

**ALASKA LEGISLATURE**

**2479**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004**

45



# RECORDS CERTIFICATION



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*William J. Carter*

\_\_\_\_\_  
Signature of Camera Operator

*5/18/2005*

\_\_\_\_\_  
Date

**HB**

**2**

**HFIN**

**FILE**

# Alaska State Legislature

Co-Chair  
House Finance Committee  
Subcommittee Chair  
Environmental Conservation  
Courts

During Session:  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-3424  
Fax (907) 465-3793

In Ketchikan:  
50 Front Street, Suite 203  
Ketchikan, AK 99901  
(907) 247-4672  
Fax (907) 225-8546

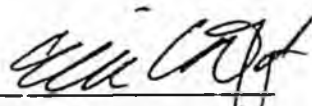
Representative William K. Williams

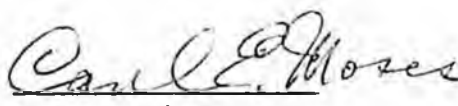
March 17, 2003

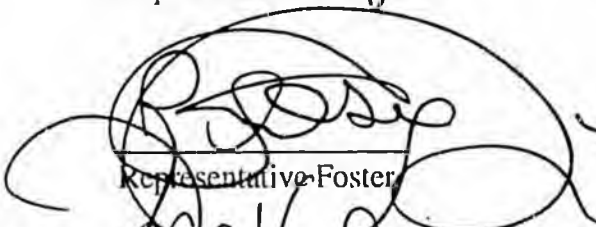
MEMO


TO: Co-Chair Rep. Harris & Members, House Finance Committee  
FROM: Co-Chair Rep. Williams  
RE: Waiving CS HB 2 (Judiciary) from Committee

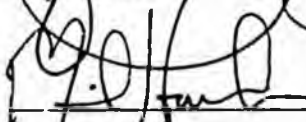
I support the waiver request from the sponsor for CS for HB 2. A copy of the bill and any fiscal notes are attached. Please indicate your support.

  
Representative Croft


  
Representative Moses

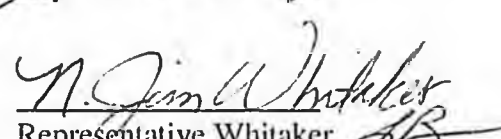
  
Representative Foster


  
Representative Stevens-Chenault


  
Representative Hawker

  
Representative Stoltz

  
Representative Joule

  
Representative Whitaker

  
Vice-Chair Meyer

  
Co-Chair Harris



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## Sponsor Statement

### CS HB 2(JUD)

**“An Act relating to the statute of limitations for certain civil actions; and providing for an effective date.”**

CS HB 2(JUD) is a clean-up bill that clarifies which misdemeanors and felonies involving sexual assault and sexual abuse have a three-year statute of limitations on civil actions, and which felonies have no statute of limitations on civil actions.

In 2001, the Twenty-second Legislature passed HB 210 Statute of Limitations: Sexual Assault and Sexual Abuse of a Minor. The original intent of HB 210 was to remove the criminal statute of limitations for felony sexual assault and sexual abuse of a minor. HB 210 was amended on the House floor and, as a result, both the criminal and the civil statute of limitations for all felony sexual assault and felony sexual abuse of a minor were removed. The floor amendment caused several statutory inconsistencies pertaining to civil statute of limitations.

The 2001 floor amendment did not reference “felony sexual abuse of a minor” and “felony sexual assault” to particular sections of the criminal code. The floor amendment did not make clear whether certain felonies included in AS 09.10.060(c) that are not sexual assault or sexual abuse of a minor, are intended to have: 1. No statute of limitations; 2. A two-year statute of limitations; or, 3. A three-year statute of limitations.

Also, the floor amendment did not make a specific provision for misdemeanor sexual abuse or sexual assault crimes. As a consequence, the civil statute of limitations for those crimes dropped to two years, for torts in general. Prior to the floor amendment, the statute of limitations was three years.

CS HB 2(JUD) establishes the civil statute of limitations at three years for misdemeanor sexual assault, misdemeanor sexual abuse of a minor, incest, and felony indecent exposure. Under CS HB 2(JUD), unlawful exploitation of a minor, a class B felony, is added to the list of sexual assault crimes in which the civil statute of limitations is removed.

Last Updated: March 10, 2003

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 2(JUD)  
 (H) Publish Date: 3/12/2003

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Statute of Limitation for Sex Crimes BRU Alaska Court System  
 Component Trial Courts  
 Sponsor Representative Meyer  
 Requester House Judiciary Component No. 768

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 2.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750  
 Division Alaska Court System Date/Time 3/12/03 2:26 PM  
 Approved by: Stephanie Cole, Administrative Director Date 3/12/2003  
 Agency Alaska Court System

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 2(JUD)  
 (H) Publish Date: 3/12/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title "An Act relating to the statute of limitations for BRU Civil Division  
certain civil actions; . . ." Component Special Litigation  
 Sponsor Representative Meyer  
 Requester House Judiciary Committee Component No. 2213

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill removes the statute of limitations for when a person may bring a civil action for unlawful exploitation of a minor, and extends the statute of limitations for other civil actions stemming from certain criminal conduct.

This bill concerns private rights of action against perpetrators of specified criminal conduct, and will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370  
 Division Attorney General's Office Date/Time 3/10/03 11:28 AM  
 Approved by: Kathryn Daughhettee for Gregg D. Renkas, Attorney General Date 3/10/2003  
 Agency Department of Law

**HB**

**9**

HFIN

FILE



# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSHB 9(L&C)  
 (H) Publish Date: 1/31/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title An Act relating to the registration of BRU Occupational Licensing (117)  
individuals who perform home inspections Component Occupational Licensing  
 Sponsor Representative Rokeberg  
 Requester House Labor and Commerce Component No. 2360

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	53.1	53.1	53.1	53.1	53.1	53.1
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	6.0	6.0	6.0	6.0	6.0	6.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>66.1</b>	<b>60.1</b>	<b>60.1</b>	<b>60.1</b>	<b>60.1</b>	<b>60.1</b>

CAPITAL EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009

CHANGE IN REVENUES (1156)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
	126.2	0.0	120.2	0.0	120.2	0.0

**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other - 1156 Receipt Supported Services	66.1	60.1	60.1	60.1	60.1	60.1
<b>TOTAL</b>	<b>66.1</b>	<b>60.1</b>	<b>60.1</b>	<b>60.1</b>	<b>60.1</b>	<b>60.1</b>

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Part-time	2	2	2	2	2	2
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill creates mandatory registration of Home Inspectors in the State of Alaska. The bill provides for the Division of Occupational Licensing to administer the program without a board, and incorporates the registration within the provisions of AS 08.18, which is the Construction Contractor registration program. The Division of Occupational Licensing is required by statute to recover the cost of boards; the revenue would be collected every other year as a result of the biennial licensing cycle.

An explanation of the costs shown above is on page 2.

Prepared by: Rick Urion, Director Phone (907) 465-2538  
 Division: Occupational Licensing Date/Time 1/29/03 8:52 AM  
 Approved by: Edgar Blatchford, Commissioner Date 1/29/2003  
 Agency: Department of Community & Economic Development

FISCAL NOTE No. 4

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. CSHB 9(L&C)

**ANALYSIS CONTINUATION**

HB 9: An Act relating to the registration of individuals who perform home inspections;....  
Page 2 of 2

**Total PERSONAL SERVICES: \$53.1**

- Occupational Licensing Examiner I position, PPT, Range 12, \$22.0
- 1/2 Investigator III position, Range 18A, \$31.1

**Total TRAVEL: \$0.0**

**Total CONTRACTUAL SERVICES: \$6.0**

- 30 hours of AG legal time for regulations and license appeals, \$3.0
  - Printing, postage, communication, and advertising costs, \$3.0
- The contractual services total does not include any expenditures for purchase of a license examination. This fiscal note assumes applicants will pay the testing service directly for the examination.

**Total SUPPLIES: \$1.0**

To fund daily operating supplies of the program.

**Total EQUIPMENT (one-time costs): \$6.0**

Office equipment and workstation set-up for the support positions.

**TOTAL FISCAL NOTE: \$66.1**

REVENUE & FUND SOURCE: Revenue will be generated by specialty contractors, home inspectors, and associate home inspectors licensing fees sufficient to cover direct and indirect program costs.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 9(L&C)  
 (H) Publish Date: 1/31/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
 Title: Home Inspectors/Contractors BRU: Labor Standards & Safety  
 Component: Mechanical Inspection  
 Sponsor: Representative Rokeberg  
 Requester: House L&C Component Number: 346

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill relates to home inspections and licensed contractors which are functions of the Department of Community and Economic Development. The proposed changes to AS 08 do not affect the Department of Labor and Workforce Development. The department anticipates no fiscal impact.

Prepared by: Hall Denton, Acting Director Phone: 465-4855  
 Division: Labor Standards & Safety Date/Time: 1/28/03 12:27 PM  
 Approved by: Greg O'Claray, Commissioner Date: 01/28/03  
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 9(L&C)  
 (H) Publish Date: 1/31/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title "An Act relating to the registration of individuals BRU Civil  
who perform home inspections; . . ." Component Fair Business Practices  
 Sponsor Representative Rokeberg  
 Requester House Labor and Commerce Committee Component No. 2206

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 9 adds home inspectors as a licensed occupation regulated by the Division of Occupational Licensing. Any time a new profession is added to the occupational licensing statutes, new legal services may be required. For example, Department of Law assistance may be required in hearings resulting from the denial of a license or from license discipline. However, the amount of legal work that is likely to arise from the addition of this profession is not expected to be significant enough to cause a fiscal impact to the Department of Law.

Prepared by: Joan M. Kasson  
 Division: Attorney General's Office  
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General  
 Agency: Department of Law

Phone (907) 465-5370  
 Date/Time 1/29/03 1:43 PM  
 Date 1/29/2003

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 9(L&C)  
 (H) Publish Date: 1/31/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Home inspectors / contractors BRU: Alaska Housing Finance Corp.  
 Component: Operations  
 Sponsor: Rep. Rokeberg  
 Requester: (H) Labor and Commerce Committee Component No.: 110

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

AS 18.56.300 is amended to establish a system for state-licensed home inspectors for the approval of homes for mortgage purchases by AHFC. The current construction standard is approved by the International Conference of Building Officials (ICBO).

Any AHFC costs of this new licensing program would relate to educational efforts regarding the changes to the home inspection process. For example, homebuyers, realtors, homebuilders and mortgage lenders will need to know of the new requirements to ensure minimal disruptions in closing home mortgage transactions. These activities can be adequately covered within AHFC's annual budget authorizations.

Prepared by: Bryan Butcher Phone 330-8445  
 Division: Alaska Housing Finance Corporation Date/Time 1/28/03 12:23 PM  
 Approved by: Larry Persily, Deputy Commissioner Date 1/28/2003  
 Agency: Department of Revenue

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
LEGISLATIVE ETHICS COMMITTEE, MEMBER

website: <http://www.akrepub.org/rokeberg/>



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PHONE: (907) 269-0117  
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SESSION:  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4968  
FAX: (907) 465-2040

## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

### MEMORANDUM

To: House Finance Committee Members

From: Representative Norman Rokeberg

Date: February 19, 2003

Re: CS for HB 9 (23-LS0029\Q)

A handwritten signature in black ink, appearing to read "Norman Rokeberg".

The following changes were made in the CS now before you:

1. Page 1, Line 6:  
Added language to the title reflecting the repeal in Section 41 of the bill.
2. Page 5, Line 27 & Page 6, Line 8:  
Added a requirement that the home inspector put his registration number on the pre-inspection contract, as well as the final report.
3. Page 10, Lines 12 & 13:  
Included exception to the statute of limitations for intentional acts or gross negligence by the home inspector.
4. Page 10, Line 15:  
Rewrote subsection (c) to be in the affirmative. Only a party to the real estate transaction, or someone who received written permission to use the home inspection report can sue the home inspector.

**Sec. 09.10.055. Statute of repose of 10 years.**

(a) Notwithstanding the disability of minority described under AS 09.10.140(a), a person may not bring an action for personal injury, death, or property damage unless commenced within 10 years of the earlier of the date of

(1) substantial completion of the construction alleged to have caused the personal injury, death, or property damage; however, the limitation of this paragraph does not apply to a claim resulting from an intentional or reckless disregard of specific project design plans and specifications or building codes; in this paragraph, "substantial completion" means the date when construction is sufficiently completed to allow the owner or a person authorized by the owner to occupy the improvement or to use the improvement in the manner for which it was intended; or

(2) the last act alleged to have caused the personal injury, death, or property damage.

(b) This section does not apply if

(1) the personal injury, death, or property damage resulted from

(A) prolonged exposure to hazardous waste;

(B) an intentional act or gross negligence;

(C) fraud or misrepresentation;

(D) breach of an express warranty or guarantee;

(E) a defective product; in this subparagraph, "product" means an object that has intrinsic value, is capable of delivery as an assembled whole or as a component part, and is introduced into trade or commerce; or

(F) breach of trust or fiduciary duty;

(2) the facts that would give notice of a potential cause of action are intentionally concealed;

(3) a shorter period of time for bringing the action is imposed under another provision of law;

(4) the provisions of this section are waived by contract; or

(5) the facts that would constitute accrual of a cause of action of a minor are not discoverable in the exercise of reasonable care by the minor's parent or guardian.

(c) The limitation imposed under (a) of this section is tolled during any period in which there exists the undiscovered presence of a foreign body that has no therapeutic or diagnostic purpose or effect in the body of the injured person and the action is based on the presence of the foreign body.

(§ 2 ch 61 SLA 1967; am § 3 ch 28 SLA 1994; am § 5 ch 26 SLA 1997)

**Cross references.** For legislative findings in connection with the 1994 amendment of this section, and for applicability of those amendments, see §§ 1 and 4, ch. 28, SLA 1994 in the Temporary and Special Acts.

For a statement of legislative intent relating to the provisions of ch. 26, SLA 1997, see § 1, ch. 26, SLA 1997 in the 1997 Temporary and Special Acts. For severability of the provisions ch. 26, SLA 1997, see § 56, ch. 26, SLA 1997 in the 1997 Temporary and Special Acts.

**Effect of amendments.** The 1994 amendment, effective August 5, 1994, rewrote this section.

The 1997 amendment, effective August 7, 1997, rewrote this section.

**Editor's notes.** Section 55, ch. 26, SLA 1997 provides that the provisions of ch. 26, SLA 1997 apply "to all causes of action accruing on or after August 7, 1997."

#### NOTES TO DECISIONS

**Constitutionality.** - Section violates equal protection clause of Alaska Constitution because it bears no substantial relationship between exempting design professionals from liability, shifting liability for defective design and construction to owners and material suppliers, and the goal of encouraging construction. *Turner Constr. Co. v. Scales*, 752 P.2d 467 (Alaska 1988) (decided prior to the 1994 amendment).

**Cited in** *Moore v. Allstate Ins. Co.* 995 P.2d 231 (Alaska 2000).

**Collateral references.** What statute of limitations governs action by contractee for defective or improper performance of work by private building contractor, 1 ALR3d 914.

When statute of limitations begins to run on negligent design claim against architect, 90 ALR3d 507.

Validity and construction, as to claim alleging design defects, of statute imposing time limitations upon action against architect or engineer for injury or death arising out of defective or unsafe condition of improvement to real property, 93 ALR3d 1242.

