

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6384 SENATE LABOR & COMMERCE

During the fishing season, rumors often abound that certain Fish and Game employees are making decisions on the basis of financial favoritism. Whether they are true or not, these rumors and reports tend to undermine Fish and Game's credibility.

SB 61 will help reassure Alaska's fishermen that management decisions are being made objectively and with fairness. It will allow the public to have a high level of confidence in the Department of Fish and Game.

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2/23/89
IN ACCORDANCE WITH UNIFORM RULE 23

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

FURTHER

RES
JUD

DATE TURNED INTO OFFICE 4/3/89

1/9/89

Mr. President:

L&C

Committee considered SB 61

prohibiting certain employees of the Department of Fish and Game from
having certain financial interests.

and recommended:

replace with CS SB 61 (L+C) same title

attached amendment(s) and new title

_____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Robert Rodery
[Signature]
Jan Fink

[Signature]
Chairman signature and recommendation

Committee backup attached

FISCAL NOTE

REQUEST:

Revision Date: March 31, 1989
 Title: An act relating to employees of the Dept. of Fish and Game
 Sponsor: Zharoff
 Requestor: _____

Agency Affected: Fish and Game
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact upon the department.

Prepared by: Warren W. Wiley Phone: 465-4100
 Division: Commissioner's Office Date: April 3, 1989
 Approved by Commissioner: [Signature] Date: April 3, 1989
 Agency: Fish and Game

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)



STATE OF ALASKA
OFFICE OF THE GOVERNOR

RECEIVED

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Commissioner's Ofc.	BILL NUMBER SB 61	SPONSOR Senator Zharoff
SHORT TITLE OF BILL An Act relating to ADF&G employees' interest in fisheries			
DEPARTMENT POSITION Oppose			
PREPARED BY Warren W. Wiley	DATE 3/1/89	COMMISSIONER'S SIGNATURE <i>Robert Collessworth</i>	DATE 3.1.89

SUMMARY

OTHER AGENCIES AFFECTED BY BILL None	CONSTITUENT GROUP(S) AFFECTED BY BILL Employees of ADF&G
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
Unknown

ANALYSIS OF BILL/PROGRAM EFFECTS

Enactment of this legislation would prohibit an employee of the Department of Fish and Game from acquiring a financial interest in a commercial fishery managed by the department. If an employee presently holds an interest in a commercial fishery, the proposed legislation would require that employee to disclose such interest and, eventually, to relinquish that interest. Certain provisions of AS 39.52 (the Ethics Act) may already apply to this situation. At present, the department is attempting to enact an ethics policy which would address situations similar to those discussed in Senate Bill 61.

AMENDMENTS PROPOSED

It might be possible that amendments could be made to AS 39.52 which would address the issue of public employees of resource agencies participating in the commercial harvest of resources managed by the employing agency.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Original sponsor: Zharoff

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 61 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act prohibiting certain employees of the Depart-
7 ment of Fish and Game from having certain financial
8 interests."

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

10 * Section 1. AS 44.39 is amended by adding a new section to read:

11 Sec. 44.39.060. FINANCIAL INTERESTS PROHIBITED. (a) A perma-
12 nent full-time employee of the department who makes or influences
13 policy decisions concerning management of a fishery or a game re-
14 source, or an immediate family member, may not have or acquire a
15 financial interest in the fishery or game resource. An employee who
16 has or acquires a financial interest in violation of this subsection
17 shall immediately disclose the interest to the commissioner and begin
18 procedures to become divested of the forbidden financial interest. An
19 employee who knows that an immediate family member has a financial
20 interest in violation of this subsection shall immediately disclose
21 the interest to the commissioner.

22 (b) The department may, by regulation, extend the prohibition
23 established in this section to other employees whose duties are relat-
24 ed to a fishery or a game resource.

25 (c) An employee who has, or who knows that a member of the
26 employee's immediate family has, a financial interest in violation of
27 this section is subject to discipline including discharge from state
28 employment. However, an employee who has promptly disclosed a forbid-
29 den financial interest and who did not acquire the financial interest

1 intending to violate this section may not be disciplined if divestment
2 occurs within a reasonable period of time following the disclosure.

3 (d) An employee who knowingly has, or who knows that a member of
4 the employee's immediate family has, an undisclosed interest in vio-
5 lation of (a) of this section is guilty of a class B misdemeanor. An
6 employee who has disclosed that the employee has an interest in viola-
7 tion of (a) of this section and who has failed to divest the interest
8 in a reasonable period of time is guilty of a class B misdemeanor.

9 (e) A disciplinary action or penalty under this section is in
10 addition to any other penalty that may be imposed by law.

11 (f) In this section

12 (1) "commissioner" means the commissioner of fish and game;

13 (2) "department" means the Department of Fish and Game;

14 (3) "financial interest" has the meaning given in AS 39.-
15 52.960;

16 (4) "fishery" means the commercial taking of a specific
17 fishery resource in a specific administrative area with any type of
18 gear or the sale or commercial processing of a specific fishery re-
19 source taken from a specific administrative area with any type of
20 gear; in this paragraph, "fishery resource" has the meaning given in
21 AS 43.75.140, and "gear" and "type of gear" have the meanings given in
22 AS 16.43.990;

23 (5) "game resource" means the conservation and development
24 of game within a game management unit; in this paragraph, "game" has
25 the meaning given in AS 16.05.940;

26 (6) "immediate family" includes a person's spouse and
27 children residing with the person.
28
29

S B

72

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3/23/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 4/11/89

1/9/89

Mr. President:

Labor & Commerce Committee considered SSSB 72

registration and licensing of contractors; prohibiting the use of state money for certain residential work unless the work is performed by a licensed residential contractor; efd

and recommended:

- replace with CS SS SB 72 (L+C) same title
- attached amendment(s) and new title
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to Finance

FISCAL NOTE(S) attached Dept of Labor 3/31/89 Dept of Commerce 37.1 3/31/89
 zero 4/3/89 fiscal impact 37.1 4/3/89
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]

[Signature]
 Chair signature and recommendation

Committee backup attached

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: " An Act relating to BRU: Labor Standards & Safety
registration....of contractors;"
 Sponsor: Szymanski Components: Wage & Hour
 Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note applies also to the CS adopted by the Labor + Commerce Committee

Sheila Peterson
Sen L+C Committee
Phone: 264-2452

Prepared by: Tom Stuart, Director Date: 4/3/89
 Division: Labor Standards & Safety

Approved by Commissioner: Jim Sampson Date: 4/3/89
 Agency: Department of Labor

Distribution (by preparer) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to registration and licensing of contractors...
 Sponsor: Senator Szymanski
 Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing

Components: Admin. & Investigations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		21.0	21.0	21.0	21.0	21.0
TRAVEL		1.1	1.1	1.1	1.1	1.1
CONTRACTUAL		15.0	15.0	15.0	15.0	15.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	37.1	37.1	37.1	37.1	37.1

CAPITAL						
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REVENUE	0	37.5	75.0	0	75.0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR	0	37.1	37.1	37.1	37.1	37.1
TOTAL	0	37.1	37.1	37.1	37.1	37.1

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

The bill establishes an endorsement to the registration of a general contractor who oversees the construction of or who performs alterations to residential structures. This fiscal note represents the anticipated costs associated with the establishment of the registration endorsement for residential contractors. (Continued)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: April 3, 1989

Approved by Commissioner: Larry Mercurieff Date: 4/5/89
 Agency: Commerce and Economic Development

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

This fiscal note applies also to the CS adopted by the Labor + Commerce Committee.

Shula Peterson
Sen L+C Committee

CONTINUATION OF FISCAL NOTE
For CSSSSB 72 (L&C)

The division is not certain of the absolute number of residential contractors who will be affected by the bill; therefore, calculations in this fiscal note are based on at least 500 of the approximately 1500 licensed general contractors seeking registration endorsement as a residential contractor. Based on 500, the new category can be expected to cover 1.86% of the administrative costs (500 divided by 26,945 total licensees).

