is far better than it was in the late 70s. Perhaps state funds that are issued for construction could be made out in the name of the Materialmen, as well as the General Contractor. That would possibly eliminate a General, who by either missusing his funds, or skipping the state would put the sub and materialman at risk.

After all, it is the materialmen who put out the money first, they have to have the inventory immediately available in order that the General does not lose valuable job time.

It seems highly unfair, that you should scratch out the materialmen' right to collect in one strcke of your pen!

FOR THE SAKE OF ALASKA'S ECONOMY, OPPOSE THIS BILL! Alaska can't afford to have more business's go down the drain because of a bill that gives away the store!

Sincerely yours,

Angie Kruckenberg
Angie Kruckenberg

Copy sent to each legislator and senator, and Governor Cowper.

TRUSS FABRICATION PLANT • DOORS • WINDOWS • CABINETS

FACILITIES LOCATED AT 649 ROHLOFF STREET, JUST OFF OF 4 MILE OLD STEESE HWY., ACROSS FROM CURRY'S CORNER