Statutes of limitation - actions by purchasers or contractees against vendors or contractors involving defects in houses or other buildings caused by soil instability, 12 ALR4th 866.

# 1

adopted

AMENDMENT

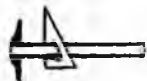
OFFERED IN THE HOUSE  
TO: CS HB 9 ( ) (23-LS0029\Q)

BY REPRESENTATIVE Foster

Page 7, Line 7, after "State,"

Delete: "Homebuilders"

Insert: "Home Building"



# Husky Enterprises LLC

Building Inspections - Fire & Life Safety Consultants  
Electrical & Mechanical Administrator  
Heating, Mechanical & Building Maintenance  
Construction Support Services

P.O. Box 790  
Kotzebue, Alaska 99752-0790  
(907) 442-3125  
Fax / Ans. Machine 442-3888

February 19, 2003

Via FAX to (907) 465-4586

Rep. Reggie Joule  
Alaska Legislature  
State Capitol, Room 405  
Juneau, Alaska 99801-1182

IN RE: HB-9

Dear Reggie:

I am writing today to express my concerns over the proposed legislation requiring licensing of private home inspectors. This bill, if it becomes law, will have a profound impact on individuals and lending institutions seeking inspections on new and existing homes in Kotzebue and other rural areas of Alaska.

I have been performing inspections of new and existing homes in Kotzebue for over 20 years. I hold 52 inspector certifications from ICBO, BOCA, and SBCCI. I am a registered construction inspector with the American Construction Inspectors Association in five categories that includes home construction. I have worked in the construction and facility management field for almost 40 years and been involved in over \$160 million in construction, most of it in Northwest Alaska. I am an AHFC/ICBO inspector and helped develop that program as a consultant and instructor back in the early 1990s.

To my knowledge, I am the only inspector living within the Northwest Arctic Borough performing new and existing home inspections in the Kotzebue and the outlying villages. The market for inspections is limited. I average 5-7 existing home inspections and 1-2 new inspections per year. This is only a small portion of my business with the balance of my work in commercial construction and inspections, fire investigations and other support activities. While I do only a few home inspections each year, they are important inspections and of value to the buyers, sellers and financial institutions involved.

What has not been brought out in the discussion of this legislation is that according to estimates provided by this bill's sponsors is that HB-9 will result in the licensing of only about 100 private home inspectors throughout the State. If this is true, then the cost of the \$65,000 per year program will result in a license that could cost every inspector \$650 or more per year.

Add to this the \$325 annual bond cost and \$750 to \$1000 a year in continuing education requirements and the result may reach \$1500 to \$2000 annually to be a licensed home inspector. This could add about \$200 to the cost of each home inspection I perform and likely reduce the number of people who are willing to pay for a home inspection. In turn, a reduction in the number of inspections will increase the cost per inspection for me to continue as a home inspector. It becomes a vicious cycle. I may be forced to cease doing home inspections.

If I stop performing home inspections because of the cost of licensing, a person or a financial institution wanting a home inspection in the borough will have to fly an inspector in from Anchorage or Fairbanks. This will add another \$600 to \$850 in travel costs to each home inspection.

There is no greater need for home inspections than in rural Alaska where many of the homes are constructed by inexperienced owner/builders, without the oversight of municipal building departments, inspections or permits. The few private home inspectors working in the rural areas of the State perform a valuable function. This bill will force some of them out of business and others to significantly raise their inspection fees.

This bill is advertised as consumer protection legislation. I fail to see how raising the cost of home inspections or making access to a home inspector more difficult protects the consumer. It is important to remember that new construction in Anchorage, Fairbanks, Juneau and other large cities will not be affected by this legislation because municipal inspectors are exempt from licensing under this bill. This bill only targets new construction in rural areas and only that construction which seeks AHFC financing.

At the very least this bill should have more publicity and input from lenders and residents in rural Alaska before it is considered for passage. The bill contains a number of technical flaws that require further examination. As the bill is presently written, it is not cost effective nor does it improve the quality of home inspections, it simply increases the cost.

I encourage you to oppose this legislation in its current form. Given the State's current fiscal crisis, we cannot afford new government regulation whose only purpose is to make more costly home ownership without materially improving the quality of that home.

Thank you for the opportunity to comment on HE-9. In the future, I hope to be able to provide more detailed comments on my concerns and suggestions for improving this legislation.

Sincerely,



C. M. "Sandy" Huss, RCI  
Construction Inspector  
AHFC/ICBO Inspector

CMH: DM

N/O.  
adopted 2/20/03

23-LS0029\Q  
Lauterbach  
2/19/03

**CS FOR HOUSE BILL NO. 9( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES ROKEBERG, Hawker, Crawford**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the registration of individuals who perform home inspections;  
 2 relating to regulation of contractors; relating to registration fees for specialty  
 3 contractors, home inspectors, and associate home inspectors; relating to home inspection  
 4 requirements for residential loans purchased or approved by the Alaska Housing  
 5 Finance Corporation; relating to civil actions by and against home inspectors and to  
 6 civil actions arising from residential unit inspections; repealing a law that limits liability  
 7 for damages based on a duty to inspect a residential unit to damages caused by gross  
 8 negligence or intentional misconduct; and providing for an effective date."

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

10 \* **Section 1.** AS 08.01.010(12) is amended to read:

11 (12) regulation of construction contractors and home inspectors under

12 AS 08.18;

L

1 \* Sec. 2. AS 08.01.065(c) is amended to read:

2 (c) Except as provided in (f) - (i) [(f) - (h)] of this section, the department shall  
3 establish fee levels under (a) of this section so that the total amount of fees collected  
4 for an occupation approximately equals the actual regulatory costs for the occupation.  
5 The department shall annually review each fee level to determine whether the  
6 regulatory costs of each occupation are approximately equal to fee collections related  
7 to that occupation. If the review indicates that an occupation's fee collections and  
8 regulatory costs are not approximately equal, the department shall calculate fee  
9 adjustments and adopt regulations under (a) of this section to implement the  
10 adjustments. In January of each year, the department shall report on all fee levels and  
11 revisions for the previous year under this subsection to the office of management and  
12 budget. If a board regulates an occupation covered by this chapter, the department  
13 shall consider the board's recommendations concerning the occupation's fee levels and  
14 regulatory costs before revising fee schedules to comply with this subsection. In this  
15 subsection, "regulatory costs" means costs of the department that are attributable to  
16 regulation of an occupation plus

17 (1) all expenses of the board that regulates the occupation if the board  
18 regulates only one occupation;

19 (2) the expenses of a board that are attributable to the occupation if the  
20 board regulates more than one occupation.

21 \* Sec. 3. AS 08.01.065 is amended by adding a new subsection to read:

22 (i) Notwithstanding (c) of this section, the department shall establish fee levels  
23 under (a) of this section so that the total amount of fees collected by the Department of  
24 Community and Economic Development for specialty contractors, home inspectors,  
25 and associate home inspectors approximately equals the total regulatory costs of the  
26 department for those three registration categories. The department shall set the fee  
27 levels for the issuance and renewal of a certificate of registration issued under  
28 AS 08.18 so that the fee levels are the same for all three of these registration  
29 categories and so that the fee level for a home inspector with a joint registration is not  
30 different from the fee level for a home inspector who does not have a joint  
31 registration. In this subsection, "joint registration" has the meaning given in

1 AS 08.18.171.

2 \* Sec. 4. AS 08.18.011 is amended to read:

3 **Sec. 08.18.011. Registration required.** (a) A person may not submit a bid or  
4 work as a contractor until that person has been issued a certificate of registration as a  
5 contractor by the department. A partnership or joint venture shall be considered  
6 registered as a contractor if one of the general partners or venturers whose name  
7 appears in the name under which the partnership or venture does business is registered  
8 as a contractor.

9 (b) A general contractor may not use a bid or proposal from, award a bid or  
10 proposal to, contract with, or allow a person required to be registered under this  
11 chapter to work for the general contractor as a specialty contractor unless the person is  
12 registered as a specialty contractor under this chapter.

13 \* Sec. 5. AS 08.18.011 is amended by adding new subsections to read:

14 (c) Unless exempt under AS 08.18.156 or serving lawfully as an associate  
15 home inspector under (d) of this section, an individual may not perform a home  
16 inspection

17 (1) for a residence not previously occupied as a residence unless that  
18 individual is registered as a home inspector for new homes under this chapter;

19 (2) for a residence previously occupied as a residence unless that  
20 individual is registered as a home inspector for existing homes under this chapter.

21 (d) Notwithstanding (c) of this section, an individual who is not registered as a  
22 home inspector under this chapter may perform a home inspection as an associate  
23 home inspector if the individual

24 (1) is employed by a registered home inspector who supervises the  
25 associate's work and the inspection is of the type that the supervising individual is  
26 authorized to perform; and

27 (2) is registered with the department as an associate home inspector.

28 (e) A registered home inspector who employs an associate home inspector  
29 under (d) of this section is liable for the work done by the associate home inspector.

30 (f) An individual who holds a joint registration for home inspection is  
31 considered to be registered as both a home inspector for new homes and a home

1 inspector for existing homes.

2 \* **Sec. 6.** AS 08.18.021(a) is amended to read:

3 (a) An applicant for registration as a contractor **or home inspector** shall  
4 submit an application under oath upon a form to be prescribed by the commissioner  
5 and **that** [WHICH] must include the following information pertaining to the applicant:

6 (1) **the applicant's** [EMPLOYER] social security number;

7 (2) **if applying to be a registered contractor, the** type of contracting  
8 activity, whether a general or a specialty contractor and, if the latter, the type of  
9 specialty;

10 (3) **if applying to be a registered home inspector, whether the**  
11 **applicant is applying to inspect new homes or existing homes, or both:**

12 (4) **if applying to be a registered contractor,** the name and address of  
13 each partner if the applicant is a firm or partnership, or the name and address of the  
14 owner if the applicant is an individual proprietorship, or the name and address of the  
15 corporate officers and statutory agent, if any, if the applicant is a corporation: **and**

16 (5) **if applying to be a registered home inspector, the name and**  
17 **address of the applicant.**

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

19 **Sec. 08.18.022. Home inspectors; associate home inspectors.** (a) The  
20 department shall issue a certificate of registration as a home inspector for new homes,  
21 existing homes, or both, as appropriate, to an individual who

22 (1) passes the appropriate home inspection examination; for purposes  
23 of this paragraph, the appropriate home inspection examination for an individual who  
24 applies to be registered for inspection of

25 (A) existing homes is the examination offered by the American  
26 Society of Home Inspectors, American Home Inspectors Training Institute, or  
27 National Association of Home Inspectors;

28 (B) new homes or for a joint registration is the examination  
29 offered by the International Conference of Building Officials;

30 (2) meets the educational and experience requirements adopted by the  
31 department in regulations for the type of registration applied for;

1 (3) submits a complete application for registration within one year  
2 after passing the examination required under (1) of this subsection;

3 (4) within the seven years preceding the date of application, has not  
4 been under a sentence for an offense related to forgery, theft in the first or second  
5 degree, extortion, or defrauding creditors or for a felony involving dishonesty;

6 (5) has not had the authority to perform home inspections revoked in  
7 this state or in another jurisdiction;

8 (6) is not the subject of an unresolved criminal complaint or  
9 unresolved disciplinary action before a regulatory authority in this state or in another  
10 jurisdiction related to real estate or home inspection matters; and

11 (7) pays the appropriate fees.

12 (b) An individual may register with the department as an associate home  
13 inspector upon application, payment of the required fee, and determination by the  
14 department that the individual

15 (1) within the seven years preceding the date of application, has not  
16 been under a sentence for an offense related to forgery, theft in the first or second  
17 degree, extortion, or defrauding creditors or for a felony involving dishonesty;

18 (2) has not had the authority to perform home inspections revoked in  
19 this state or in another jurisdiction; and

20 (3) is not the subject of an unresolved criminal complaint or  
21 unresolved disciplinary action before a regulatory authority in this state or in another  
22 jurisdiction related to real estate or home inspection matters.

23 **Sec. 08.18.023. Pre-inspection documents and inspection reports.** (a)  
24 Before performing a home inspection, a registered home inspector or associate home  
25 inspector shall provide to the person on whose behalf a home is inspected a written  
26 document that includes the home inspector's registration number and that specifies

27 (1) the scope of intended inspection; the scope of the intended  
28 inspection may include systems and components that are not listed in  
29 AS 08.18.171(12); and

30 (2) that the inspector will notify in writing the person on whose behalf  
31 the inspection is being made of defects noted during the inspection along with a

1 recommendation, if any, that experts be retained to conduct further evaluation through  
2 examination and analysis by a qualified professional, tradesperson, or service  
3 technician beyond that provided by the home inspection to determine the extent of  
4 defects and corrective action necessary to address the defects.

5 (b) After performance of a home inspection, a registered home inspector or  
6 associate home inspector shall give a written home inspection report to the person  
7 requesting the inspection. The written report must include the home inspector's  
8 registration number and a review of the condition of each system and component  
9 identified as being within the scope of the intended inspection under (a) of this section  
10 except that a home inspector's written report for new construction that is the subject of  
11 a loan by the Alaska Housing Finance Corporation or another lender may be in the  
12 form required by the corporation or other lender, as appropriate.

13 (c) In addition to the written inspection report required under (b) of this  
14 section, an oral inspection report may be given by the inspector during or after the  
15 inspection.

16 (d) A home inspection report is valid for 180 days after the date the home  
17 inspector signs and dates the report.

18 \* Sec. 8. AS 08.18.031(a) is amended to read:

19 (a) Except as provided in (c) of this section, a [A] certificate of registration  
20 shall be renewed under the same requirements as for an original registration, and the  
21 [. THE] commissioner shall issue to the applicant a certificate of registration upon  
22 compliance with the registration requirements of this chapter.

23 \* Sec. 9. AS 08.18.031 is amended by adding a new subsection to read:

24 (c) A certificate of registration as a home inspector may not be renewed unless  
25 the home inspector has complied with the continuing competency requirements  
26 established by the department. The department shall adopt regulations establishing the  
27 continuing competency requirements. The department shall require at least eight  
28 hours of continuing competency activity for each licensing period. The regulations  
29 must provide that a continuing competency activity approved by one of the following  
30 entities satisfies the continuing competency requirements of this subsection if the  
31 activity meets the requirements established by the department in regulations adopted

1 under this subsection:

- 2 (1) Alaska Housing Finance Corporation;
- 3 (2) University of Alaska;
- 4 (3) American Society of Home Inspectors Alaska Chapter;
- 5 (4) a chapter of the International Conference of Building Officials
- 6 Alaska;
- 7 (5) Alaska State Homebuilders Association; or
- 8 (6) a state agency that offers an activity that meets the requirements set
- 9 by the department.

10 \* Sec. 10. AS 08.18.041 is amended to read:

11 **Sec. 08.18.041. Fees.** (a) The department shall set fees under AS 08.01.065  
12 for

13 (1) registration and renewal of registration for all categories of  
14 contractors;

15 (2) registration and renewal of registration for a home inspector  
16 qualified to inspect new homes;

17 (3) registration and renewal of registration for a home inspector  
18 qualified to inspect existing homes;

19 (4) joint registration and renewal of joint registration for home  
20 inspectors;

21 (5) registration and renewal of registration as an associate home  
22 inspector;

23 (6) examinations for applicants for home inspector registration;

24 (7) examination, issuance of initial endorsement, and renewal of active  
25 or inactive endorsements for residential contractors; and

26 (8) [(3)] departmental publications and seminars related to this chapter.