Personal Services: \$21.0

Consists of:

- *13.00% of a licensing examiner
- * 2.00% of an investigator
- * 1.86% of administrative overhead

Travel: \$ 1.1

This will provide for travel funds for the Licensing Examiner to administer the examinations twice a year at a location other than Juneau.

Contractual Services: \$15.0

This will provide funding for examination development; communication expenses; printing of applications, examinations, etc.; public notices; exam facility rentals; seminars; and other informational publications necessary.

TOTAL: \$37.1

REVENUES: The revenues identified are based on an endorsement fee for residential contractors, assuming that residential contractors will pay a biennial fee of \$150 (\$75 per year) in addition to their general contractor registration.

FY 90: The effective date of the bill is July 1, 1989 and therefore, revenues are based on an initial 500 contractors seeking a residential endorsement. The initial endorsement would be valid for one year, with an expiration date of December 31, 1990, the same date in which a general contractor's certificate of registration expires. $500 \times \$75$ license fee = \$37.5.

FY 91: Assuming all residential contractors will renew, revenues will total \$75.0 ($500 \times \150).

FY 92: This will be a non renewal year and no revenues other than fees from new registrants (not estimated) will be generated. Although no revenues will be received in this year, like all other licensing programs, the program will be covered by program receipts of other occupations renewing during that year. In addition, fees collected during a renewal year are sufficient to cover the annual costs of the program.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SSSB 72
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
Title: " An Act relating to
registration....of contractors;" BRU: Labor Standards & Safety
Sponsor: Szymanski Components: Wage & Hour
Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director Phone: 465-2712
Division: Labor Standards & Safety Date: 3/31/89

Approved by Commissioner: Jim Sampson Date: 3/31/89
Agency: Department of Labor

Distribution (by preparer) :
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to registration and licensing of contractors;...
 Sponsor: Senator Szymanski
 Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: Admin. & Investigations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		21.0	21.0	21.0	21.0	21.0
TRAVEL		1.1	1.1	1.1	1.1	1.1
CONTRACTUAL		15.0	15.0	15.0	15.0	15.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	37.1	37.1	37.1	37.1	37.1
CAPITAL						
REVENUE	0	37.5	75.0	0	75.0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR	0	37.1	37.1	37.1	37.1	37.1
TOTAL	0	37.1	37.1	37.1	37.1	37.1

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

The bill establishes licensure for general contractors who oversee the construction of or who perform alteration to residential structures. This fiscal note represents the anticipated costs associated with the establishment of the new licensing category for residential contractors. (Continued)

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing

Phone: 465-2144
 Date: March 28, 1989

Approved by Commissioner: Larry Mercurieff
 Agency: Commerce and Economic Development

Date: 3/31/89

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION OF FISCAL NOTE
For SSSB 72

The division is not certain of the absolute number of residential contractors who will be affected by the bill; therefore, calculations in this fiscal note are based on at least 500 of the approximately 1500 licensed general contractors. Based on 500 licensees, the new licensing category can be expected to cover 1.86% of the administrative costs (500 divided by 26,945 total licensees).

Personal Services: \$21.0

Consists of:

- *13.00% of a licensing examiner
- * 2.00% of an investigator
- * 1.86% of administrative overhead

Travel: \$ 1.1

This will provide for travel funds for the Licenisng Examiner to administer the examinations twice a year at a location other than Juneau.

Contractual Services: \$15.0

This will provide funding for examination development; communication expenses; printing of applications examinations, etc.; public notices; exam facility rentals; seminars; and other informational publications necessary.

TOTAL: \$37.1

REVENUES: The revenues identified are based on the new licensing fee for residential contractors, assuming that licensees will pay a biennial fee of \$150 (\$75 per year).

FY 90: The effective date of the bill is July 1, 1989 and therefore, revenues are based on the initial 500 residential contractors seeking licensure. The initial license would be valid for one year with the expiration date of December 31, 1990, the same date in which a general contractor's certificate of registration expires. $500 \times \$75$ license fee = \$37.5.

FY 91: Assuming all residential contractors will renew, revenues will total \$75.0 ($500 \times \150).

FY 92: This will be a non-renewal year and no revenues other than fees from new licensees (not estimated), will be generated. Although no revenues will be received in this year, like all other licensing programs, the program will be covered by program receipts of other occupations renewing during that year. In addition, fees collected during a renewal year are sufficient to cover the annual costs of the program.

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3/23/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

SA

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 4/3/89

3/20/89

Mr. President:

LABOR & COMMERCE Committee considered SSSB 72

registration and licensing of contractors; prohibiting the use of state money for certain residential work unless the work is performed by a licenses residential contractor; (efd)

and recommended:

[] replace with CS SSSB 72 (L+C) [] same title
[] attached amendment(s) and [x] new title

[] _____ letter of intent adopted

[x] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to finance

FISCAL NOTE(S) attached [x] zero
[] appropriation no FN attached

[x] fiscal impact
[] Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

John K. Kelley
Janice [Signature]

[Signature]
Chairman signature and recommendation

[] Committee backup attached



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol, Room 11
Juneau, Alaska 99811
(907) 465-4978/4979
FAX (907) 465-2652

During Interim:
3111 C Street, Suite 510
Anchorage, Alaska 99503
(907) 561-7617

165 E. Parks Highway
Legislative Information Office
Wasilla, Alaska 99687
(907) 376-MIKE

MEMORANDUM

TO: Senator Dick Eliason
Chairman
Senate Labor and Commerce Committee

FROM: *Mike Szymanski*
Senator Mike Szymanski

DATE: March 17, 1989

SUBJECT: Hearing Request on Sponsor Substitute for SB72,
An Act relating to registration and licensing of
contractors; prohibiting the use of state money for
certain residential work unless the work is
performed by a licensed residential contractor

In response to the numerous inquiries regarding Senate Bill 72, the construction contractor bond amount, a working group made up of representatives from the Homebuilders Association, Associated General Contractors, Division of Occupational Licensing, Mortgage Bankers Association, Department of Community and Regional Affairs, Alaska Craftsman Home Program, and Alaska Housing Finance Corporation worked diligently to create the Sponsor Substitute.

The Sponsor Substitute concerns the registration and licensing of residential contractors and prohibits the use of state money for certain residential work unless the work is performed by a licensed residential contractor. Due to the lateness of the session, could the Sponsor Substitute be heard as soon as possible in Senate Labor and Commerce with hopefully an early referral to Senate Finance?

Senate District E

Mat-Su • So. Anchorage • Bird/Indian • Girdwood • Whittier • Nikiski • Cooper Landing • Hope • Seward • Cordova • Valdez

SB 72: An Act increasing the amount of the bond required for a construction contractor's certificate of registration.

SB 72 proposes two (2) changes to the present construction contractors statute. First, it significantly increases the amount of a surety bond that must be posted by a construction contractor seeking to do business in Alaska. Secondly, it eliminates the differences in the amount of a bond that must be posted by general, mechanical and specialty contractors.

Presently, a general contractor must post a bond (or cash equivalent) of \$10,000 in order to qualify for licensure, while both mechanical and specialty contractors must post a bond (or cash equivalent) of \$5,000.

SB 72 eliminates the differences between contractor bond amounts and sets a single bond amount of \$50,000 for all three types of construction contractors.

The department assumes that the intent behind such a high bonding requirement is the probable elimination of fly-by-night or financially fragile contracting firms from the construction market. If such tenuous or troubled businesses are removed from operation, the result may well be a higher degree of consumer protection and satisfaction. Ostensibly, only well-established, stable construction contractors would or could continue in business, thus avoiding such problems as dissatisfied consumers having no recourse against a bankrupt or long-gone contractor.

Obviously, a \$50,000 bond provides a larger sum of money against which to draw when a consumer can demonstrate negligent or improper work or breach of contract by a construction contractor. The \$5,000 and \$10,000 figures admittedly do not present substantial monetary protection for the consumer against the unscrupulous or financially troubled contractor.

Both of these results (i.e., a more stable industry, better monetary protection) are not without substantial benefit to Alaskan consumers; the department is not unappreciative of those benefits.