27 (b) A person who fails a residential contractor examination or home  
28 inspector examination shall pay the examination fee set by the department if the  
29 person applies to retake an examination.

30 \* Sec. 11. AS 08.18.051(a) is amended to read:

31 (a) Except as provided otherwise by law, a person who has registered as a

1        **contractor** under one name as required by this chapter may not act in the capacity of a  
2        contractor under any other name unless that name also is registered.

3        \* **Sec. 12.** AS 08.18 is amended by adding a new section to read:

4                **Sec. 08.18.053. Identification requirements for home inspectors.** (a)

5        Except as provided otherwise by law, an individual who is registered as a home  
6        inspector or associate home inspector under this chapter by one name may not act in  
7        the capacity of a home inspector or associate home inspector under any other name.

8                (b) All advertising and business cards prepared by a registered home inspector  
9        or associate home inspector for the home inspection business must show the  
10       inspector's name, mailing address, and registration number.

11               (c) Individual registered home inspectors and partners, associates, agents,  
12       salespeople, solicitors, officers, and employees of registered home inspectors shall use  
13       their true names and addresses and the true name of the home inspecting firm at all  
14       times while acting in the capacity of a registered home inspector or performing related  
15       activities.

16               (d) Individuals who are exempt from registration under AS 08.18.156(a) or  
17       whose actions are not considered to be home inspections under AS 08.18.156(b) may  
18       not hold themselves out to be registered home inspectors or use words or titles that  
19       may reasonably be confused with the title of "registered home inspector" unless they  
20       are registered as a home inspector under this chapter.

21        \* **Sec. 13.** AS 08.18.061 is amended to read:

22                **Sec. 08.18.061. Requirements of political subdivision.** A contractor **or**  
23       **home inspector** who is registered with the state under this chapter may not be  
24       required to give bond in applying for or holding a license issued by a political  
25       subdivision **for a similar occupation.**

26        \* **Sec. 14.** AS 08.18.071(a) is amended to read:

27                (a) Each applicant shall, at the time of applying for a certificate of registration,  
28       file with the commissioner a surety bond running to the state conditioned upon the  
29       applicant's promise to pay all

30                        (1) taxes and contributions due the state and political subdivisions;

31                        (2) persons furnishing labor or material or renting or supplying

1 equipment to the applicant; and

2 (3) amounts that may be adjudged against the applicant by reason of  
3 negligent or improper work or breach of contract in the conduct of the contracting  
4 business or home inspection activity, as applicable, or by reason of damage to  
5 public facilities occurring in the course of a construction project.

6 \* Sec. 15. AS 08.18.071(b) is amended to read:

7 (b) If the applicant is a general contractor, the amount of the bond shall be  
8 \$10 000; if the applicant is a mechanical or specialty contractor or home inspector,  
9 the amount of the bond shall be \$5,000. In lieu of the surety bond the applicant may  
10 file with the commissioner a cash deposit or other negotiable security acceptable to the  
11 commissioner in the amount specified for bonds.

12 \* Sec. 16. AS 08.18.081(a) is amended to read:

13 (a) Except as provided in AS 08.18.085, a [A] person having a claim against  
14 a contractor or home inspector for any of the items referred to in AS 08.18.071 may  
15 bring suit upon the bond in the district court of the judicial district in which venue lies.  
16 A copy of the complaint shall be served by registered or certified mail upon the  
17 commissioner at the time suit is filed, and the commissioner shall maintain a record,  
18 available for public inspection, of all suits commenced. Two additional copies shall  
19 be served upon the director of the division of insurance with the payment to the  
20 director of a fee set under AS 21.06.250, taxable as costs in the action. This service  
21 upon the director shall constitute service on the surety, and the director shall transmit  
22 the complaint or a copy of it to the surety within 72 hours after it has been received.  
23 The surety upon the bond is not liable in an aggregate amount in excess of that named  
24 in the bond, but in case claims pending at any one time exceed the amount of the bond,  
25 the claims shall be satisfied from the bond in the following order:

26 (1) labor, including employee benefits;

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

29 (3) material and equipment;

30 (4) claims for breach of contract;

31 (5) repair of public facilities.

1 \* **Sec. 17.** AS 08.18 is amended by adding a new section to read:

2           **Sec. 08.18.085. Legal actions against home inspector.** (a) Notwithstanding  
3 contrary provisions of AS 08.18.081 or AS 09.10, a person may not bring an action  
4 against an individual registered under this chapter based on a home inspection report  
5 unless the action is commenced within

6                   (1) two years after the date of the home inspection report if the report  
7 related to a new home; and

8                   (2) one year after the date of the home inspection report if the report  
9 related to an existing home.

10           (b) The limitations in (a) of this section apply to all actions based on a home  
11 inspection report, regardless of whether the action is based on breach of contract,  
12 personal injury or death, property damage, or another source of liability except that (a)  
13 of this section is not applicable to an action based on gross negligence or intentional  
14 misconduct by the home inspector. The limitations may not be waived by contract.

15           (c) A person may not bring an action against an individual registered under  
16 this chapter for damages that arise from an act or omission relating to a home  
17 inspection performed by the individual unless the person

18                   (1) was a party to the real estate transaction for which the home  
19 inspection was conducted; or

20                   (2) received the home inspection report with the written consent of the  
21 party for whom the home inspection was originally performed.

22           (d) Contractual provisions that purport to limit the liability of a home  
23 inspector to the cost of the home inspection report are contrary to public policy and  
24 void.

25 \* **Sec. 18.** AS 08.18.111 is amended to read:

26           **Sec. 08.18.111. Advertising bond and insurance.** Contractors and home  
27 inspectors may not advertise that they are bonded and insured simply because they  
28 have complied with the bond and insurance requirements of this chapter.

29 \* **Sec. 19.** AS 08.18.115 is amended to read:

30           **Sec. 08.18.115. Return of cash deposit.** (a) A contractor or home inspector  
31 who has filed a cash deposit and who ceases doing business as a contractor or home

1 inspector may request the return of as much of that cash deposit as is held by the  
2 commissioner by

3 (1) filing a notarized statement with the commissioner that the  
4 contractor or home inspector has ceased doing business as a contractor or home  
5 inspector, as applicable; and

6 (2) filing a notarized statement with the commissioner at least three  
7 years after filing the statement in (1) of this subsection that [WHICH]

8 (A) requests return of the cash deposit;

9 (B) certifies that the former contractor or home inspector has  
10 not been engaged in business as a contractor or home inspector, as  
11 applicable, for at least three years; and

12 (C) certifies that to the best of the contractor's or home  
13 inspector's knowledge no action has been commenced upon the cash deposit  
14 that [WHICH] has not been dismissed or reduced to a final judgment that  
15 [WHICH] has been satisfied.

16 (b) The commissioner, after paying any judgments against the cash deposit  
17 under AS 08.18.081(b), shall return the remainder of a former contractor's or former  
18 home inspector's cash deposit to the contractor or home inspector, as applicable, if

19 (1) the former contractor or former home inspector has complied  
20 with (a) of this section; and

21 (2) no action has been commenced upon the cash deposit that  
22 [WHICH] has not been dismissed or reduced to a final judgment that [WHICH] has  
23 been satisfied.

24 \* Sec. 20. AS 08.18.116 is amended to read:

25 **Sec. 08.18.116. Investigations.** Either the Department of Community and  
26 Economic Development or the Department of Labor and Workforce Development  
27 may investigate alleged or apparent violations of this chapter relating to contractors.  
28 The Department of Community and Economic Development may investigate  
29 alleged or apparent violations of this chapter relating to home inspection  
30 activities. These departments, upon showing proper credentials, may enter, during  
31 regular hours of work, a construction site where it appears that contracting work is

1 being done. The departments may make inquiries about the identity of the contractor  
2 or the person acting in the capacity of a contractor. The Department of Community  
3 and Economic Development may make inquiries about the identity of a home  
4 inspector or a person acting in the capacity of a home inspector. Upon demand, a  
5 contractor or home inspector or person acting in the capacity of a contractor or home  
6 inspector, or that person's representative, shall produce evidence of current  
7 endorsement, if applicable, and registration.

8 \* Sec. 21. AS 08.18.117 is amended to read:

9 Sec. 08.18.117. Issuance of citations. Either the Department of Community  
10 and Economic Development or the Department of Labor and Workforce Development  
11 may issue a citation for a violation if there is probable cause to believe a person has  
12 violated this chapter with respect to contractor activities. The Department of  
13 Community and Economic Development may issue a citation for a violation if  
14 there is probable cause to believe a person has violated this chapter with respect  
15 to home inspection activities. Each day a violation continues after a citation for the  
16 violation has been issued constitutes a separate violation.

17 \* Sec. 22. AS 08.18.121(a) is amended to read:

18 (a) If the insurance required in AS 08.18.101 ceases to be in effect, the  
19 registration of the contractor or home inspector shall be suspended until the insurance  
20 has been reinstated.

21 \* Sec. 23. AS 08.18.121(b) is amended to read:

22 (b) If a final judgment impairs the liability of the surety upon the bond or  
23 depletes the cash deposit so that there is not in effect a bond undertaking or cash  
24 deposit in the full amount prescribed in AS 08.18.071, the registration of the  
25 contractor or home inspector involved shall be suspended until the bond liability in  
26 the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

27 \* Sec. 24. AS 08.18.121(c) is amended to read:

28 (c) If a bonding company cancels its bond of a contractor or home inspector,  
29 the contractor's or home inspector's registration shall be revoked. The contractor or  
30 home inspector may again obtain registration by complying with the requirements of  
31 this chapter.

1 \* Sec. 25. AS 08.18.121(d) is amended to read:

2 (d) If a registered contractor or registered home inspector fails to fulfill the  
3 contractor's or home inspector's obligations as set out in AS 08.18.071, the  
4 contractor's or home inspector's registration shall be suspended for a period of time  
5 the commissioner determines is appropriate. After three suspensions, the contractor's  
6 or home inspector's registration may be permanently revoked.

7 \* Sec. 26. AS 08.18.121(f) is amended to read:

8 (f) If the Department of Community and Economic Development or the  
9 Department of Labor and Workforce Development determines that a contractor or [A]  
10 person acting in the capacity of a contractor [,] is in violation of this chapter, that  
11 department may give written notice to the person prohibiting further action by the  
12 person as a contractor. If the Department of Community and Economic  
13 Development determines that a home inspector or a person acting in the capacity  
14 of a home inspector is in violation of this chapter, the department may give  
15 written notice to the person prohibiting further action by the person as a home  
16 inspector. The prohibition in a notice given under this subsection continues until  
17 the person has submitted evidence acceptable to the appropriate [THAT] department  
18 showing that the violation has been corrected.

19 \* Sec. 27. AS 08.18.123 is amended to read:

20 **Sec. 08.18.123. Denial, suspension, and revocation of endorsement or**  
21 **home inspector registration.**

22 (a) The department may suspend, revoke, or refuse to grant or renew a  
23 residential contractor endorsement, a home inspector registration, or an associate  
24 home inspector registration upon a finding that

25 (1) the application is fraudulent or misleading;

26 (2) the endorsement holder or registrant [CONTRACTOR] has  
27 knowingly violated this chapter or a lawful order or regulation of the department;

28 (3) the endorsement holder or registrant [CONTRACTOR] is  
29 incompetent or has engaged in fraudulent practices.

30 (b) Proceedings for the denial, suspension, or revocation of residential  
31 contractor endorsement, home inspector registration, or associate home inspector

1 registration are governed by AS 44.62 (Administrative Procedure Act).

2 \* **Sec. 28.** AS 08.18.131 is amended to read:

3 **Sec. 08.18.131. Injunction: civil penalty.** In an action instituted in the  
4 superior court by the Department of Community and Economic Development or the  
5 Department of Labor and Workforce Development, the court may enjoin a person  
6 from acting in the capacity of a contractor in violation of this chapter. **In an action**  
7 **instituted in the superior court by the Department of Community and Economic**  
8 **Development, the court may enjoin a person from acting in the capacity of a**  
9 **home inspector in violation of this chapter.** In addition to other relief, the court may  
10 impose a civil penalty of not more than \$250 for each violation. Each day that an  
11 unlawful act continues constitutes a separate violation.

12 \* **Sec. 29.** AS 08.18.141(a) is amended to read:

13 (a) A contractor, home inspector, or [A] person acting in the capacity of a  
14 contractor or home inspector who knowingly violates AS 08.18.011 or 08.18.025 is  
15 guilty of a class B misdemeanor. A person who violates another provision of this  
16 chapter is guilty of a violation punishable under AS 12.

17 \* **Sec. 30.** AS 08.18.151 is amended to read:

18 **Sec. 08.18.151. Legal actions by contractor or home inspector.** A person  
19 acting in the capacity of a contractor or home inspector may not bring an action in a  
20 court of this state for the collection of compensation for the performance of work or  
21 for breach of a contract for which registration is required under this chapter without  
22 alleging and proving that the contractor or home inspector was a registered contractor  
23 or registered home inspector, as applicable, at the time of contracting for the  
24 performance of the work.

25 \* **Sec. 31.** AS 08.18 is amended by adding new sections to article 4 to read:

26 **Sec. 08.18.152. Prohibited acts for home inspectors.** An individual  
27 registered under this chapter as a home inspector or associate home inspector may not

28 (1) perform or offer to perform, for an additional fee, repairs to a  
29 subject property on which the home inspector or the home inspector's company has  
30 prepared a home inspection report in the past 12 months;

31 (2) inspect for a fee any property in which the home inspector or the

1 home inspector's company has a financial interest or an interest in the transfer of the  
2 property;

3 (3) offer or deliver compensation, an inducement, or a reward to the  
4 owner of the inspected property, the broker, or the agent, for the referral of business to  
5 the home inspector or the home inspector's company;

6 (4) without the written consent of the home inspection client or the  
7 client's legal representative, disclose information from a home inspection report  
8 prepared by the home inspector or the home inspector's company unless the disclosure  
9 is made

10 (A) to a subsequent client who requests a home inspection of  
11 the same premises; or

12 (B) by the home inspector in an administrative or judicial  
13 proceeding in which disclosure of the home inspection report is relevant to  
14 resolution of the legal issues in the proceeding;

15 (5) without the written consent of all interested parties, accept  
16 compensation from more than one interested party for the same home inspection  
17 services;

18 (6) accept from a person who has other dealings with a home  
19 inspection client a commission or allowance, directly or indirectly, for work for which  
20 the home inspector or the home inspector's company is responsible;

21 (7) accept an engagement to make an inspection or to prepare a report  
22 in which the employment itself or the fee payable for the inspection is contingent upon  
23 the conclusions in the report, preestablished findings, or the close of escrow.

24 **Sec. 08.18.154. Limitation on home inspector's activities.** A registration  
25 issued under AS 08.18.022 does not authorize the holder to perform an activity for  
26 which a license is required under provisions of this title that are outside of this chapter.

27 **Sec. 08.18.156. Exemptions related to home inspections.** (a)  
28 Notwithstanding other provisions of this chapter, an individual who inspects a home is  
29 not required to be registered under this chapter as a home inspector or associate home  
30 inspector if the individual is

31 (1) employed by the federal or state government, a political

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subdivision of the state, or a municipality or unincorporated community and the employee is performing only duties that are within the employee's official duties;

(2) performing a home inspection only with respect to property that is the individual's residence or in which the individual has a financial interest;

(3) registered as an engineer or architect under AS 08.48, prepares a written report after the inspection, affixes the individual's seal to the home inspection report, signs and dates the report, and puts the individual's registration number on the report;

(4) engaged as an engineer in training or architect in training who works for and is supervised by a person described in (3) of this subsection and the person described in (3) of this subsection affixes the person's seal to the home inspection report, signs and dates the report, and puts the person's registration number on the report;

(5) licensed as a pesticide applicator by the Department of Environmental Conservation and is performing only activities within the scope of that license;

(6) registered as a general contractor with a residential contractor endorsement under this chapter and is performing only activities within the scope of that registration;

(7) certified as any type of real estate appraiser under AS 08.87 and is performing only activities that are authorized under that certification; or

(8) only determining whether a building complies with the thermal and lighting energy standards required by AS 46.11.040

(b) Notwithstanding the definition of "home inspection" in AS 08.18.171(12), an individual is not considered to be doing a home inspection for purposes of this chapter if the individual

(1) is in the business of repairing, maintaining, or installing any of the systems or components listed in AS 08.18.171(12); and

(2) inspects the system or component for the sole purpose of determining the condition of the system or component before performing or offering to perform repair, maintenance, or installation work on the system or component.

1 \* Sec. 32. AS 08.18.161 is amended to read:

2 Sec. 08.18.161. Exemptions. To the extent that this chapter governs  
3 contractors, this [THIS] chapter does not apply to

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

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

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

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

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

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

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

21 (8) work on one project under one or more contracts, the aggregate  
22 contract price of which for labor and materials and all other items is less than \$10,000  
23 [THIS WORK BEING CONSIDERED AS OF A CASUAL, MINOR, OR  
24 INCONSEQUENTIAL NATURE]; this exemption does not apply when the work is  
25 only a part of a larger or major operation, whether undertaken by the same or a  
26 different contractor, or when the work is divided into contracts of amounts less than  
27 \$10,000 for the purpose of evasion of this chapter or otherwise; this exemption does  
28 not apply to a person who advertises or puts out a sign or card or other device that  
29 might indicate to the public that the person is a contractor, or that the person is  
30 qualified to engage in the contracting business; a contractor who performs work priced  
31 at \$2,500 or more, under this exemption, shall nevertheless keep in force public

1 liability and property damage insurance with coverage in at least the amounts set out  
2 in AS 08.18.101;

3 (9) an owner who contracts for a project with a registered contractor;

4 (10) a person working on that person's own property, whether occupied  
5 by the person or not, and a person working on that person's own residence, whether  
6 owned by the person or not;

7 (11) an owner or tenant of commercial property who uses the owner's  
8 or tenant's own employees to do maintenance, repair, and alteration work upon that  
9 property;

10 (12) an owner who acts as the owner's own contractor and in doing so  
11 hires workers on an hourly basis, hires subcontractors, purchases materials and, as  
12 such, sees to the paying for all labor, subcontractors, and materials; in this case, the  
13 owner shall be limited to construction of one home, duplex, triplex, four-plex, or one  
14 commercial building a [PER] year;

15 (13) a person performing construction work incidental to farming,  
16 dairying, agriculture, horticulture, stock or poultry raising, mining, logging, fishing,  
17 clearing, or other work upon the land in rural districts for fire prevention purposes, or  
18 access road building, unless the person is a licensee.

19 \* Sec. 33. AS 08.18.171 is amended by adding new paragraphs to read:

20 (11) "existing home" means a residence previously occupied as a  
21 residence;

22 (12) "home inspection" means a visual examination, performed in  
23 accordance with standards of practice adopted by the department, of the readily  
24 accessible parts of one or more of the following systems and components of a  
25 residence or intended residence:

26 (A) heating and air-conditioning systems;

27 (B) plumbing and electrical systems;

28 (C) built-in appliances;

29 (D) roof, attic, and visible insulation;

30 (E) walls, ceilings, floors, windows, and doors;

31 (F) foundation and basement;

- 1 (G) visible interior and exterior structures;  
2 (H) drainage to and from the residence;  
3 (I) other systems or components as specified by the department  
4 in regulations;

5 (13) "home inspector" means an individual who performs or offers to  
6 perform a home inspection for a fee;

7 (14) "joint registration" means a certificate of registration that  
8 authorizes an individual to inspect both new homes and existing homes;

9 (15) "knowingly" has the meaning given in AS 11.81.900;

10 (16) "new home" means a residence not previously occupied as a  
11 residence;

12 (17) "residence" means

13 (A) a single-family home other than a mobile home;

14 (B) a duplex, triplex, or four-plex; or

15 (C) a residential townhouse or residential condominium unit;

16 (18) "visual examination" means an examination performed in person  
17 at the physical location of the residence except that, if a method other than personal  
18 physical inspection has been approved by the Alaska Housing Finance Corporation  
19 under AS 18.56.300(b), use of the other approved method constitutes a visual  
20 examination under this chapter.

21 \* Sec. 34. AS 18.56.300(b) is amended to read:

22 (b) As a condition of a commitment to purchase or approve a loan under this  
23 section for residential housing the construction of which begins after June 30, 1992,  
24 the corporation shall require inspection of the unit of residential housing that is the  
25 subject of the loan. The inspection must be performed by a municipal building  
26 inspector, by a person who is approved or certified to perform residential inspections  
27 by the International Conference of Building Officials or the International Association  
28 of Electrical Inspectors, by an individual who is registered under AS 08.18 to  
29 perform home inspections for new construction [OR, WHEN THE UNIT OF  
30 RESIDENTIAL HOUSING IS LOCATED IN A RURAL AREA], by an architect  
31 registered under AS 08.48, by an engineer registered under AS 08.48, or by another

1 person approved by the corporation. When the unit of residential housing is located in  
2 a rural area, the person who makes the inspection may use methods other than a  
3 personal physical inspection to make the inspection if the method is approved by the  
4 corporation, and variations from the applicable code may be accepted at the  
5 corporation's discretion, if the person authorized to inspect the unit under this  
6 subsection satisfies the corporation that the variation does not adversely affect the  
7 structural integrity of the unit or the health and safety of the residents. The person  
8 who makes the inspection shall determine whether the construction conforms to  
9 relevant provisions of the construction codes of the municipality or of the state  
10 building code, as applicable, at each of the following stages of construction:

- 11 (1) plan approval;
- 12 (2) completion of footings and foundations;
- 13 (3) completion of electrical installation, plumbing, and framing;
- 14 (4) completion of installation of insulation;
- 15 (5) final approval.

16 \* **Sec. 35.** AS 18.56.300(b) is amended to read:

17 (b) As a condition of a commitment to purchase or approve a loan under this  
18 section for residential housing the construction of which begins after June 30, 1992,  
19 the corporation shall require inspection of the unit of residential housing that is the  
20 subject of the loan. The inspection must be performed by a municipal building  
21 inspector, [BY A PERSON WHO IS APPROVED OR CERTIFIED TO PERFORM  
22 RESIDENTIAL INSPECTIONS BY THE INTERNATIONAL CONFERENCE OF  
23 BUILDING OFFICIALS OR THE INTERNATIONAL ASSOCIATION OF  
24 ELECTRICAL INSPECTORS,] by an individual who is registered under AS 08.18 to  
25 perform home inspections for new construction, by an architect registered under  
26 AS 08.48, by an engineer registered under AS 08.48, or by another person approved  
27 by the corporation. When the unit of residential housing is located in a rural area, the  
28 person who makes the inspection may use methods other than a personal physical  
29 inspection to make the inspection if the method is approved by the corporation, and  
30 variations from the applicable code may be accepted at the corporation's discretion, if  
31 the person authorized to inspect the unit under this subsection satisfies the corporation

1 that the variation does not adversely affect the structural integrity of the unit or the  
2 health and safety of the residents. The person who makes the inspection shall  
3 determine whether the construction conforms to relevant provisions of the  
4 construction codes of the municipality or of the state building code, as applicable, at  
5 each of the following stages of construction:

- 6 (1) plan approval;
- 7 (2) completion of footings and foundations;
- 8 (3) completion of electrical installation, plumbing, and framing;
- 9 (4) completion of installation of insulation;
- 10 (5) final approval.

11 \* **Sec. 36.** AS 36.30.050(b) is amended to read:

12 (b) A person who desires to be on a list shall submit to the commissioner  
13 evidence of a valid Alaska business license. A biennial fee may be established by  
14 regulation in an amount reasonably calculated to pay the costs of administering this  
15 section. A construction contractor shall also submit a valid certificate of registration  
16 as a contractor issued under AS 08.18. The commissioner, by regulation, may require  
17 submission of additional information.

18 \* **Sec. 37.** AS 36.30.115(a) is amended to read:

19 (a) Within five working days after the identification of the apparent low bidder  
20 for a construction contract, the apparent low bidder shall submit a list of the  
21 subcontractors the bidder proposes to use in the performance of the construction  
22 contract. The list must include the name and location of the place of business for each  
23 subcontractor, evidence of each subcontractor's valid Alaska business license, and  
24 evidence of each subcontractor's registration as a contractor under AS 08.18. If a  
25 subcontractor on the list did not have a valid Alaska business license and a valid  
26 certificate of registration as a contractor under AS 08.18 at the time the bid was  
27 opened, the bidder may not use the subcontractor in the performance of the contract,  
28 and shall replace the subcontractor with a subcontractor who had a valid Alaska  
29 business license and a valid certificate of registration as a contractor under AS 08.18  
30 at the time the bid was opened.

31 \* **Sec. 38.** AS 36.30.210(b) is amended to read:

1 (b) An offeror for a construction contract shall submit evidence of the offeror's  
2 registration as a contractor under AS 08.18. A request for sealed proposals for a  
3 construction contract, except a design-build construction contract, must require the  
4 offeror, no later than five working days after the proposal that is the most  
5 advantageous to the state is identified, to list subcontractors the offeror proposes to use  
6 in the performance of the construction contract. The list must include the information  
7 required under AS 36.30.115(a). The provisions of AS 36.30.115(b) - (g) that apply to  
8 a construction contractor or an apparent low bidder apply to offerors submitting  
9 competitive sealed proposals for construction contracts, except design-build  
10 construction contracts.

11 \* Sec. 39. AS 36.90.290(1) is amended to read:

12 (1) "prime contractor" means a person required to be registered as a  
13 contractor under AS 08.18 who has a contract with the state or a political subdivision  
14 of the state to provide materials or services, other than as an employee, for a public  
15 construction or public works project;

16 \* Sec. 40. AS 45.50.471(b) is amended by adding a new paragraph to read:

17 (45) violating AS 08.18.023(b) or 08.18.152.

18 \* Sec. 41. AS 18.56.300(c) is repealed.

19 \* Sec. 42. The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21 APPLICABILITY. The change made by sec. 41 of this Act applies to causes of action  
22 that accrue on or after July 1, 2005.

23 \* Sec. 43. The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 REGULATIONS. The Department of Community and Economic Development may  
26 proceed to adopt regulations to implement this Act. A regulation adopted under this section  
27 takes effect under AS 44.62 (Administrative Procedure Act) but not before the effective date  
28 of the law implemented by the regulation.

29 \* Sec. 44. The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 TRANSITIONAL LICENSING PROVISIONS. (a) Notwithstanding AS 08.18.022,

1 added by sec. 7 of this Act, the Department of Community and Economic Development shall  
2 issue a certificate of joint registration that is valid until January 1, 2006, to an individual who  
3 submits to the department satisfactory evidence of being in the business of home inspection in  
4 the state at the time of application for registration under this subsection and of having

5 (1) been in the business of home inspection in the state on October 1, 2002;

6 and

7 (2) passed the building inspector examination or property maintenance and  
8 housing inspector examination given by the International Conference of Building Officials.

9 (b) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of  
10 Community and Economic Development shall issue a certificate of registration to practice  
11 home inspection of previously occupied residences that is valid until January 1, 2006, to an  
12 individual who submits to the department satisfactory evidence of being in the business of  
13 home inspection in the state at the time of application for registration under this subsection  
14 and of having passed

15 (1) the national home inspector examination given by the American Society of  
16 Home Inspectors, American Home Inspectors Training Institute, or National Association of  
17 Home Inspectors; or

18 (2) the examination of the Examination Board of Professional Home  
19 Inspectors.

20 (c) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of  
21 Community and Economic Development shall issue a certificate of registration to practice  
22 home inspection of new construction that is valid until January 1, 2006, to an individual who  
23 submits to the department satisfactory evidence of being in the business of home inspection in  
24 the state at the time of application for registration under this subsection and of having passed  
25 the combination inspector examination or the combination dwelling inspector examination  
26 given by the International Conference of Building Officials.

27 (d) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of  
28 Community and Economic Development shall issue a certificate of registration as an associate  
29 home inspector that is valid until January 1, 2006, to an individual who submits to the  
30 department satisfactory evidence of being employed by an individual who is in the business of  
31 home inspection and is registered under this section or under AS 08.18.

1 (e) A certificate of registration issued under this section may not be renewed or  
2 extended.

3 (f) Except as provided in (e) of this section, a certificate of registration as a home  
4 inspector or associate home inspector issued under this section is considered to be a certificate  
5 of registration as a home inspector or associate home inspector issued under AS 08.18.022,  
6 added by sec. 7 of this Act.

7 (g) In this section, "joint registration" has the meaning given in AS 08.18.171, as  
8 amended by sec. 33 of this Act.

9 \* **Sec. 45.** AS 08.18.011(c) - (f), added by sec. 5 of this Act; AS 08.18.023, added by sec. 7  
10 of this Act; AS 08.18.085, added by sec. 17 of this Act; AS 08.18.151, as amended by sec. 30  
11 of this Act; and the amendment of AS 18.56.300(b), made by sec. 34 of this Act, take effect  
12 July 1, 2004.

13 \* **Sec. 46.** Section 35 of this Act takes effect January 1, 2006.

14 \* **Sec. 47.** Sections 41 and 42 of this Act take effect July 1, 2005.

15 \* **Sec. 48.** Except as provided in secs. 45 - 47 of this Act, this Act takes effect immediately  
16 under AS 01.10.070(c).

Rep. B. Stoltz 2-20-03

(overview for attached fax)

Received from David Owens; ICBO Inspector from Palmer: 2/20/03.

Faxed list of persons who oppose HB 9 as it is currently written; they do not want contractor fees to increase and do not want private inspector's liability to a level higher than the state or municipal inspectors.

10 out of 11 are members of the Homebuilder's Association.

David R. Owens, PO Box 3589, Palmer, AK 99645	ICBO Inspector
Hall Homes, PO Box 1987, Palmer, AK 99645	Hall Quality Homes
G. T. Construction, Inc., PO Box 875408, Wasilla, AK 99654	Construction - Licensed Contractor
The Thomas Co., HC5 Box (?) 6929, Palmer, AK 99645	Licensed General Contractor
Steve Orr Construction, PO Box 871277, Wasilla, AK 99654	Licensed General Contractor
Ti-Le-An Mgmt, Inc., 165 E. Parks Hwy, Wasilla, AK 99654	ICBO New home inspector
South Fork Construction, PO Box 770567, Eagle River, AK 99577	Licens. General Contractor
Discovery Homes, PO Box 11-1411, Anchorage, AK 99511	Licens. General Contractor
Roth's Construction, PO Box 4103, Palmer, AK 99645	Licens. General Contractor
Farrell Homes, Inc. PO 872685, Wasilla, AK 99687	Licens. General Contractor
Carelson Custom Homes, PO Box 230334, Anchorage, AK	Licens. General Contractor

#### Ketchikan Home Builders Association Resolution:

Their Board of Directors doesn't support HB 9 as written and requests further public input and study.