Nevertheless, the department is equally concerned that a \$50,000 bonding requirement may have a "chilling" effect on legitimate "mom and pop" construction firms or small specialty construction contractor businesses. Many "specialty" contractors are sole proprietorships providing painting, carpentry, sheetrock and like construction services as sub-contractors for generals. It is our impression that for these small contractors a \$50,000 bond requirement would gravely affect their ability to remain legitimately in business.

Present bonding conditions in Alaska are not favorable, and many construction contractors in the State of Alaska have lost their registration because they cannot get bonding and simply don't have the money to put up for a sufficient cash deposit or time certificate of deposit in lieu of bonding.

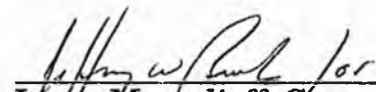
Admittedly, consumer confidence cannot be assured if a contractor can't even come up with \$5,000 or \$10,000 in order to get licensed. Some would say that a business that can't come up with such minimal sums, or which doesn't have sufficient assets to qualify for such small bonding coverage, probably shouldn't be in the construction contractor business to begin with. It is hard to argue against that point.

Still, when the present law licenses such a wide range of contractors, from huge general contracting firms like Enserch Alaska Construction, Inc., to Rob's Flooring, a one-man operation, it may not be equitable to establish a single bonding amount. A range of bonding requirements more reflective of the annual gross or net income of each individual construction business, or a scheme that ties the bonding requirements to the particular type of construction contractor or the type of specialty contractor, or both, might be preferable.

While the department clearly recognizes that claims against contractors have gone unrecovered or only partially recovered (including significant contractor employee wage claims), the elimination of the distinction between types of construction contractor classes for bonding purposes, combined with so significant an increase in the amount of bonding required (500% for generals, 1000% for mechanical and specialties), goes too far.

The department must balance its goal of consumer protection with that of creating new jobs through economic development.

We believe that too many legitimate contractors would fail to qualify for registration under these proposed changes to the construction contractor statute. While much that this bill would accomplish is beneficial, in the final analysis it cuts too deeply into the construction business to be wholly supportable.


Larry Mercurieff, Commissioner
Department of Commerce and
Economic Development

Date: 1/23/89

bond
\$ 10,000 / \$ 100,000 net worth
\$ 50,000 / \$ 500,000 net worth

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act increasing the amount of the bond required for a construction contractors certificate of registration.
 Sponsor: Senator Szymanski
 Requestor: Senate Labor & Commerce
 Agency Affected: Commerce & Econ. Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: January 17, 1988
 Approved by Commissioner: Larry Mercurieff, Commissioner Date: 1/2/89
 Agency: Dept. of Commerce & Economic Development

Distribution (by preparer) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

SSSB 72: An Act relating to registration and licensing of contractors; prohibiting the use of state money for certain residential work unless the work is performed by a licensed residential contractor; and providing for an effective date.

SSSB 72 proposes to improve the quality of residential construction work in Alaska by creating a special licensing category, including examination and competency requirements, for residential contractors. In addition, the bill prohibits the use of State funds for construction or alteration of residential structures unless the work is performed under the oversight of a licensed residential contractor.

Currently, construction contractors must register with the State and are required to post a \$10,000 bond if a general contractor or a \$5,000 bond if a specialty or mechanical contractor. SSSB 72 requires a general contractor seeking to build residential structures of up to four units to first obtain a special license. In order to get this special license, a general contractor must, 1) pass an exam; 2) complete the Alaska craftsman home program sponsored by the Department of Community and Regional Affairs; and 3) not be under indictment -- or in the preceding seven years not have been sentenced -- for an offense related to forgery, theft, extortion, conspiracy to defraud, or moral turpitude.

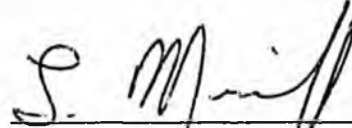
The department supports the intent of the bill but must also address a number of concerns.

First, Sections 3, 11 and 12 refer to the terms "oversee" or "oversight" of residential construction work. However, the bill does not define "oversee" or "oversight"; nor does it address a licensee's responsibility when "overseeing" the construction or alteration of a residential structure. We would like to suggest, instead, that we use the word "undertake," which would make it clear that before beginning construction of residential units, a general contractor would first need a residential contractor license.

Secondly, we believe the bill is not clear regarding whether a general contractor seeking to undertake construction of a residential structure needs a separate license as a residential contractor, or whether the residential contractor license is an attachment or endorsement to a general's registration. We believe the bill should be amended to reflect the ability to build residential units as an endorsement to the registration of a general contractor. This would clarify that separate bonding and insurance is not required of a general contractor interested in residential construction projects.

Finally, the department recommends changing "application fee" to examination fee in Section 4 of this bill (Line 16, Page 4). If an applicant fails an examination and re-examination is required, the applicant should again pay the examination fee.

The department supports the intent of the bill because the licensing requirements established in SSSB 72 will work to better ensure the competency of contractors involved in residential construction. The industry and the public will benefit through increased quality of workmanship by competent residential contractors. The department requests, however, that further consideration be given to the proposed amendments suggested above.



Larry Mercurieff, Commissioner
Department of Commerce and
Economic Development

Date: 3/31/89

LM/djd9889W
033089a

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 21, 1989

SUBJECT: Sectional Analysis
SSSB 72

TO: Senator Mike Szymanski

FROM: Terri Lauterbach *TL*
Legislative Counsel

Following is a sectional analysis of SSSB 72:

Section 1 contains technical amendments to reflect the contractor licensing chapter.

Section 2 allows the Department of Commerce and Economic Development to establish categories of contractors and registration requirements for persons in the categories.

Section 3 prohibits a general contractor from overseeing the construction or alteration of a privately-owned residential structure of one to four units unless the general contractor also holds a residential contractor license.

Section 4 provides for fees for residential contractor licensing and departmental publications and seminars related to contractor licensing.

Section 5 sets a bond requirement of \$10,000 for residential contractors.

Section 6 allows investigators to request evidence of residential contractor licensure as well as contractor registration when visiting a construction site.

Senator Mike Szymanski
Page 2
March 21, 1989

Section 7 provides that the license of a residential contractor is automatically suspended or revoked while the contractor's registration is suspended or revoked.

Section 8 provides for suspension, revocation, and refusal to grant or renew a residential contractor license under the specified conditions.

Section 9 provides that violation of the residential contractor license requirement is a class B misdemeanor in the same way that violation of other contractor registration requirements is a class B misdemeanor.

Section 10 amends the definition of "contractor" to include residential contractors.

Section 11 provides a definition of "residential contractor."

Section 12 prohibits the use of state money for residential work that is not done by a residential contractor. The prohibition applies to small-scale work and work done on one's own home, although that work is exempt from the residential contractor license requirement.

Section 13 provides for residential contractor licensing during a transitional period.

Section 14 gives a July 1, 1989, effective date to the bill.

TL:mi
wkmi3/091



ASSOCIATED GENERAL CONTRACTORS of ALASKA

1011 B STREET • ANCHORAGE, ALASKA 99501
P.O. BOX 24049 • ANCHORAGE, ALASKA 99524-0649
TELEPHONE (907) 561-0334 • FAX (907) 562-0118

April 10, 1989

Senator Mike Szymanski
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Re: SB 72

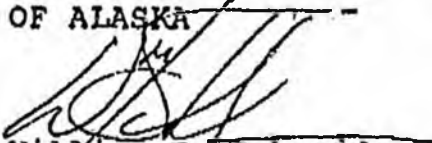
Dear Senator Szymanski,

This letter is to advise you of AGC's support for CSSB 72. Following discussion with BIAA, home builder representatives, and your staff, all of our previous concerns have been rectified. We certainly appreciate your time and efforts and the time and efforts of your staff in addressing our concerns.

We urge you and your colleagues to promptly pass CSSB 72.

Sincerely,

ASSOCIATED GENERAL CONTRACTORS
OF ALASKA



William E. Schneider
Executive Director

cc: Greg Jones, BIAA

wfr\szymsb72.