#### Support

Concept of licensing home inspectors;

Concept of inspectors having same liability that state and muni inspectors are held accountable to;

#### Issues:

Discriminatory towards home inspectors by not requiring other inspectors to be licensed;

No guidelines or codes for standards of practice for home inspections adopted by State of Alaska;

State could adopt Int'l Residential Code for New Residential Construction and establish additional life safety issues for existing construction;

State could include the Alaska Module for Cold Climate Building Techniques.

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DOCUMENT(S)  
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COPIES



**Alaska State Home  
Building Association**

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**POSITION STATEMENT**  
**House Bill 9, Home Inspector Licensure**

The Alaska State Home Building Association (ASHBA) supports the establishment of a state licensure system for home inspectors as provided in HB9.

ASHBA is a statewide organization. Our mission is to provide an organization wherein building contractors and persons engaged in a trade, industry or profession related to housing may meet to discuss various problems of common interest, particularly those related to labor, production and finance. To maintain high standards in the building industry, to support building contractors in efforts to rectify conditions of an unsatisfactory nature, to encourage those methods of contracting work which reduce the building contractors risks and to encourage sound business methods. We are an aggressive, service oriented Association run by and for the membership.

This bill has been written to make home inspectors a specialty contractor with a \$5,000 bond. The thought behind this path was to use an existing license without creating a new license for fee setting, insurance, and bonding, but to create a module under the specialty contractor specifically for home inspectors to deal with education, limitations, examinations, pre-inspection documents, and prohibitions, to name a few.

Representative Rokeberg has worked hard over the past five years to refine this legislation into language that will;

- recognize different standards for both new and existing construction;
- provide options for insuring inspection availability in small and rural communities;
- insure better consumer protection for home-buying families.

Sincerely,

**Thom Antonovich**  
**President**  
**Alaska State Home Building Association**

**Subject: House Bill No. 9 Home Inspector Bill**

**Date:** Wed, 12 Feb 2003 09:01:51 -0900

**From:** Don Sheppard <dsheppard@alaska.com>

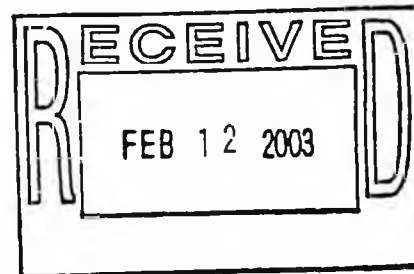
**To:** Representative\_Norman\_Rokeberg@legis.state.ak.us

This e mail message is in way of offering support for the passage of HB 9 concerning the requirement for regulation of home inspectors. We have tried unsuccessfully for several years in getting this regulation in place.

Sincerely,

Don Sheppard  
Frank Sobottka  
Mark Crawford

HouseMaster Home Inspection Service  
6000 Yukon Rd.  
Anchorage, AK 99507  
ASHI





2/13/03

Representative Bill Williams  
C/O Randy Kuaro

Re: Home Inspector License

Dear Randy,

Per our conversation this morning, I am sending the information requested and some additional information. Please find attached the following documents and letters:

- 1) Letter from me to Rep. Rokeburg during last years HB 27 work draft.
- 2) Copies of the Uniform Building Code from 1970 to the 2000 International Building Code as well as the 2000 International Residential Code concerning liability.
- 3) Two ASHI Home Inspection report Contracts describing liability/responsibilities.

Since our conversation, additional issues may need clarification:

- 1) Where is the differentiation between new housing and existing? Will ICBO inspectors be required to join some Defacto Inspection Organization?
- 2) Will any Inspector be required to take The Alaska Module for building in cold climates?
- 3) What about indoor air quality and the high rate of asthma and other respiratory ailments our children face?
- 4) Will the State create a Board of Appeals?
- 5) This House Bill seems discriminatory. Why just home inspectors? Why not commercial, industrial etc..
- 6) Who will enforce this Bill? There is very little enforcement for the residential contractors. How can the State regulate from Anchorage with one man?
- 7) Why has this Bill been ram-rodded on the fast track with little chance for public input or debate?

I have contacted most of the Ketchikan Home Builders Association members and the consensus is that a resolution against this bill in the current state will be forthcoming. We agree that there should be licensing, but some standard by the State should be imposed to establish standards of practice and codes relevant to the industry.

Sincerely,

Handwritten signature of Charles R. Dearden.  
Charles R. Dearden



Representative Norman Rokeberg  
716 West 4th Ave., Suite 350  
Anchorage, AK 99501

Re: HB 27 Work Draft (Design Alaska) Comments

Dear Representative Rokeberg,

My name is Chuck Dearden. I am an Energy Rater, ICBO Combination Dwelling Inspector, and currently the Building Official for The City of Ketchikan, Alaska. I sit on several non-profit Board of Directors organizations involved in the home building industry. I am writing to you today as a Sole Proprietor of Gold Coast Builders. My company is licensed as a General Contractor with Residential Endorsement. I do not claim to represent any other interest with this correspondence.

Thank you for your solicitation for comments on this bill. I hope the following information will be of aid in your quest for Home Inspector Licensing. I am in general agreement with you on this issue, but several problems are of concern to me.

- 1) California and Washington States do not require home inspectors to be licensed. Oregon does but requires points to be built up before taking a **Home Inspector Licensing Test**. This test is composed by an Exam Committee under the State Contractors Licensing Board appointed by the Governor. The list of acceptable organizations to instruct the initiate to comply with part of the point system includes ASHI but not exclusively. There is no **De Facto Organization** that is responsible for the testing procedure and is exclusively a State Function.
- 2) There is no Pool for Errors and Omissions Insurance in this State. The premiums are high and will undoubtedly increase the costs to the consumer.
- 3) There is no standard of which the Home Inspector is suppose to adhere to. The liability proposed by this bill is not limited. Even the language of the cover letter limiting liability issues proposed by ASHI would be in conflict.
- 4) The State has not adopted the IRC. local ordinances, State or non-state entities, do not adequately address ventilation, mold or other Northern Climate issues. AIFC does but some issues are in the process of completion, but not finished. It appears the language of this House Bill does not address future issues or liabilities.

5) Documentation of all building components would have to include video as well as photos in order to protect the inspector from changes not witnessed during the construction process as well as after the home has been completed.

**Conclusion:**

It would seem prudent to include some liability restraints for the inspector. A commission would be in order to test applicants. It is extremely important to adopt some type of State Standard. The IRC could be adopted State wide, after hearings to change components to fit Alaska, as we propose to do in Ketchikan. There is plenty of language in the codes to address existing structures and the inspections required. Model some of the inspection criteria from organizations such as ASHI but not exclusively.

If legislation is enacted, there must be some form of standard that applies.

Sincerely,

Charles R. Dearden

# HOME INSPECTION REPORT

Date \_\_\_\_\_

For a cost of \$ \_\_\_\_\_, \_\_\_\_\_ (Inspection Company) will visually inspect and give a written professional opinion of the present condition of the property located at:

The inspection includes only the items listed in the report, as defined by the Standards of Practice of the American Society of Home Inspectors, which are included in the report.

Questions during the inspection are encouraged so that your specific concerns can be addressed. Further evaluation by a "specialist" may be necessary since this is a general home inspection.

Every effort will be made to be complete and thorough, leaving the property clean and undisturbed.

It is important for you to understand that:

1. this inspection is not a warranty
2. items that are not visible cannot be inspected
3. this is not a "code" inspection
4. true repair estimates are obtained from contractors, not inspectors
5. this inspection is not a reflection of property value
6. the condition of the property may change before your occupancy.

A brief summary is provided for your convenience, but please read the entire report and phone anytime for clarification.

## GENERAL INFORMATION

Time In: \_\_\_\_\_ Out: \_\_\_\_\_

Soil: \_\_\_\_\_

Type: \_\_\_\_\_

Weather: \_\_\_\_\_

\_\_\_\_\_

Home: occupied vacant

\_\_\_\_\_

Present: client owner tenant

\_\_\_\_\_

agent: buyer seller

Approx. age: \_\_\_\_\_

\_\_\_\_\_

Inspector: \_\_\_\_\_

Face: North South East West

The inspection / survey shall be limited to the fee or to the extent allowed by the law, whichever is the least.

Client(s) signature prior to inspections X \_\_\_\_\_

One signature binds spouse, et al, etc.

I / We have read all of the above, understand, and I / We agree to be bound by the terms of this contract, or having renegotiated them in writing to my \_\_\_\_\_

CHAPTER 2—ORGANIZATION AND ENFORCEMENT

Creation of Department

Sec. 201. There is hereby established in the city the "Building Department" which shall be under the jurisdiction of the Building Official designated by the appointing authority.

Powers and Duties of Building Official

Sec. 202. (a) General. The Building Official is hereby authorized and directed to enforce all the provisions of this Code. For such purpose he shall have the powers of a police officer.

(b) Deputies. In accordance with the procedure and with the approval of the chief appointing authority of the municipality, the Building Official may appoint such number of officers, inspectors and assistants, and other employees as shall be authorized from time to time. He may deputize such employees as may be necessary to carry out the functions of the Building Department.

(c) Reports and Records. The Building Official shall submit a report to the proper city official not less than once a year, covering the work of the department during the preceding period. He shall incorporate in said report a summary of his recommendations as to desirable amendments to this Code.

The Building Official shall keep a permanent, accurate account of all fees and other monies collected and received under this Code, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate.

(d) Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe as defined in Section 203 of this Code, the Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this Code; provided that if such building or premises be occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

"Authorized Representative" shall include the officers named in Section 202 (a) and (b) of this Code.

Powers and Duties of Building Official (Continued)

No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to properly permit entry therein by the Building Official or his authorized representative for the purpose of inspection and examination pursuant to this Code. Any person violating this subdivision shall be guilty of a misdemeanor.

(e) Stop Orders. Whenever any building work is being done contrary to the provisions of this Code, the Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.

(f) Occupancy Violations. Whenever any structure is being used contrary to the provisions of this Code, the Building Official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within 10 days after receipt of such notice or make the structure, or portion thereof, comply with the requirements of this Code; provided, however, that in the event of an unsafe building Section 203 shall apply.

(g) Liability. The Building Official or any employee charged with the enforcement of this Code, acting in good faith and without malice for the city in the discharge of his duties, shall not thereby render himself liable personally and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his duties. Any suit brought against the Building Official or employee, because of such act or omission performed by him in the enforcement of any provisions of this Code, shall be defended by the legal department of the city until final termination of the proceedings.

(h) Cooperation of Other Officials. The Building Official may request, and shall receive so far as may be necessary in the discharge of his duties, the assistance and cooperation of other officials of the city.

Sec. 203. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage, or abandonment, as specified in this Code or any other effective ordinance, are, for the purpose of this Section, unsafe buildings. All such unsafe buildings are

Unsafe Buildings

1979 EDITION

202-209

(e) **Occupancy Violations.** Whenever any building or structure or equipment therein regulated by this code is being used contrary to the provisions of this code, the building official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the building official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this code.

(f) **Liability.** The building official, or his authorized representative charged with the enforcement of this code, acting in good faith and without malice in the discharge of his duties, shall not thereby render himself personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his duties. Any suit brought against the building official or employee because of such act or omission performed by him in the enforcement of any provision of this code shall be defended by legal counsel provided by this jurisdiction until final termination of such proceedings.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this code or any certificates of inspection issued under this code.

(g) **Cooperation of Other Officials and Officers.** The building official may request, and shall receive so far as is required, in the discharge of his duties, the assistance and cooperation of other officials of this jurisdiction.

#### **Unsafe Buildings or Structures**

**Sec. 203.** All buildings or structures regulated by this code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment are, for the purpose of this section, unsafe uses. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby designated as unsafe building appendages.

All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Dangerous Buildings Code or such alternate procedures as may have been or may be adopted by this jurisdiction. As an alternative, the building official, or other employee or official of this jurisdiction as designated by the

R104.3 - R105.1

ADMINISTRATION

structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

**R104.3 Notices and orders.** The building official shall issue all necessary notices or orders to ensure compliance with this code.

**R104.4 Inspections.** The building official is authorized to make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

**R104.5 Identification.** The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

**R104.6 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official or designee is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

**R104.7 Department records.** The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for the retention of public records.

**R104.8 Liability.** The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

**R104.9 Approved materials and equipment.** Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

**R104.9.1 Used materials and equipment.** Used materials, equipment and devices shall not be reused unless approved by the building official.

**R104.10 Modifications.** Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements or structural. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

**R104.10.1 Areas prone to flooding.** The building official shall not grant modifications to any provision related to areas prone to flooding as established by Table R301.2(1) without the granting of a variance to such provisions by the board of appeals.

**R104.11 Alternative materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of the International Code Council (ICC) codes in lieu of specific requirements of this code shall also be permitted as an alternate.

**R104.11.1 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

## SECTION R105 PERMITS

**R105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done,

## ADMINISTRATION

104.8 - 106.2

**104.8 Liability.** The building official, member of the Board of Appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

**104.9 Approved materials and equipment.** Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

**104.9.1 Used materials and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

**104.10 Modifications.** Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

**104.11 Alternative materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

2000 INTERNATIONAL BUILDING CODE®

**104.11.1 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

SECTION 105  
PERMITS

**105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

**105.1.1 Annual permit.** In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified trade persons in the building, structure or on the premises owned or operated by the applicant for the permit.

**105.1.2 Annual permit records.** The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

**105.2 Work exempt from permit.** Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

**Building:**

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15 m<sup>2</sup>).
2. Fences not over 6 feet (1829 mm) high.

104.2.5  
106.2

1997 UNIFORM BUILDING CODE

**104.2.5 Occupancy violations.** Whenever any building or structure or equipment therein regulated by this code is being used contrary to the provisions of this code, the building official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the building official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this code.

**104.2.6 Liability.** The building official charged with the enforcement of this code, acting in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the building official or employee because of such act or omission performed by the building official or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the code enforcement agency shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by this jurisdiction.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

**104.2.7 Modifications.** When there are practical difficulties involved in carrying out the provisions of this code, the building official may grant modifications for individual cases. The building official shall first find that a special individual reason makes the strict letter of this code impractical and that the modification is in conformance with the intent and purpose of this code and that such modification does not lessen any fire-protection requirements or any degree of structural integrity. The details of any action granting modifications shall be recorded and entered in the files of the code enforcement agency.

**104.2.8 Alternate materials, alternate design and methods of construction.** The provisions of this code are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed by this code, provided any alternate has been approved and its use authorized by the building official.

The building official may approve any such alternate, provided the building official finds that the proposed design is satisfactory and complies with the provisions of this code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

The building official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency.

**104.2.9 Tests.** Whenever there is insufficient evidence of compliance with any of the provisions of this code or evidence that any material or construction does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to this jurisdiction.

Test methods shall be as specified by this code or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures.

All tests shall be made by an approved agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records.