PUBLIC OPINION MESSAGE

DEAR: SENATOR ELIASON

NAME: COLEEN SMITH
 TITLE: SITKA PLUMBING & HEATING
 ADDRESS: P.O. BOX 3084
 CITY: SITKA
 PHONE: 747-3142

ZIP: 99035

BILL NO: SB 72
 SUBJECT: SB 72 CONTRACTORS BOND AMOUNT
 MESSAGE: IN REGARDS TO SB 72 CONTRACTORS BOND AMOUNT, I WOULD APPRECIATE YOUR CONSIDERING IT UNPRACTICAL FOR SMALL CONTRACTORS. WE ARE SMALL AND RAISING THE BOND TO \$50,000 WOULD PUT US OUT OF BUSINESS. PLEASE DISCOURAGE PASSAGE OF THIS BILL AND VOTE NOT TO RAISE THE BOND AMOUNT.

POMID: 12163116
 DATE: 03/29/89
 TIME: 16:31:16
 LIONAME: SITKA LIO

COPIES: SENATORS

RODNY
 FAIKS
 KERTTULA
 COGHILL

PUBLIC OPINION MESSAGE

DEAR: SENATOR ELIASON

NAME: LESLIE HELMS
 TITLE:
 ADDRESS: 1634 MADISON DRIVE
 CITY: FAIRBANKS
 PHONE: 479-5919

ZIP: 99709

BILL NO:
 SUBJECT: ELF
 MESSAGE: I URGE MODIFICATION OF THE ELF. GIVE ALASKANS THEIR FAIR SHARE.
 EOM-FZ

POMID: 07161459
 DATE: 03/29/89
 TIME: 16:14:59
 LIONAME: FAIRBANKS LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

BARNES	BOUCHER	ADAMS
BOYER	BROWN	BINKLEY
CATO	COLLINS	COGHILL
COTTEN	DAVIDSON	DUNCAN
DAVIS, C.	DAVIS, M.	FAHRENKAMP
DONLEY	ELLIS	FAIKS
FOSTER	FURNACE	FISCHER
GOLL	GRUENBERG	FRANK
GRUSSENDORF	HANLEY	HALFORD
HOFFMAN	HUDSON	JONES
JACKO	KOPONEN	KELLY
LARSON	LEMAN	KERTTULA
MACLEAN	MARTIN	PEARCE
MENARD	MILLER	POURCHOT
NAVARRE	PETTYJOHN	RODEY
PHILLIPS	RIEGER	STURGULEWSKI
SHARP	SHULTZ	SZYMANSKI
SPOHNHOLZ	SWACKHAMMER	UEHLING
TAYLOR	ULMER	ZHAROFF
WALLIS	ZAWACKI	

PUBLIC OPINION MESSAGE

DEAR: SENATOR ELIASON

NAME: KRISANNE RICE
TITLE: SEARHC, EMS PROGAMER
ADDRESS: 222 TONGASS DR.
CITY: SITKA, AK ZIP: 99835
PHONE: 966-2451
BILL NO: SB 59
SUBJECT: MANDATORY SEATBELTS
MESSAGE: THE SEARHC EMS PROGRAM SUPPORTS SB 59. OUR TRAINING ENCOURAGES EMS PROVIDERS TO BE SEAT BELTS ADVOCATES. TRAUMA & DEATH ARE REDUCED IF PASSENGERS REMAIN INSIDE. WE BELIEVE, "THERES ROOM TO LIVE IN THE MOST SEVER MVA (MOTOR VEHICLE ACCIDENT) ONLY IF BELTS ARE WORN". WE ENCOURAGE YOUR SUPPORT OF SB 59.

POMID: 12121559
DATE: 02/14/89
TIME: 12:15:59
LIONAME: SITKA LIO

COPIES: REPRESENTATIVE SENATORS

GRUSSENDORF JONES
FAHRENKAMP
FISCHER
POURCHOT
COGHILL

PUBLIC OPINION MESSAGE

DEAR: SENATOR ELIASON

NAME: RANDY HULSE
TITLE:
ADDRESS: 3821 MELROSE STREET
CITY: JUNEAU, AK ZIP: 99801
PHONE: N/R-
BILL NO: SB 72
SUBJECT: CONSTRUCTION CONTRACTOR BOND AMOUNT
MESSAGE: I THINK SB 72 STINKS. I HAVE WORKED FOR TWO YEARS SAVING EVERY DIME AND PENNY I MAKE TO GET A SPECIALTY CONTRACT LICENSE ONLY TO FIND OUT THAT YOU ARE TRYING TO PASS A BILL THIS YEAR TO SET ME BACK WHERE I STARTED FROM. IT APPEARS TO ME THAT THE ONLY PEOPLE YOU ARE GOING TO ALLOW TO WORK ARE THE RICH CORPORATIONS THAT HAVE MONEY TO SPEND AND TO HECK WITH THE MIDDLE CLASS CITIZENS. PLEASE!, PLEASE DO NOT PASS THIS BILL! THANK YOU FOR LISTENING.

POMID: 06123060
DATE: 02/14/89
TIME: 12:30:00
LIONAME: JUNEAU LIO

COPIES: SENATORS

SZYMANSKI
DUNCAN
RODEY
FAIKS
KERTTULA
COGHILL

PUBLIC OPINION MESSAGE

DEAR: SENATOR ELIASON

NAME: CHRIS BOOREN

TITLE:

ADDRESS: P O BOX 2337

CITY: CORDOVA

ZIP: 99574

PHONE: 424-7556

BILL NO:

SUBJECT:

MESSAGE: I WOULD LIKE TO SEE A CONTINGENCY PLAN WHICH IS TESTED BY ACTUAL DOING BEFORE MORE OIL IS SPILLED. I WOULD LIKE YOU TO TURN OFF THE OIL SPIGOT FOR FIVE MINUTES ON APRIL 23RD AT 2:00PM IN HONOR OF PRINCE WILLIAM SOUND THE TANKER EXXON VALDEZ IS STILL LEAKING OIL IN TO PRINCE WILLIAM SOUND AND THE TANKERS ARE DUMPING BALLAST WATER AT NOEL'S HEAD, NOT AT THE BALLAST TREATMENT FACILITIES. REPEAL THE ELF.

POMID: 14105459

DATE: 04/19/89

TIME: 10:54:59

LIONAME: MAT-SU LIO

COPIES: REPRESENTATIVES SENATORS

CATO	KERTTULA
MENARD	SZYMANSKI
DAVIDSON	KELLY
JACKO	FAHRENKAMP
FOSTER	FRANK
NAVARRE	HALFORD
FURNACE	STURGULEWSKI
SHARP	ZHAROFF
HUDSON	PEARCE
DAVIS, M.	ADAMS
	FISCHER

PUBLIC OPINION MESSAGE

DEAR: SENATOR ELIASON

NAME: MICKY E. MCLEES

TITLE:

ADDRESS: 2314 ROOSEVELT DRIVE #3

CITY: ANCHORAGE

ZIP: 99517

PHONE: 248-7443

BILL NO: SB 72

SUBJECT: REGISTRATION/LICENSING OF CONTRACTORS

MESSAGE: THE DOWNTURN IN THE ECONOMY HAS CAUSED CONTRACTORS AND INDIVIDUALS POSING AS CONTRACTORS TO ENTER INTO CONSTRUCTION PROJECTS FOR WHICH THEY ARE NOT QUALIFIED. SB 72 WILL WEED OUT THE UNQUALIFIED WHILE PROTECTING THE HOME OWNER AND THE LEGITIMATE ALASKA CONTRACTOR.