**104.2.10 Cooperation of other officials and officers.** The building official may request, and shall receive, the assistance and cooperation of other officials of this jurisdiction so far as is required in the discharge of the duties required by this code or other pertinent law or ordinance.

## SECTION 105 — BOARD OF APPEALS

**105.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the applicant with a duplicate copy to the building official.

**105.2 Limitations of Authority.** The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

## SECTION 106 — PERMITS

**106.1 Permits Required.** Except as specified in Section 106.2, no building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the building official.

**106.2 Work Exempt from Permit.** A building permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet (11.15 m<sup>2</sup>).
2. Fences not over 6 feet (1829 mm) high.
3. Oil derricks.
4. Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) high.
5. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
6. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 927 l.) and the ratio of height to diameter or width does not exceed 2:1.
7. Platforms, walks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below.
8. Painting, papering and similar finish work.

CONTRACT

CLIENT \_\_\_\_\_

INVOICE # \_\_\_\_\_

INSPECTION ADDRESS \_\_\_\_\_

PLEASE BE SURE TO CAREFULLY REVIEW THIS CONTRACT.

RIGHT OF ENTRY: I warrant that I or my agent have made all necessary arrangements with the selling party for the inspector / surveyor company to enter and to properly inspect/survey the property described in this agreement. The inspecting / surveying of buildings contemplated for purchase is a very imperfect effort, which can be done to a variety of depths and costs. This company offers a "standard" inspection / survey with any and all liability limited to the fee charged. \_\_\_\_\_X

SEVERABILITY: If any tribunal determines that any portion of this contract is unenforceable, that tribunal shall enforce the remainder of the contract as though the unenforceable portion did not exist. \_\_\_\_\_X

PARTICIPATION: I have been encouraged to participate in the inspection / survey & I accept responsibility for incomplete information should I not participate in the inspection. My participation shall be at my own risk for falls, injuries, damage, etc. \_\_\_\_\_X

SCOPE OF THE INSPECTION: The extent of the standard building inspection / survey work is to visually screen for "exposed to view" things which need major repair or further evaluation by a specialist. It is limited to the readily accessible and visible major systems, components, & equipment of the primary premises. Weather limitations affecting the extent of the work are accepted without additional burden to the inspection / survey company. The inspector is not required to move furniture, personal goods, or equipment, which may impede access or limit visibility. No destructive or disruptive testing procedures are performed by the inspector / surveyor. Design problems and adequacies are not within the scope of the inspection. The inspector will not determine the operational capacity, quality, or suitability for a particular use of the items inspected. The inspection does not determine compliance or noncompliance with manufacturer's specifications, past or present. The client agrees to assume all the risks and liabilities for all conditions which are concealed from view at the time of the inspections. This is not at home warranty, guaranteed, insurance policy, or substitute for real estate transfer disclosures, which may be required by law.

Whether or not they are concealed, the following are outside the scope of this inspection:

Building code or zoning ordinance violations, geological stability or soil conditions, structural stability or engineering analysis, termite or other wood destroying organisms, trees or their condition, pests, asbestos, radon, formaldehyde, lead, water or air quality, electromagnetic radiation or any environmental hazards, building value appraisal or cost estimates, condition of detached buildings, tennis courts, pools or spas bodies and underground piping, underground oil storage tanks, specific components noted as being excluded on the individual system inspection forms, private water or private sewage systems, saunas, steam baths, or fixtures and equipment, radio-controlled devices, automatic gates, elevators, lifts, dumbwaiters and thermostatic or time clock controls, internal condition of chimney; water valves, softener / purifier systems or solar heating systems, furnace heat exchangers, freestanding appliances, security alarms or personal property, prediction of life expectancy of any item, a building's inability to be expanded, microwave ovens, storm windows, screens, shutters, awnings, intercoms, smoke / carbon monoxide detectors, sprinkler systems, fences, any appliance that is a sealed unit. Some of the above may be included in the inspection if any of the above fall within the guidelines of this agreement and if the inspector can make a clear and concise evaluation. \_\_\_\_\_X

I accept that certain things will be randomly sampled and that hidden damages and conditions, public records, codes, engineering, pest and environmental checks are beyond the scope of the standard visual inspection. Your inspector / surveyor is a home inspection generalist and is not acting as a licensed engineer or expert in any craft or trade. If your inspector / surveyor recommends consulting other specialized experts, the client must do so at the client's expense. I have read and agree to the above: \_\_\_\_\_X

RISK ASSESSMENT: I understand this work cannot accurately and completely assess risk, detect all flaws, predict all occurrences, or make assurances. I accept this will not eliminate my risk and I will not burden the inspector / surveyor or the company with such risk. I understand this is no warranty, guarantee, or insurance policy though some jurisdictions may imply such. I will purchase such instruments from others if I desire. \_\_\_\_\_X

PRE-SETTLEMENT: I accept this work is no substitute for a pre-settlement inspection for which I am responsible since damages, mechanical failures, and symptoms, clues, etc. may appear after this work and before my legal acceptance of the property. I / We waive all claims against the inspector / surveyor or company in the absence of diligently performing my pre-settlement inspection and for lack of more extensive investigation and follow through with a specialist on any problems noted including confirmation of any cost approximation. \_\_\_\_\_X

THIRD PARTY LIABILITY: I request this inspection / survey and report, for my confidential use only. I promise to indemnify and hold harmless the inspector / surveyor and the company for any damages and / or expenses involved in addressing or defending claims made by others. \_\_\_\_\_X

DISCLOSURE: The information in this report is the property of the client solely for this transaction. It will be disclosed by the inspection company to real estate agents, sellers, lenders, or other parties intimate to this particular transaction for the purpose of clarification and facilitation of repairs with the client's expressed permission. PERMISSION GRANTED: YES \_\_\_ NO \_\_\_ \_\_\_\_\_X

LEGAL FEES: If I make a claim against the inspector / surveyor or the company for any alleged error, omission, or other act arising out of this work and fail to prove such claim, I will pay all attorney / lawyer fees, arbitrator's fees, legal expenses, and costs incurred by the inspector / surveyor or company in the defense of the claim. \_\_\_\_\_X

Client agrees to notify the inspection company if the house is not to be purchased. \_\_\_\_\_X

STANDARD INSPECTION: I hereby request a standard visual inspection / survey of the property at the above address in full understanding and acceptance that the total liability of the inspector / inspection company for mistakes, errors, or omissions in this inspection / survey shall be limited to the fee or to the extent allowed by the law, whichever is the least.

Client(s) signature prior to inspections X \_\_\_\_\_

One signature binds spouse, et al., etc.

I / We have read all of the above, understand, and I / We agree to be bound by the terms of this contract, or having renegotiated them in writing to my satisfaction. I understand that this is a contract between myself and the inspector / survey company and I sign of my own free will.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 9(JUD)

- 1 Page 1, line 6, following ";":
- 2       Insert "**repealing a law that limits liability for damages based on a duty to inspect**
- 3 **a residential unit to damages caused by gross negligence or intentional misconduct;**"

23-LS00291  
Lauterbach  
2/10/03

**CS FOR HOUSE BILL NO. 9(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES ROKEBERG, Hawker**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the registration of individuals who perform home inspections;  
2 relating to regulation of contractors; relating to registration fees for specialty  
3 contractors, home inspectors, and associate home inspectors; relating to home inspection  
4 requirements for residential loans purchased or approved by the Alaska Housing  
5 Finance Corporation; relating to civil actions by and against home inspectors and to  
6 civil actions arising from residential unit inspections; and providing for an effective  
7 date."

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

9 \* Section 1. AS 08.01.010(12) is amended to read:

10 (12) regulation of construction contractors and home inspectors under  
11 AS 08.18;

12 \* Sec. 2. AS 08.01.065(c) is amended to read:

13 (c) Except as provided in (f) - (i) [(f) - (h)] of this section, the department shall

1 establish fee levels under (a) of this section so that the total amount of fees collected  
2 for an occupation approximately equals the actual regulatory costs for the occupation.  
3 The department shall annually review each fee level to determine whether the  
4 regulatory costs of each occupation are approximately equal to fee collections related  
5 to that occupation. If the review indicates that an occupation's fee collections and  
6 regulatory costs are not approximately equal, the department shall calculate fee  
7 adjustments and adopt regulations under (a) of this section to implement the  
8 adjustments. In January of each year, the department shall report on all fee levels and  
9 revisions for the previous year under this subsection to the office of management and  
10 budget. If a board regulates an occupation covered by this chapter, the department  
11 shall consider the board's recommendations concerning the occupation's fee levels and  
12 regulatory costs before revising fee schedules to comply with this subsection. In this  
13 subsection, "regulatory costs" means costs of the department that are attributable to  
14 regulation of an occupation plus:

15 (1) all expenses of the board that regulates the occupation if the board  
16 regulates only one occupation;

17 (2) the expenses of a board that are attributable to the occupation if the  
18 board regulates more than one occupation.

19 \* Sec. 3. AS 08.01.065 is amended by adding a new subsection to read:

20 (i) Notwithstanding (c) of this section, the department shall establish fee levels  
21 under (a) of this section so that the total amount of fees collected by the Department of  
22 Community and Economic Development for specialty contractors, home inspectors,  
23 and associate home inspectors approximately equals the total regulatory costs of the  
24 department for those three registration categories. The department shall set the fee  
25 levels for the issuance and renewal of a certificate of registration issued under  
26 AS 08.18 so that the fee levels are the same for all three of these registration  
27 categories and so that the fee level for a home inspector with a joint registration is not  
28 different from the fee level for a home inspector who does not have a joint  
29 registration. In this subsection, "joint registration" has the meaning given in  
30 AS 08.18.171.

31 \* Sec. 4. AS 08.18.011 is amended to read:

1           **Sec. 08.18.011. Registration required.** (a) A person may not submit a bid or  
2 work as a contractor until that person has been issued a certificate of registration as a  
3 contractor by the department. A partnership or joint venture shall be considered  
4 registered as a contractor if one of the general partners or venturers whose name  
5 appears in the name under which the partnership or venture does business is registered  
6 as a contractor.

7           (b) A general contractor may not use a bid or proposal from, award a bid or  
8 proposal to, contract with, or allow a person required to be registered under this  
9 chapter to work for the general contractor as a specialty contractor unless the person is  
10 registered as a specialty contractor under this chapter.

11 \* **Sec. 5.** AS 08.18.011 is amended by adding new subsections to read:

12           (c) Unless exempt under AS 08.18.156 or serving lawfully as an associate  
13 home inspector under (d) of this section, an individual may not perform a home  
14 inspection

15                   (1) for a residence not previously occupied as a residence unless that  
16 individual is registered as a home inspector for new homes under this chapter;

17                   (2) for a residence previously occupied as a residence unless that  
18 individual is registered as a home inspector for existing homes under this chapter.

19           (d) Notwithstanding (c) of this section, an individual who is not registered as a  
20 home inspector under this chapter may perform a home inspection as an associate  
21 home inspector if the individual

22                   (1) is employed by a registered home inspector who supervises the  
23 associate's work and the inspection is of the type that the supervising individual is  
24 authorized to perform; and

25                   (2) is registered with the department as an associate home inspector.

26           (e) A registered home inspector who employs an associate home inspector  
27 under (d) of this section is liable for the work done by the associate home inspector.

28           (f) An individual who holds a joint registration for home inspection is  
29 considered to be registered as both a home inspector for new homes and a home  
30 inspector for existing homes.

31 \* **Sec. 6.** AS 08.18.021(a) is amended to read:

1 (a) An applicant for registration as a contractor or home inspector shall  
2 submit an application under oath upon a form to be prescribed by the commissioner  
3 and that [WHICH] must include the following information pertaining to the applicant:

4 (1) the applicant's [EMPLOYER] social security number;

5 (2) if applying to be a registered contractor, the type of contracting  
6 activity, whether a general or a specialty contractor and, if the latter, the type of  
7 specialty;

8 (3) if applying to be a registered home inspector, whether the  
9 applicant is applying to inspect new homes or existing homes, or both:

10 (4) if applying to be a registered contractor, the name and address of  
11 each partner if the applicant is a firm or partnership, or the name and address of the  
12 owner if the applicant is an individual proprietorship, or the name and address of the  
13 corporate officers and statutory agent, if any, if the applicant is a corporation; and

14 (5) if applying to be a registered home inspector, the name and  
15 address of the applicant.

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

17 Sec. 08.18.022. Home inspectors; associate home inspectors. (a) The  
18 department shall issue a certificate of registration as a home inspector for new homes,  
19 existing homes, or both, as appropriate, to an individual who

20 (1) passes the appropriate home inspection examination; for purposes  
21 of this paragraph, the appropriate home inspection examination for an individual who  
22 applies to be registered for inspection of

23 (A) existing homes is the examination offered by the American  
24 Society of Home Inspectors, American Home Inspectors Training Institute, or  
25 National Association of Home Inspectors;

26 (B) new homes or for a joint registration is the examination  
27 offered by the International Conference of Building Officials;

28 (2) meets the educational and experience requirements adopted by the  
29 department in regulations for the type of registration applied for;

30 (3) submits a complete application for registration within one year  
31 after passing the examination required under (1) of this subsection;

1 (4) within the seven years preceding the date of application, has not  
2 been under a sentence for an offense related to forgery, theft in the first or second  
3 degree, extortion, or defrauding creditors or for a felony involving dishonesty;

4 (5) has not had the authority to perform home inspections revoked in  
5 this state or in another jurisdiction;

6 (6) is not the subject of an unresolved criminal complaint or  
7 unresolved disciplinary action before a regulatory authority in this state or in another  
8 jurisdiction related to real estate or home inspection matters; and

9 (7) pays the appropriate fees.

10 (b) An individual may register with the department as an associate home  
11 inspector upon application, payment of the required fee, and determination by the  
12 department that the individual

13 (1) within the seven years preceding the date of application, has not  
14 been under a sentence for an offense related to forgery, theft in the first or second  
15 degree, extortion, or defrauding creditors or for a felony involving dishonesty;

16 (2) has not had the authority to perform home inspections revoked in  
17 this state or in another jurisdiction; and

18 (3) is not the subject of an unresolved criminal complaint or  
19 unresolved disciplinary action before a regulatory authority in this state or in another  
20 jurisdiction related to real estate or home inspection matters.

21 **Sec. 08.18.023. Pre-inspection documents and inspection reports.** (a)  
22 Before performing a home inspection, a registered home inspector or associate home  
23 inspector shall provide to the person on whose behalf a home is inspected a written  
24 document specifying

25 (1) the scope of intended inspection; the scope of the intended  
26 inspection may include systems and components that are not listed in  
27 AS 08.18.171(12); and

28 (2) that the inspector will notify in writing the person on whose behalf  
29 the inspection is being made of defects noted during the inspection along with a  
30 recommendation, if any, that experts be retained to conduct further evaluation through  
31 examination and analysis by a qualified professional, tradesperson, or service

1 technician beyond that provided by the home inspection to determine the extent of  
2 defects and corrective action necessary to address the defects.

3 (b) After performance of a home inspection, a registered home inspector or  
4 associate home inspector shall give a written home inspection report to the person  
5 requesting the inspection. The written report must include a review of the condition of  
6 each system and component identified as being within the scope of the intended  
7 inspection under (a) of this section except that a home inspector's written report for  
8 new construction that is the subject of a loan by the Alaska Housing Finance  
9 Corporation or another lender may be in the form required by the corporation or other  
10 lender, as appropriate.

11 (c) In addition to the written inspection report required under (b) of this  
12 section, an oral inspection report may be given by the inspector during or after the  
13 inspection.

14 (d) A home inspection report is valid for 180 days after the date the home  
15 inspector signs and dates the report.

16 \* Sec. 8. AS 08.18.031(a) is amended to read:

17 (a) Except as provided in (c) of this section, a [A] certificate of registratic  
18 shall be renewed under the same requirements as for an original registration, and the  
19 [. THE] commissioner shall issue to the applicant a certificate of registration upon  
20 compliance with the registration requirements of this chapter.

21 \* Sec. 9. AS 08.18.031 is amended by adding a new subsection to read:

22 (c) A certificate of registration as a home inspector may not be renewed unless  
23 the home inspector has complied with the continuing competency requirements  
24 established by the department. The department shall adopt regulations establishing the  
25 continuing competency requirements. The department shall require at least eight  
26 hours of continuing competency activity for each licensing period. The regulations  
27 must provide that a continuing competency activity approved by one of the following  
28 entities satisfies the continuing competency requirements of this subsection if the  
29 activity meets the requirements established by the department in regulations adopted  
30 under this subsection:

31 (1) Alaska Housing Finance Corporation;

- 1 (2) University of Alaska;
- 2 (3) American Society of Home Inspectors Alaska Chapter;
- 3 (4) a chapter of the International Conference of Building Officials
- 4 Alaska;
- 5 (5) Alaska State Homebuilders Association; or
- 6 (6) a state agency that offers an activity that meets the requirements set
- 7 by the department.

8 \* Sec. 10. AS 08.18.041 is amended to read:

9 Sec. 08.18.041. Fees. (a) The department shall set fees under AS 08.01.065

10 for

11 (1) registration and renewal of registration for all categories of

12 contractors;

13 (2) registration and renewal of registration for a home inspector

14 qualified to inspect new homes;

15 (3) registration and renewal of registration for a home inspector

16 qualified to inspect existing homes;

17 (4) joint registration and renewal of joint registration for home

18 inspectors;

19 (5) registration and renewal of registration as an associate home

20 inspector;

21 (6) examinations for applicants for home inspector registration;

22 (7) examination, issuance of initial endorsement, and renewal of active

23 or inactive endorsements for residential contractors: and

24 (8) [(3)] departmental publications and seminars related to this chapter.

25 (b) A person who fails a residential contractor examination or home

26 inspector examination shall pay the examination fee set by the department if the

27 person applies to retake an examination.

28 \* Sec. 11. AS 08.18.051(a) is amended to read:

29 (a) Except as provided otherwise by law, a person who has registered as a

30 contractor under one name as required by this chapter may not act in the capacity of a

31 contractor under any other name unless that name also is registered.

1 \* **Sec. 12.** AS 08.18 is amended by adding a new section to read:

2 **Sec. 08.18.053. Identification requirements for home inspectors.** (a)

3 Except as provided otherwise by law, an individual who is registered as a home  
4 inspector or associate home inspector under this chapter by one name may not act in  
5 the capacity of a home inspector or associate home inspector under any other name.

6 (b) All advertising and business cards prepared by a registered home inspector  
7 or associate home inspector for the home inspection business and the pre-inspection  
8 documents and written inspection reports provided under AS 08.18.023 must show the  
9 inspector's name, mailing address, and registration number.

10 (c) Individual registered home inspectors and partners, associates, agents,  
11 salespeople, solicitors, officers, and employees of registered home inspectors shall use  
12 their true names and addresses and the true name of the home inspecting firm at all  
13 times while acting in the capacity of a registered home inspector or performing related  
14 activities.

15 (d) Individuals who are exempt from registration under AS 08.18.156(a) or  
16 whose actions are not considered to be home inspections under AS 08.18.156(b) may  
17 not hold themselves out to be registered home inspectors or use words or titles that  
18 may reasonably be confused with the title of "registered home inspector" unless they  
19 are registered as a home inspector under this chapter.

20 \* **Sec. 13.** AS 08.18.061 is amended to read:

21 **Sec. 08.18.061. Requirements of political subdivision.** A contractor or  
22 home inspector who is registered with the state under this chapter may not be  
23 required to give bond in applying for or holding a license issued by a political  
24 subdivision for a similar occupation.

25 \* **Sec. 14.** AS 08.18.071(a) is amended to read:

26 (a) Each applicant shall, at the time of applying for a certificate of registration,  
27 file with the commissioner a surety bond running to the state conditioned upon the  
28 applicant's promise to pay all

29 (1) taxes and contributions due the state and political subdivisions;

30 (2) persons furnishing labor or material or renting or supplying  
31 equipment to the applicant; and

1 (3) amounts that may be adjudged against the applicant by reason of  
2 negligent or improper work or breach of contract in the conduct of the contracting  
3 business or home inspection activity, as applicable, or by reason of damage to  
4 public facilities occurring in the course of a construction project.

5 \* Sec. 15. AS 08.18.071(b) is amended to read:

6 (b) If the applicant is a general contractor, the amount of the bond shall be  
7 \$10,000; if the applicant is a mechanical or specialty contractor or home inspector,  
8 the amount of the bond shall be \$5,000. In lieu of the surety bond the applicant may  
9 file with the commissioner a cash deposit or other negotiable security acceptable to the  
10 commissioner in the amount specified for bonds.

11 \* Sec. 16. AS 08.18.081(a) is amended to read:

12 (a) Except as provided in AS 08.18.085, a [A] person having a claim against  
13 a contractor or home inspector for any of the items referred to in AS 08.18.071 may  
14 bring suit upon the bond in the district court of the judicial district in which venue lies.  
15 A copy of the complaint shall be served by registered or certified mail upon the  
16 commissioner at the time suit is filed, and the commissioner shall maintain a record,  
17 available for public inspection, of all suits commenced. Two additional copies shall  
18 be served upon the director of the division of insurance with the payment to the  
19 director of a fee set under AS 21.06.250, taxable as costs in the action. This service  
20 upon the director shall constitute service on the surety, and the director shall transmit  
21 the complaint or a copy of it to the surety within 72 hours after it has been received.  
22 The surety upon the bond is not liable in an aggregate amount in excess of that named  
23 in the bond, but in case claims pending at any one time exceed the amount of the bond,  
24 the claims shall be satisfied from the bond in the following order:

25 (1) labor, including employee benefits;

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

28 (3) material and equipment;

29 (4) claims for breach of contract;

30 (5) repair of public facilities.

31 \* Sec. 17. AS 08.18 is amended by adding a new section to read:

1           **Sec. 08.18.085. Legal actions against home inspector.** (a) Notwithstanding  
2 contrary provisions of AS 08.18.081 or AS 09.10, a person may not bring an action  
3 against an individual registered under this chapter based on a home inspection report  
4 unless the action is commenced within

5                   (1) two years after the date of the home inspection report if the report  
6 related to a new home; and

7                   (2) one year after the date of the home inspection report if the report  
8 related to an existing home.

9           (b) The limitations in (a) of this section apply to all actions based on a home  
10 inspection report, regardless of whether the action is based on breach of contract,  
11 personal injury or death, property damage, or another source of liability. The  
12 limitations may not be waived by contract.

13           (c) An individual registered as a home inspector or associate home inspector  
14 under this chapter is not liable to a person for damages that arise from an act or  
15 omission relating to a home inspection performed by the individual if the person is

16                   (1) not a party to the transaction for which the home inspection was  
17 conducted; or

18                   (2) unlawfully in receipt of the home inspection report related to the  
19 home inspection.

20           (d) Contractual provisions that purport to limit the liability of a home  
21 inspector to an amount that is less than the fair market value of the inspected home at  
22 the time of the inspection are contrary to public policy and void.

23 \* **Sec. 18.** AS 08.18.111 is amended to read:

24           **Sec. 08.18.111. Advertising bond and insurance.** Contractors and home  
25 inspectors may not advertise that they are bonded and insured simply because they  
26 have complied with the bond and insurance requirements of this chapter.

27 \* **Sec. 19.** AS 08.18.115 is amended to read:

28           **Sec. 08.18.115. Return of cash deposit.** (a) A contractor or home inspector  
29 who has filed a cash deposit and who ceases doing business as a contractor or home  
30 inspector may request the return of as much of that cash deposit as is held by the  
31 commissioner by

1 (1) filing a notarized statement with the commissioner that the  
2 contractor or home inspector has ceased doing business as a contractor or home  
3 inspector, as applicable; and

4 (2) filing a notarized statement with the commissioner at least three  
5 years after filing the statement in (1) of this subsection that [WHICH]

6 (A) requests return of the cash deposit;

7 (B) certifies that the former contractor or home inspector has  
8 not been engaged in business as a contractor or home inspector, as  
9 applicable, for at least three years; and

10 (C) certifies that to the best of the contractor's or home  
11 inspector's knowledge no action has been commenced upon the cash deposit  
12 that [WHICH] has not been dismissed or reduced to a final judgment that  
13 [WHICH] has been satisfied.

14 (b) The commissioner, after paying any judgments against the cash deposit  
15 under AS 08.18.081(b), shall return the remainder of a former contractor's or former  
16 home inspector's cash deposit to the contractor or home inspector, as applicable, if

17 (1) the former contractor or former home inspector has complied  
18 with (a) of this section; and

19 (2) no action has been commenced upon the cash deposit that  
20 [WHICH] has not been dismissed or reduced to a final judgment that [WHICH] has  
21 been satisfied.

22 \* Sec. 20. AS 08.18.116 is amended to read:

23 **Sec. 08.18.116. Investigations.** Either the Department of Community and  
24 Economic Development or the Department of Labor and Workforce Development  
25 may investigate alleged or apparent violations of this chapter relating to contractors.  
26 The Department of Community and Economic Development may investigate  
27 alleged or apparent violations of this chapter relating to home inspection  
28 activities. These departments, upon showing proper credentials, may enter, during  
29 regular hours of work, a construction site where it appears that contracting work is  
30 being done. The departments may make inquiries about the identity of the contractor  
31 or the person acting in the capacity of a contractor. The Department of Community

1 and Economic Development may make inquiries about the identity of a home  
2 inspector or a person acting in the capacity of a home inspector. Upon demand, a  
3 contractor or home inspector or person acting in the capacity of a contractor or home  
4 inspector, or that person's representative, shall produce evidence of current  
5 endorsement, if applicable, and registration.

6 \* Sec. 21. AS 08.18.117 is amended to read:

7 **Sec. 08.18.117. Issuance of citations.** Either the Department of Community  
8 and Economic Development or the Department of Labor and Workforce Development  
9 may issue a citation for a violation if there is probable cause to believe a person has  
10 violated this chapter with respect to contractor activities. The Department of  
11 Community and Economic Development may issue a citation for a violation if  
12 there is probable cause to believe a person has violated this chapter with respect  
13 to home inspection activities. Each day a violation continues after a citation for the  
14 violation has been issued constitutes a separate violation.

15 \* Sec. 22. AS 08.18.121(a) is amended to read:

16 (a) If the insurance required in AS 08.18.101 ceases to be in effect, the  
17 registration of the contractor or home inspector shall be suspended until the insurance  
18 has been reinstated.

19 \* Sec. 23. AS 08.18.121(b) is amended to read:

20 (b) If a final judgment impairs the liability of the surety upon the bond or  
21 depletes the cash deposit so that there is not in effect a bond undertaking or cash  
22 deposit in the full amount prescribed in AS 08.18.071, the registration of the  
23 contractor or home inspector involved shall be suspended until the bond liability in  
24 the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

25 \* Sec. 24. AS 08.18.121(c) is amended to read:

26 (c) If a bonding company cancels its bond of a contractor or home inspector,  
27 the contractor's or home inspector's registration shall be revoked. The contractor or  
28 home inspector may again obtain registration by complying with the requirements of  
29 this chapter.

30 \* Sec. 25. AS 08.18.121(d) is amended to read:

31 (d) If a registered contractor or registered home inspector fails to fulfill the

1 contractor's or home inspector's obligations as set out in AS 08.18.071, the  
2 contractor's or home inspector's registration shall be suspended for a period of time  
3 the commissioner determines is appropriate. After three suspensions, the contractor's  
4 or home inspector's registration may be permanently revoked.

5 \* Sec. 26. AS 08.18.121(f) is amended to read:

6 (f) If the Department of Community and Economic Development or the  
7 Department of Labor and Workforce Development determines that a contractor or [A]  
8 person acting in the capacity of a contractor [,] is in violation of this chapter, that  
9 department may give written notice to the person prohibiting further action by the  
10 person as a contractor. If the Department of Community and Economic  
11 Development determines that a home inspector or a person acting in the capacity  
12 of a home inspector is in violation of this chapter, the department may give  
13 written notice to the person prohibiting further action by the person as a home  
14 inspector. The prohibition in a notice given under this subsection continues until  
15 the person has submitted evidence acceptable to the appropriate [THAT] department  
16 showing that the violation has been corrected.

17 \* Sec. 27. AS 08.18.123 is amended to read:

18 Sec. 08.18.123. Denial, suspension, and revocation of endorsement or  
19 home inspector registration.

20 (a) The department may suspend, revoke, or refuse to grant or renew a  
21 residential contractor endorsement, a home inspector registration, or an associate  
22 home inspector registration upon a finding that

23 (1) the application is fraudulent or misleading;

24 (2) the endorsement holder or registrant [CONTRACTOR] has  
25 knowingly violated this chapter or a lawful order or regulation of the department;

26 (3) the endorsement holder or registrant [CONTRACTOR] is  
27 incompetent or has engaged in fraudulent practices.

28 (b) Proceedings for the denial, suspension, or revocation of residential  
29 contractor endorsement, home inspector registration, or associate home inspector  
30 registration are governed by AS 44.62 (Administrative Procedure Act).

31 \* Sec. 28. AS 08.18.131 is amended to read:

1           **Sec. 08.18.131. Injunction: civil penalty.** In an action instituted in the  
2 superior court by the Department of Community and Economic Development or the  
3 Department of Labor and Workforce Development, the court may enjoin a person  
4 from acting in the capacity of a contractor in violation of this chapter. **In an action**  
5 **instituted in the superior court by the Department of Community and Economic**  
6 **Development, the court may enjoin a person from acting in the capacity of a**  
7 **home inspector in violation of this chapter.** In addition to other relief, the court may  
8 impose a civil penalty of not more than \$250 for each violation. Each day that an  
9 unlawful act continues constitutes a separate violation.

10 \* **Sec. 29.** AS 08.18.141(a) is amended to read:

11           (a) A contractor, home inspector, or [A] person acting in the capacity of a  
12 contractor or home inspector who knowingly violates AS 08.18.011 or 08.18.025 is  
13 guilty of a class B misdemeanor. A person who violates another provision of this  
14 chapter is guilty of a violation punishable under AS 12.

15 \* **Sec. 30.** AS 08.18.151 is amended to read:

16           **Sec. 08.18.151. Legal actions by contractor or home inspector.** A person  
17 acting in the capacity of a contractor or home inspector may not bring an action in a  
18 court of this state for the collection of compensation for the performance of work or  
19 for breach of a contract for which registration is required under this chapter without  
20 alleging and proving that the contractor or home inspector was a registered contractor  
21 or registered home inspector, as applicable, at the time of contracting for the  
22 performance of the work.