POMID: 03110753

DATE: 04/19/89

TIME: 11:07:53

LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

BARNES	BOUCHER	ADAMS
BOYER	BROWN	BINKLEY
CATO	COLLINS	COGHILL
COTTEN	DAVIDSON	DUNCAN
DAVIS, C.	DAVIS, M.	FAHRENKAMP
DONLEY	ELLIS	FAIKS
FINKELSTEIN	FOSTER	FISCHER
FURNACE	GOLL	FRANK
GRUENBERG	GRUSSENDORF	HALFORD
HANLEY	HOFFMAN	JONES
HUDSON	JACKO	KELLY
KOPOHEN	LARSON	KERTTULA
LEMAN	MACLEAN	PEARCE
MARTIN	MENARD	POURCHOT
MILLER	NAVARRE	RODEY
PETTYJOHN	PHILLIPS	STURGULEWSKI
RIEGER	SHARP	SZYMANSKI
SHULTZ	SWACKHAMMER	UEHLING
TAYLOR	ULMER	ZHAROFF
WALLIS	ZAWACKI	



NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

8383 East Evans Road • Scottsdale, Arizona 85260-3614 USA • (602) 948-8000

E. Kenneth Twichell
Managing Director

March 17, 1989

The Honorable Richard I. Eliason
State Capitol
Juneau, Alaska 99811

Dear Legislator:

The National Association of Real Estate Appraisers favors regulation of the real estate appraiser PROVIDED LEGISLATION APPLIES TO ALL APPRAISERS. NAREA, this nation's largest appraisal association, advocates mandatory licensing/certification of real estate appraisers. Just as ALL real estate agents must follow the same set of guidelines and rules, so should real estate appraisers.

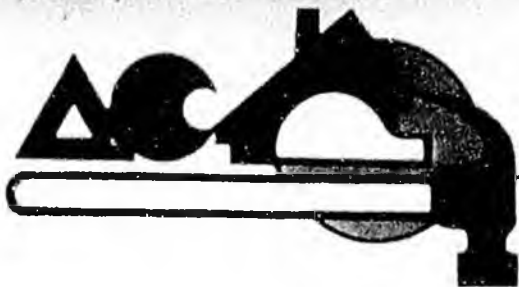
NAREA brings this crucial point to your attention because there is a group known as the Appraisal Foundation which is attempting to persuade legislators into "voluntary certification". This method of regulation will NOT protect the consumer. It will still permit those appraisers who do not voluntarily get certified to continue to appraise and not be held accountable. Additionally, the consumer will not know who has "voluntarily" entered this program and who hasn't.

This issue of regulating the real estate appraiser is a consumer issue and therefore, the consumer must be protected. Mandatory licensing such as the States of Connecticut, Oregon and Nebraska have passed, is the only way. Be sure to include a "grandfather" provision so no one can be accused of legislating current appraisers out of business.

Sincerely,

NATIONAL ASSOCIATION OF REAL ESTATE APPRAISERS

E. Kenneth Twichell
Managing Director



ALASKA CRAFTSMAN HOME PROGRAM

March 23, 1989

Senator Mike Szymanski
P.O. Box V
Juneau, Alaska 99811

Dear Senator Szymanski:

The Alaska Craftsman Home Program supports Senate Bill 72, licensing and establishing an education level for contractors. Many of the problems we see over and over again in Alaska are due to failure to understand basic building science, and the dynamics of energy and moisture flow through walls, roofs and foundations.

Requiring some level of education for contractors will not only assure the public but will help protect the State of Alaska to avoid continuation of the current situation in which the State owns thousands of buildings which do not meet any standard or codes.

Often the best laid plans and work of builders go foul due simply to a lack of knowledge and not necessarily reflective of a lack of integrity. The Alaska Craftsman Home Program sees itself as a vehicle in providing education to contractors.

Sincerely,

Harvey Bowers
Program Manager

Cooperative Extension Service
2221 E. Northern Lights Blvd.
Anchorage, Alaska 99508-4143
(907) 279-5582

Cooperative Extension Service
University of Alaska
Fairbanks, Alaska 99775-5200
(907) 474-7201

Energy Library
949 E. 36th Ave., Suite 403
Anchorage, Alaska 99508
(907) 563-1955 ext. 457



520 East 34th St.
Anchorage, AK 99503
(907) 561-1900

P.O. Box 101020
Anchorage, AK 99510

March 24, 1989

The Honorable Mike Szymanski
Alaska State Senate
Alaska State Senator
P. O. Box V
Juneau, AK 99811

RE: SSSB 72

Dear Senator:

The Alaska Housing Finance Corporation supports SSSB 72 which proposes that state funds cannot be used to finance construction of homes unless the work is performed by a licensed contractor. We believe it is good policy to require that builders seeking state financing attend seminars under the Alaska Craftsman Home Program. These policies help ensure that any financing given is well-spent. Also, the additional financial burden of these requirements is minimal.

Sincerely,

A handwritten signature in cursive script that reads "Margaret Nelson".

Margaret Nelson
Special Assistant/Public Information Officer

ec



Alaska State Legislature

Please enter into the record my testimony to the Labor and Commerce and State Affairs
committee name

committee on Substitute for S.B. 72, dated March 31, 1989
bill/subject

I would like to commend the committee and Senator Szymanski in particular for the balanced consumer and contractor protection built into the language of S.B. 72.

As a contractor, I will no longer have to compete with Fly-by-night "Builders" from the lower 48 under cutting what little market is left to those of us who try to make a living in Alaska.

Consumers will be assured that the homes they buy will be built by contractors who have taken an Alaska Craftsman Home Program workshop which will ensure a better quality home built by someone who has been trained in the art and science of building in the Alaskan Environment.

The State of Alaska financing agencies will be financing better built homes which the buyers will want to keep rather than walk away from. We all win.

Signed: Mike Music MIKE MUSIC
Testifier

Ester Construction (General Contractor)

Representing (Optional)

P.O. Box 170 Ester, AK 99725

Address

479-6190 w 479-5336 h

Phone No.

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 38TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

March 31, 1989

POSITION PAPER

RE: Senate Bill 72

SPONSOR: Senator Szymanski

Program Effects of Bill

Senate Bill 72 proposes to set up registration and licensing requirements for contractors who undertake residential construction. The bill would not affect existing Departmental programs.

Comments

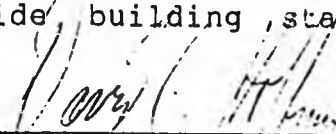
The Department of Community and Regional Affairs strongly supports the concept of licensing residential contractors combined with training in appropriate construction techniques. The state's climate and soil conditions are so different from that of the rest of the country that contractors can not simply apply their experiences in other states to Alaska.

Energy is a critical concern in housing for all Alaskans. The cost of energy is usually one of the largest costs associated with homeownership. A study by the Rural Alaska Community Action Program reported that in eight rural villages 16 to 37 percent of families' incomes were spent on energy. Sixty-eight percent of Alaskans' energy bills are spent on staying warm.

Too often in the past homes have been constructed in a manner that is not appropriate to the state's climate. While this is true statewide, it is particularly true in rural Alaska. The 1988 Alaska Rural Housing Needs Assessment reported that an appalling 28 percent of rural homes could not maintain an inside temperature of 70 degrees Fahrenheit. However, this problem is not unique to rural Alaska. During this winter's cold snap homeowners across the state experienced problems in keeping their residences warm.

Position Paper - SB 72
March 31, 1989
Page Two

Requiring competence testing in arctic structural and thermal construction techniques, coupled with required training through the Alaska Craftsman Home Program, as set out in this legislation, is one way to encourage construction of residential housing appropriate to Alaska's unique climate. While licensing under this legislation will help address the problems set out above, a statewide building standard of construction is also needed.



David G. Hoffman,
Commissioner



Alaska State Legislature

Please enter into the record my testimony to the Senate Labor & Commerce
committee name
 committee on SB 72, dated 3/31/89
bill/subject

I, TONY DOYLE dba CREATIVE BUILDERS, SUPPORT SPONSOR SUBSTITUTE FOR SENATE BILL #72 IN ITS PRESENT FORM.

Signed: Tony Doyle
Testifier
CREATIVE BUILDERS
Representing (Optional)
7984 SPUR HWY KENAI, AK 99611
Address
907 283-3886
Phone No.