23 \* **Sec. 31.** AS 08.18 is amended by adding new sections to article 4 to read:

24           **Sec. 08.18.152. Prohibited acts for home inspectors.** An individual  
25 registered under this chapter as a home inspector or associate home inspector may not

26           (1) perform or offer to perform, for an additional fee, repairs to a  
27 subject property on which the home inspector or the home inspector's company has  
28 prepared a home inspection report in the past 12 months;

29           (2) inspect for a fee any property in which the home inspector or the  
30 home inspector's company has a financial interest or an interest in the transfer of the  
31 property;

1 (3) offer or deliver compensation, an inducement, or a reward to the  
2 owner of the inspected property, the broker, or the agent, for the referral of business to  
3 the home inspector or the home inspector's company;

4 (4) without the written consent of the home inspection client or the  
5 client's legal representative, disclose information from a home inspection report  
6 prepared by the home inspector or the home inspector's company unless the disclosure  
7 is made

8 (A) to a subsequent client who requests a home inspection of  
9 the same premises; or

10 (B) by the home inspector in an administrative or judicial  
11 proceeding in which disclosure of the home inspection report is relevant to  
12 resolution of the legal issues in the proceeding;

13 (5) without the written consent of all interested parties, accept  
14 compensation from more than one interested party for the same home inspection  
15 services;

16 (6) accept from a person who has other dealings with a home  
17 inspection client a commission or allowance, directly or indirectly, for work for which  
18 the home inspector or the home inspector's company is responsible;

19 (7) accept an engagement to make an inspection or to prepare a report  
20 in which the employment itself or the fee payable for the inspection is contingent upon  
21 the conclusions in the report, preestablished findings, or the close of escrow.

22 **Sec. 08.18.154. Limitation on home inspector's activities.** A registration  
23 issued under AS 08.18.022 does not authorize the holder to perform an activity for  
24 which a license is required under provisions of this title that are outside of this chapter.

25 **Sec. 08.18.156. Exemptions related to home inspections.** (a)  
26 Notwithstanding other provisions of this chapter, an individual who inspects a home is  
27 not required to be registered under this chapter as a home inspector or associate home  
28 inspector if the individual is

29 (1) employed by the federal or state government, a political  
30 subdivision of the state, or a municipality or unincorporated community and the  
31 employee is performing only duties that are within the employee's official duties;

1 (2) performing a home inspection only with respect to property that is  
2 the individual's residence or in which the individual has a financial interest;

3 (3) registered as an engineer or architect under AS 08.48, prepares a  
4 written report after the inspection, affixes the individual's seal to the home inspection  
5 report, signs and dates the report, and puts the individual's registration number on the  
6 report;

7 (4) engaged as an engineer in training or architect in training who  
8 works for and is supervised by a person described in (3) of this subsection and the  
9 person described in (3) of this subsection affixes the person's seal to the home  
10 inspection report, signs and dates the report, and puts the person's registration number  
11 on the report;

12 (5) licensed as a pesticide applicator by the Department of  
13 Environmental Conservation and is performing only activities within the scope of that  
14 license;

15 (6) registered as a general contractor with a residential contractor  
16 endorsement under this chapter and is performing only activities within the scope of  
17 that registration;

18 (7) certified as any type of real estate appraiser under AS 08.87 and is  
19 performing only activities that are authorized under that certification; or

20 (8) only determining whether a building complies with the thermal and  
21 lighting energy standards required by AS 46.11.040.

22 (b) Notwithstanding the definition of "home inspection" in AS 08.18.171(12),  
23 an individual is not considered to be doing a home inspection for purposes of this  
24 chapter if the individual

25 (1) is in the business of repairing, maintaining, or installing any of the  
26 systems or components listed in AS 08.18.171(12); and

27 (2) inspects the system or component for the sole purpose of  
28 determining the condition of the system or component before performing or offering  
29 to perform repair, maintenance, or installation work on the system or component.

30 \* Sec. 32. AS 08.18.161 is amended to read:

31 **Sec. 08.18.161. Exemptions. To the extent that this chapter governs**

1 contractors. this [THIS] chapter does not apply to

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

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

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

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

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

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

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

19 (8) work on one project under one or more contracts, the aggregate  
20 contract price of which for labor and materials and all other items is less than \$10,000  
21 [, THIS WORK BEING CONSIDERED AS OF A CASUAL, MINOR, OR  
22 INCONSEQUENTIAL NATURE]; this exemption does not apply when the work is  
23 only a part of a larger or major operation, whether undertaken by the same or a  
24 different contractor, or when the work is divided into contracts of amounts less than  
25 \$10,000 for the purpose of evasion of this chapter or otherwise; this exemption does  
26 not apply to a person who advertises or puts out a sign or card or other device that  
27 might indicate to the public that the person is a contractor, or that the person is  
28 qualified to engage in the contracting business; a contractor who performs work priced  
29 at \$2,500 or more, under this exemption, shall nevertheless keep in force public  
30 liability and property damage insurance with coverage in at least the amounts set out  
31 in AS 08.18.101;

1 (9) an owner who contracts for a project with a registered contractor:  
2 (10) a person working on that person's own property, whether occupied  
3 by the person or not, and a person working on that person's own residence, whether  
4 owned by the person or not;

5 (11) an owner or tenant of commercial property who uses the owner's  
6 or tenant's own employees to do maintenance, repair, and alteration work upon that  
7 property;

8 (12) an owner who acts as the owner's own contractor and in doing so  
9 hires workers on an hourly basis, hires subcontractors, purchases materials and, as  
10 such, sees to the paying for all labor, subcontractors, and materials; in this case, the  
11 owner shall be limited to construction of one home, duplex, triplex, four-plex, or one  
12 commercial building a [PER] year;

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

17 \* Sec. 33. AS 08.18.171 is amended by adding new paragraphs to read:

18 (11) "existing home" means a residence previously occupied as a  
19 residence;

20 (12) "home inspection" means a visual examination, performed in  
21 accordance with standards of practice adopted by the department, of the readily  
22 accessible parts of one or more of the following systems and components of a  
23 residence or intended residence:

24 (A) heating and air-conditioning systems;

25 (B) plumbing and electrical systems;

26 (C) built-in appliances;

27 (D) roof, attic, and visible insulation;

28 (E) walls, ceilings, floors, windows, and doors;

29 (F) foundation and basement;

30 (G) visible interior and exterior structures;

31 (H) drainage to and from the residence;

1 (I) other systems or components as specified by the department  
2 in regulations;

3 (13) "home inspector" means an individual who performs or offers to  
4 perform a home inspection for a fee;

5 (14) "joint registration" means a certificate of registration that  
6 authorizes an individual to inspect both new homes and existing homes;

7 (15) "knowingly" has the meaning given in AS 11.81.900;

8 (16) "new home" means a residence not previously occupied as a  
9 residence;

10 (17) "residence" means

11 (A) a single-family home other than a mobile home;

12 (B) a duplex, triplex, or four-plex; or

13 (C) a residential townhouse or residential condominium unit;

14 (18) "visual examination" means an examination performed in person  
15 at the physical location of the residence except that, if a method other than personal  
16 physical inspection has been approved by the Alaska Housing Finance Corporation  
17 under AS 18.56.300(b), use of the other approved method constitutes a visual  
18 examination under this chapter.

19 \* Sec. 34. AS 18.56.300(b) is amended to read:

20 (b) As a condition of a commitment to purchase or approve a loan under this  
21 section for residential housing the construction of which begins after June 30, 1992,  
22 the corporation shall require inspection of the unit of residential housing that is the  
23 subject of the loan. The inspection must be performed by a municipal building  
24 inspector, by a person who is approved or certified to perform residential inspections  
25 by the International Conference of Building Officials or the International Association  
26 of Electrical Inspectors, by an individual who is registered under AS 08.18 to  
27 perform home inspections for new construction [OR, WHEN THE UNIT OF  
28 RESIDENTIAL HOUSING IS LOCATED IN A RURAL AREA], by an architect  
29 registered under AS 08.48, by an engineer registered under AS 08.48, or by another  
30 person approved by the corporation. When the unit of residential housing is located in  
31 a rural area, the person who makes the inspection may use methods other than a

1 personal physical inspection to make the inspection if the method is approved by the  
2 corporation, and variations from the applicable code may be accepted at the  
3 corporation's discretion, if the person authorized to inspect the unit under this  
4 subsection satisfies the corporation that the variation does not adversely affect the  
5 structural integrity of the unit or the health and safety of the residents. The person  
6 who makes the inspection shall determine whether the construction conforms to  
7 relevant provisions of the construction codes of the municipality or of the state  
8 building code, as applicable, at each of the following stages of construction:

- 9 (1) plan approval;
- 10 (2) completion of footings and foundations;
- 11 (3) completion of electrical installation, plumbing, and framing;
- 12 (4) completion of installation of insulation;
- 13 (5) final approval.

14 \* Sec. 35. AS 18.56.300(b) is amended to read:

15 (b) As a condition of a commitment to purchase or approve a loan under this  
16 section for residential housing the construction of which begins after June 30, 1992,  
17 the corporation shall require inspection of the unit of residential housing that is the  
18 subject of the loan. The inspection must be performed by a municipal building  
19 inspector, [BY A PERSON WHO IS APPROVED OR CERTIFIED TO PERFORM  
20 RESIDENTIAL INSPECTIONS BY THE INTERNATIONAL CONFERENCE OF  
21 BUILDING OFFICIALS OR THE INTERNATIONAL ASSOCIATION OF  
22 ELECTRICAL INSPECTORS,] by an individual who is registered under AS 08.18 to  
23 perform home inspections for new construction, by an architect registered under  
24 AS 08.48, by an engineer registered under AS 08.48, or by another person approved  
25 by the corporation. When the unit of residential housing is located in a rural area, the  
26 person who make the inspection may use methods other than a personal physical  
27 inspection to make the inspection if the method is approved by the corporation, and  
28 variations from the applicable code may be accepted at the corporation's discretion, if  
29 the person authorized to inspect the unit under this subsection satisfies the corporation  
30 that the variation does not adversely affect the structural integrity of the unit or the  
31 health and safety of the residents. The person who makes the inspection shall

1 determine whether the construction conforms to relevant provisions of the  
2 construction codes of the municipality or of the state building code, as applicable, at  
3 each of the following stages of construction:

- 4 (1) plan approval;
- 5 (2) completion of footings and foundations;
- 6 (3) completion of electrical installation, plumbing, and framing;
- 7 (4) completion of installation of insulation;
- 8 (5) final approval.

9 \* Sec. 36. AS 36.30.050(b) is amended to read:

10 (b) A person who desires to be on a list shall submit to the commissioner  
11 evidence of a valid Alaska business license. A biennial fee may be established by  
12 regulation in an amount reasonably calculated to pay the costs of administering this  
13 section. A construction contractor shall also submit a valid certificate of registration  
14 as a contractor issued under AS 08.18. The commissioner, by regulation, may require  
15 submission of additional information.

16 \* Sec. 37. AS 36.30.115(a) is amended to read:

17 (a) Within five working days after the identification of the apparent low bidder  
18 for a construction contract, the apparent low bidder shall submit a list of the  
19 subcontractors the bidder proposes to use in the performance of the construction  
20 contract. The list must include the name and location of the place of business for each  
21 subcontractor, evidence of each subcontractor's valid Alaska business license, and  
22 evidence of each subcontractor's registration as a contractor under AS 08.18. If a  
23 subcontractor on the list did not have a valid Alaska business license and a valid  
24 certificate of registration as a contractor under AS 08.18 at the time the bid was  
25 opened, the bidder may not use the subcontractor in the performance of the contract,  
26 and shall replace the subcontractor with a subcontractor who had a valid Alaska  
27 business license and a valid certificate of registration as a contractor under AS 08.18  
28 at the time the bid was opened.

29 \* Sec. 38. AS 36.30.210(b) is amended to read:

30 (b) An offeror for a construction contract shall submit evidence of the offeror's  
31 registration as a contractor under AS 08.18. A request for sealed proposals for a

1 construction contract, except a design-build construction contract, must require the  
2 offeror, not [NO] later than five working days after the proposal that is the most  
3 advantageous to the state is identified, to list subcontractors the offeror proposes to use  
4 in the performance of the construction contract. The list must include the information  
5 required under AS 36.30.115(a). The provisions of AS 36.30.115(b) - (g) that apply to  
6 a construction contractor or an apparent low bidder apply to offerors submitting  
7 competitive sealed proposals for construction contracts, except design-build  
8 construction contracts.

9 \* **Sec. 39.** AS 36.90.290(1) is amended to read:

10 (1) "prime contractor" means a person required to be registered as a  
11 contractor under AS 08.18 who has a contract with the state or a political subdivision  
12 of the state to provide materials or services, other than as an employee, for a public  
13 construction or public works project;

14 \* **Sec. 40.** AS 45.50.471(b) is amended by adding a new paragraph to read:

15 (45) violating AS 08.18.023(b) or 08.18.152.

16 \* **Sec. 41.** AS 18.56.300(c) is repealed.

17 \* **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 **APPLICABILITY.** The change made by *sec. 41* of this Act applies to causes of action  
20 that accrue on or after July 1, 2005.

21 \* **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 **REGULATIONS.** The Department of Community and Economic Development may  
24 proceed to adopt regulations to implement this Act. A regulation adopted under this section  
25 takes effect under AS 44.62 (Administrative Procedure Act) but not before the effective date  
26 of the law implemented by the regulation.

27 \* **Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to  
28 read:

29 **TRANSITIONAL LICENSING PROVISIONS.** (a) Notwithstanding AS 08.18.022,  
30 added by *sec. 7* of this Act, the Department of Community and Economic Development shall  
31 issue a certificate of joint registration that is valid until January 1, 2006, to an individual who

1 submits to the department satisfactory evidence of being in the business of home inspection in  
2 the state at the time of application for registration under this subsection and of having

3 (1) been in the business of home inspection in the state on October 1, 2002;

4 and

5 (2) passed the building inspector examination or property maintenance and  
6 housing inspector examination given by the International Conference of Building Officials.

7 (b) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of  
8 Community and Economic Development shall issue a certificate of registration to practice  
9 home inspection of previously occupied residences that is valid until January 1, 2006, to an  
10 individual who submits to the department satisfactory evidence of being in the business of  
11 home inspection in the state at the time of application for registration under this subsection  
12 and of having passed

13 (1) the national home inspector examination given by the American Society of  
14 Home Inspectors, American Home Inspectors Training Institute, or National Association of  
15 Home Inspectors; or

16 (2) the examination of the Examination Board of Professional Home  
17 Inspectors.

18 (c) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of  
19 Community and Economic Development shall issue a certificate of registration to practice  
20 home inspection of new construction that is valid until January 1, 2006, to an individual who  
21 submits to the department satisfactory evidence of being in the business of home inspection in  
22 the state at the time of application for registration under this subsection and of having passed  
23 the combination inspector examination or the combination dwelling inspector examination  
24 given by the International Conference of Building Officials.

25 (d) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of  
26 Community and Economic Development shall issue a certificate of registration as an associate  
27 home inspector that is valid until January 1, 2006, to an individual who submits to the  
28 department satisfactory evidence of being employed by an individual who is in the business of  
29 home inspection and is registered under this section or under AS 08.18.

30 (e) A certificate of registration issued under this section may not be renewed or  
31 extended.