ASSOCIATED GENERAL CONTRACTORS of ALASKA

4041 B STREET • ANCHORAGE, ALASKA 99503
PO BOX 240609 • ANCHORAGE, ALASKA 99524-0609
TELEPHONE (907) 561-5354 • FAX (907) 562-8118

February 7, 1989

Senator Mike Szymanski
11920 John's Road
Anchorage, AK 99515

Re: SB 72 - Contractor's License Bond

Dear Senator Szymanski:

AGC of Alaska appreciates the opportunity of commenting on your sponsored legislation SB 72. After conducting a survey of our membership and discussing those results within our Legislative Committee, AGC's position on your referenced legislation is as follows:

AGC recognizes the hardships consumers and fellow contractors are facing due to the financial failures of individual contractors. However, the remedy proposed in SB 72, the significant increase of contractor license bonds, would unduly burden many of Alaska's smaller contracting firms.

Senator, we believe that your attempt to remedy this industry problem is laudable. Consequently AGC will form a task force to address alternative methods of increasing the technical and fiscal responsibilities of Alaskan contractors. The task force would be pleased to work with you on this important issue.

Sincerely,

ASSOCIATED GENERAL CONTRACTORS
OF ALASKA

William G. Jones, Sr.
President

F. Michael Swalling, Chairman
Legislative Committee

cc: Members, Alaska Senate
Members, Alaska House of Representatives
Building Industry Association of Alaska
Members, AGC of Alaska

Are you looking for a contractor to build your home, commercial building, remodel or renovate your existing structure? The Alaska Chapter-AGC has put the following guidelines together. These guidelines would include all contract work including subcontracting:

1. Ask to see a State of Alaska Contractors license and a State of Alaska business license. The contractor must have a bond to obtain the contractors license, this is for your protection.
2. Call the Division of Occupational Licensing in Juneau, 465-2546. Ask if the license is current and if there are any claims against the contractors bond.
3. All estimates and contracts should be in writing, preferably on the contractors letterhead, and should be signed in your presence by the contractor. All changes to the original contract should be in writing, they should include the change in the work order, the time estimate to complete the work, the cost of the additional work and any changes in the payment schedule that may result from the change order.

DON'T RELY ON VERBAL AGREEMENTS TO DO THE PROJECT OR ANY CHANGE ORDER. A "GENTLEMAN'S AGREEMENT" is just your word against the contractor in court. A good lesson to adhere to is "Buyer Beware".

4. Ask for the name of your contractor's insurance company and verify that his insurance on his performance bond and worker's compensation is current. You have the right to check this information and require periodic proof of insurance.

IF AN EMPLOYEE IS INJURED ON YOUR PROJECT AND THE CONTRACTOR DOES NOT HAVE WORKMANS' COMPENSATION INSURANCE THE EMPLOYEE MAY COLLECT MEDICAL EXPENSES AND ANY DISABILITY CLAIM FROM THE OWNER...THAT'S YOU!

5. Do not pay your contractor in full at the beginning of the project. A qualified contractor has the credit to obtain materials and supplies. By withholding some of the total payment the contractor has an incentive to do the job right. You must indicate the payment schedule in the contract, the contractor has the right to know when he can expect periodic payments.
6. If you are not satisfied with the work that the contractor performs for you, get an estimate from another contractor for the work that would be required to remedy the problem. Get this estimate in writing... if the original contractor refuses to correct the problems you will be required to show the court the amount of money the remedy will cost.
7. DON'T blindly rely on personal references, they may or may not be legitimate. Ask to see some of his work if possible or pictures of some of his projects. Ask for the telephone numbers of some of his satisfied customers and obtain the discription of the work that he did for those customers.

8. On large jobs ask the contractor to post a Performance Bond for the full value of the work to be done. In some cases, the contractor may be willing to bear the cost of the bond, but sometimes the bonding costs will be included in his estimate or final bill.
9. When you write your contract documents, include the following:
 - A. Location of the project site.
 - B. Scope of the project (description of the work to be done).
 - C. Estimate of cost to perform the work.
 - D. Time frame from start up date to completion date, (be reasonable if the weather prevents the contractor from keeping his schedule).
 - E. Provisions for change orders or changes in material requirements. All change orders of any type must be written separately and signed by the contractor and the owner before the additional work is started.
 - F. Indicate the contractors insurance company, number of employees he estimates he will require, type of insurance coverage the contractor will be providing during your specific project.
 NOTE: Insurance the contractor purchases for one project does not necessarily carry over to other projects he is working on. If he is currently working on one project and will be starting on yours, ask to see the insurance documents and make sure that your work is specified in some way on that document.
 - G. Progress payment schedule and amount that will be held in retainage by the owner after completion of the project. In some instances an amount is retained for a period of time (2 weeks to 30 days or more) to assure that the project performs (ie, no leaks, all components work, etc.). The owner may be required by the contractor to pay interest on the retainage.
 - H. Miscellaneous provisions, this would include the contractor designing the project, contractor supplying specific brands of appliances, equipment, etc.

AS 09.18.151 precludes a person acting in the capacity of a contractor from suing for compensation or for breach of contract unless they prove they were licensed by the State of Alaska at the time of the performance of the work.

The contractor that is a "friend of a friend" or casual acquaintance that gives you a "Deal" can also give you a headache that even the court can't remedy.

"USUALLY SOMETHING THAT IS TOO GOOD TO BE TRUE.....ISN'T....."

This information is not designed to be fail safe, even licensed contractors can do pcor work...use your common sense...if the contractor appears to be able to cut the usual cost of construction by a large percentage...remember...you get what you pay for!

The Associated General Contractors is an association of all types of contractors. If you have questions regarding construction and aren't getting the answers you need, give us a call at any of our three offices:

Anchorage561-5354
 Fairbanks452-1800
 Juneau586-1740

TIPS ON HIRING A CONTRACTOR

Contractors and officials suggest following these guidelines in hiring a contractor for almost any refurbishing or remodeling job, including painting, carpet installation or plumbing repairs.

- * Ask to see both a state contractors license and a city business license. Write down the state registration number, and call the Division of Occupational Licensing in Juneau. Ask if the license is current and if there are any claims against the bond.
- * All estimates and contracts should be in writing, preferably on company letterhead, and should be signed by the contractor.
- * Ask for the name of the contractor's insurance company and verify that the insurance is current.
- * Contractors should not be paid in full in advance. By withholding half of the total payment, contractors "have an incentive to do the job right."
- * Don't blindly rely on references. They may or may not be legitimate.
- * On large jobs, ask the contractor to post a performance bond for the full value of the work to be done. In some cases, the contractor may be willing to bear the cost of the bond, but sometimes the bonding costs will be tacked on to his bill.

- 5. Employer Identification Number (Federal EIS): _____
- Alaska Unemployment Insurance Number: _____
- State Business License Number: _____
- State Contractor's License Number: _____
- Professional License Number:
(Architects, Engineers, Land
Surveyors, etc.) _____
- Vehicle License Plate Number (s): _____

Signature of Authorized Company
Official

Print Name and Title

1. Employer Identification Number (Federal EIS) _____
2. Alaska Contractor's License Number: _____
3. Alaska Business License Number: _____
4. Alaska Unemployment Insurance Number: _____
5. Professional License or Registration Number: _____
6. Vehicle License Plate Number (s): _____
7. List most recent projects completed in this area, including the name, address and telephone number of the owner:

Questions to ask of owners of previous work:

1. Was work completed as contracted?
2. Was work completed on time?
3. Was work completed in a satisfactory manner?
4. Was work completed as bid or was there cost over-runs?
5. Was site cleaned up after completion of project?
6. Did contractor request payment in advance of schedule or in full prior to completion?
7. Any other comments on work, workers, etc.?

Stedman Insurance Agency, Inc.

ALL LINES OF INSURANCE

PHONE: 747-8618 • BOX 1510 • SITKA, ALASKA 99835

February 2, 1989

Senator Dick Eliason
Alaska State Senate
PO Box V
Mail Stop 3100
Juneau, Alaska
99811

Dear Dick:

I just received a copy of Senate Bill No 72, drafted by Szymanski.

Dick; if this piece of legislation becomes law there is not a Sitka contractor. except for maybe McGraw and S&S, that will be in business.

Contractors license bonds are not only expensive, but a little difficult to get even at todays bond penalty of \$5,000 for Specialty and \$10,000 for General contractors.

The current bond premium. for the majority of our contractors runs from 6 percent to 10 percent, depending on net worth. This would mean that the premiums for subject bonds would be between \$3,000 to \$5,000 annually .

I have been writing this coverage for the Sitka Contractors for 20 years and know the problems that exist in this coverage. The Senators bill states that these contractors could post a \$50,000 Time C.D. in lieu of a bond, who is he trying to kid. Most of my small artisan contractors don't even make that amount gross profit in a year

I can also assure you that Alaska would lose what few Companies that are writing license bonds if this becomes law.

One final thought that should be considered and that is



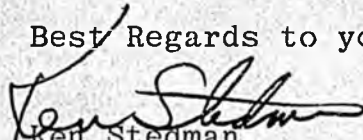
Senate Bill 72 (continued)

this passes Alaska will lose all of its medium and small contractors, who reside here. The only contractors that would be left would be the large ones, such as Dawson Construction, Kiewit Construction etc.,

If this Senator has a problem in his area with Contractors then I would recommend that the State start closing up the un-bonded and unlicensed contractors that seem to abound in our area and elsewhere in the State.

Sorry I was so long winded, but this bill scares me to death.

Best Regards to you and Pat:


Ken Stedman

**Dick
Mueller
Realty, Inc.**

100 TRADING BAY RD., SUITE 6
KENAI, AK 99611
907-283-5888



March 1, 1989

Senator Dick Eliason
Box V (MS3100)
Juneau, AK 99811

Dear Sen. Eliason:

I strongly oppose Senate Bill 72, and will not support any attempt to increase Construction Contractor bonds.

I am encouraged that you have addressed the serious problem of poor quality construction. It is an area of great concern to the competent members of the real estate industry as well as the building industry. However, increased bonding cannot resolve this situation, and will undoubtedly force the majority of responsible contractors out of business.

The only way to guarantee quality construction and protect the consumer, reputable construction contractors, and real estate agents is to require a state-wide building inspection system and to require builder and inspector education as a prerequisite for licensing.

I feel strongly that the following measures of mandatory inspection through the course of construction would produce a more desirable effect on the industry, and they are respectfully submitted for your consideration.

A. Mandated Building Inspections/Enforcement

1. Implementation of state mandated building inspections for construction in populated areas. A four-step plan would consist of:
 - a. Plans approval
 - b. Footing, foundation, framing, and roughed-in electrical and plumbing inspection
 - c. Insulation certificate
 - d. Final inspection

The contractor could be charged a reasonable fee for each required inspection, or it could be part of the negotiated costs between buyer and seller at closing.

2. Enforcement to be provided by servicing lender, who would require inspection documentation as an underwriting guideline.

B. Builder and Inspector Education/Licensing Requirement

1. Contractors and Inspectors would be required to show a Certificate of Completion, issued by the Alaska Craftsman Home Program, upon completion of an ACHP workshop to become licensed. The Alaska Craftsman Home Program provides an exceptional educational program to train builders in all phases of the construction of high quality, energy-efficient homes. This program is already in place across the state.

My reason for feeling so strongly about these issues is with the recent decline in the Alaskan economy, and due to the lack of building inspections of any kind, we've seen costs of \$10,000 to \$40,000 dumped into many of the repossessed properties just to bring them up to decent health and safety standards. Many of these problems could have been eliminated had these programs been in place. The positive outcome of this program would assure the public of a safer and healthier place to live.

Sincerely,

A handwritten signature in cursive script that reads "Dave Feeken".

Dave Feeken
Realtor



Kenai Peninsula Board Of REALTORS

35477 Spur Highway, Suite 201

P.O. Box 1288

Soldotna, AK 99669

(907) 262-1851

February 27, 1989

Senator Mike Szymanski
Box V (MS3100)
Juneau, Alaska 99811

Dear Senator Szymanski,

The Kenai Peninsula Board of REALTORS® strongly opposes Senate Bill 72, and will not support any attempt to increase Construction Contractor bonds.

We are encouraged that you have addressed the serious problem of poor quality construction, it is an area of great concern to the competent members of the real estate industry as well as the building industry. However, increased bonding cannot resolve this situation, and will undoubtedly force the majority of responsible contractors out of business.

The only way to guarantee quality construction and protect the consumer, reputable construction contractors, and real estate agents is to require a state-wide building inspection system and to require builder and inspector education as a prerequisite for licensing.

Kenai Peninsula Board of REALTORS® feels strongly that the following measures of mandatory inspection through the course of construction would produce a more desirable effect on the industry, and they are respectfully submitted for your consideration.

- A. Mandated Building Inspections/Enforcement
 1. Implementation of state mandated building inspections for construction in populated areas. A four-step plan would consist of:
 - a. Plans Approval
 - b. Footing, Foundation, Framing, and roughed-in electrical and plumbing inspection
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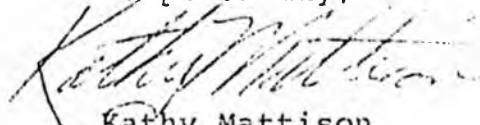
The contractor could be charged a reasonable fee for each required inspection, or it could be part of the negotiated costs between buyer and seller at closing.

2. Enforcement to be provided by servicing lender, who would require inspection documentation as an Underwriting Guideline.

- B. Builder and Inspector Education/Licensing Requirement
1. Contractors and Inspectors would be required to show a Certificate of Completion, issued by the Alaska Craftsman Home Program, upon completion of an ACHP workshop to become licensed. The Alaska Craftsman Home Program provides an exceptional educational program to train builders in all phases of the construction of high quality, energy-efficient homes. This program is already in place across the state.

Our reason for feeling so strongly about these issues is with the recent decline in the Alaskan economy, and due to the lack of building inspections of any kind, we've seen costs of \$10,000 to \$40,000 dumped into many of the repossessed properties just to bring them up to decent health and safety standards. Many of these problems could have been eliminated had these programs been in place. The positive outcome of this program would assure the public of a safer and healthier place to live.

Respectfully,



Kathy Mattison
President

cc: Governor Steve Cowper
Senator Paul Fischer
Senator Jay Kerttula
Senator Dick Eliason
Representative C.E. Swackhammer
Representative Mike Navarre
Representative Jim Zawacki
Representative Pat Pourchot
Kenai Peninsula Builders Association
Alaska State Home Builders Association
Alaska Association of REALTORS®

Stein



February 10, 1989

Senator Dick Eliason
P.O. Box V
Juneau, Alaska 99811

Dear Senator Eliason:

The Kenai Peninsula Builders Association strongly opposes Senate Bill 72, which would raise the bond from \$10,000 to \$50,000 for General Contractors, and from \$5,000 to \$50,000 for Specialty and Mechanical Contractors. The passing of this legislation will not solve the problem of poor quality construction and it would most certainly force the majority of contractors out of business. We are asking for your help in our fight to stop this bill, and for your support of the implementation of State Mandated Building Inspections and the requirement of builder education as a prerequisite for contractor licensing, as outlined in the enclosed letter to Senator Mike Szymanski.

Sincerely,

THE KENAI PENINSULA BUILDERS ASSOCIATION


Shelby E. Johnson, President

SEJ/pav



February 10, 1989

Senator Mike Szymanski
P.O. Box "V"
Juneau, Alaska 99811

RE: SENATE BILL 72

Dear Senator Szymanski:

The Kenai Peninsula Builders Association strongly opposes Senate Bill 72, and will not support any attempt to increase Construction Contractor bonds.

We are encouraged that you have addressed the serious problem of poor quality construction, it is an area of great concern to the competent members of the building industry as well. However, increased bonding can not resolve this situation, and will undoubtedly force the majority of responsible contractors out of business.

The only way to guarantee quality construction and protect the consumer, as well as reputable Construction Contractors, is to implement a state-wide building inspection system and to require builder education as a prerequisite for contractor licensing.

The following measures have been outlined by the Kenai Peninsula Builders Association Board of Directors, and are respectfully submitted for your consideration.

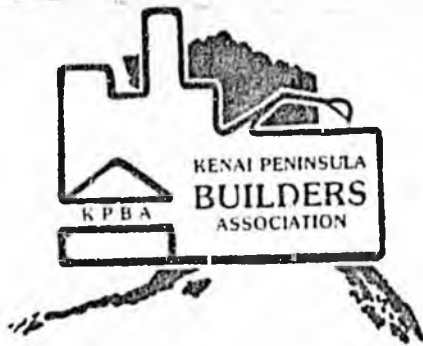
A. MANDATED BUILDING INSPECTIONS / ENFORCEMENT

1.) Implementation of state mandated building inspections for construction in populated areas. A five-step system would consist of:

1. Plans Approval
2. Footing, Foundation, and Framing Inspection
3. Insulation Inspection
4. Electrical and Plumbing Inspection
5. Final Inspection

The contractor would be charged a reasonable fee for each required inspection.

2.) Enforcement to be provided by lenders, namely Alaska Housing Finance Corporation, who would require inspection documentation as an Underwriting Guideline for all loans.



B. BUILDER EDUCATION / LICENSING REQUIREMENT

1.) Contractors would be required to show a Certificate of Completion, issued by the Alaska Craftsman Home Program, upon completion of an ACHP workshop to become licensed. The Alaska Craftsman Home Program provides an exceptional educational program to train builders in all phases of the construction of high quality, energy-efficient homes. This program is already in place across the state.

Professionals in the building trades and the Home Builders Associations throughout Alaska are willing and able to provide technical assistance to you and your staff, and want the opportunity to have an input on this important issue which effects the livelihood of so many reputable Construction Contractors. Quality construction of well built, energy-efficient homes is a priority of all who are legitimately involved in the building industry.

Sincerely,

KENAI PENINSULA BUILDERS ASSOCIATION

Shelby E. Johnson, President

SEJ/pav

cc: Governor Steve Cowper
Senator Paul Fischer
Senator Jay Kerttula
Senator Jan Faiks
Senator Dick Eliason
Representative C. E. Swackhammer
Representative Mike Navarre
Representative Jim Zawacki
Representative Pat Pourchot
Alaska State Home Builders Association
Interior Builders Association of Fairbanks
B. I. A. of Anchorage
Home Builders Association of Juneau
Mat-Su Home Builders Association



LANDSCAPING
SERVICE, INC.

P.O. Box 290 - Soldotna, Alaska 99669 - (907) 262-5135

February 17, 1989

Senator Dick Eliason,
Box V
Juneau, Ak. 99811

Dear Senator Eliason,

I recently sent a public opinion message regarding Senate Bill 72, which will increase the amount of bonding required for contractors. I would like to explain fully why I support this bill in concept and encourage your actions toward it's passage.

The issue of protecting consumers from unqualified contractors and shoddy workmanship is of worthwhile concern. Additionally, legitimate qualified contractors have every right to be protected from the actions of unqualified and dishonest companies. We have been operating as a licensed landscape contractor on the Kenai Peninsula since 1975. The competition for the limited amount of work available today is fierce enough among legitimate companies without losing a major portion of the work to individuals who are either incapable or unwilling to perform an acceptable standard of workmanship. There are many companies in every trade who attempt to operate without the proper licensing, are untrained in their field, have insufficient financial capability to complete a project, or simply intent to cheat the consumer. If the consumer is dissatisfied there is realistically very little that can be done as recourse. The company will simply take what he can and go on to the next victim. In most cases price is the controlling factor on who a consumer will hire and there is little a legitimate company can do to compete with a company who doesn't provide the same level of service. The end result of this is a job taken away from a legitimate company and a dissatisfied consumer who thinks your trade is made up of shoddy workers and in the case of landscaping, maybe not worth the effort in the future.

I believe the state does have an obligation to protect the consumer and the legitimate licensed contractors from substandard workmanship. The state can easily pass laws and regulations requiring a certain level of performance but without proper enforcement, they are worthless. Enforcement by the state is expensive and if we try to pressure an agency to enforce a regulation then our governor will want to hire a bunch more state employees and increase the state budget by several million dollars. It has been a major battle just to make the state enforce the requirement of a contractors license. By your well meaning efforts don't just implement more regulations that are ignored by unscrupulous contractors.

With respect to Senate Bill 72, I certainly don't look forward to having my bond premium increased either but I do think it will be an effective means of correcting this problem. With a license bond of \$50,000 or more a private insurance company will make damn sure that a company has the technical expertise and financial capability to complete

their work correctly before a bond is written and a license is issued. If a consumer is dissatisfied and makes a claim the bonding company will immediately get involved and make sure the contractor does whatever is required to get the claim released. A bonded contractor cannot afford to have a problem with their work and risk the assets pledged to a bond or loss of the bond itself. Bonding companies make great middle men as they make sure contracts entered into by companies are completed per agreement and all parties are satisfied thus relieving themselves from any risk. All this is provided at no cost to the state and the actual premium cost is small as a cost of doing business. Sure it's difficult to get bonding and insurance companies only write bonds for companies that are technically and financially qualified but isn't that what we want in this state?

I appreciate your interest and efforts in this issue. Whatever is done to help the situation make sure that it affects all contractors, the lowly landscape contractor as well as the major trades like mechanical and electrical. I would appreciate being kept apprised of the progress of this issue and would like to assist however I can.

Sincerely,

Bill S. Ward

Original sponsor: Szymanski

Adopted

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 72 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to registration and endorsements for
7 contractors; prohibiting the use of state money in
8 relation to certain residential work unless the work
9 is performed by a general contractor who has a res-
10 idential contractor endorsement; and providing for an
11 effective date."

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

13 * Section 1. AS 08.01.050(a) is amended to read:

14 (a) The department shall perform the following administrative
15 and budgetary services when appropriate:

- 16 (1) collect and record fees;
- 17 (2) maintain records and files;
- 18 (3) issue and receive application forms;
- 19 (4) notify applicants of acceptance or rejection as de-
20 termined by the board or as determined by the department under AS 08.-
21 11 for audiologists, under AS 08.18 for contractors, under AS 08.45
22 for naturopaths, or under AS 08.55 for hearing aid dealers;
- 23 (5) designate dates examinations are to be held and notify
24 applicants;
- 25 (6) publish notice of examinations and proceedings;
- 26 (7) arrange space for holding examinations and proceedings;
- 27 (8) notify applicants of results of examinations;
- 28 (9) issue licenses or temporary licenses as authorized by
29 the board or as authorized by the department under AS 08.11 for

1 audiologists, under AS 08.18 for contractors, under AS 08.45 for
2 naturopaths, or under AS 08.55 for hearing aid dealers;

3 (10) issue duplicate licenses upon submission of a written
4 request by the licensee attesting to loss of or the failure to receive
5 the original and payment by the licensee of a fee established by
6 regulation adopted by the department;

7 (11) notify licensees of renewal dates at least 30 days
8 before the expiration date of their licenses;

9 (12) compile and maintain a current register of licensees;

10 (13) answer routine inquiries;

11 (14) maintain files relating to individual licensees;

12 (15) arrange for printing and advertising;

13 (16) purchase supplies;

14 (17) employ additional help when needed;

15 (18) perform other services that may be requested by the
16 board;

17 (19) provide inspection, enforcement, and investigative
18 services to the boards and for the occupations listed in AS 08.01.010,
19 regarding all licenses issued by or through the department;

20 (20) retain and safeguard the official seal of a board and
21 prepare, sign, and affix a board seal, as appropriate, for licenses
22 approved by a board;

23 (21) issue business licenses under AS 43.70.

24 * Sec. 2. AS 08.18 is amended by adding a new section to read:

25 Sec. 08.18.013. CATEGORIES OF CONTRACTORS. The department may
26 adopt regulations establishing categories of contractors and the
27 registration or endorsement requirements for persons in those categor-
28 ies.

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

1 Sec. 08.18.024. RESIDENTIAL CONTRACTORS. (a) A general con-
2 tractor or builder may not undertake the construction or alteration,
3 or submit a bid to undertake the construction or alteration of a
4 privately-owned residential structure of one to four units or adver-
5 tise or publicly represent that the general contractor or builder may
6 undertake work of this type in the state without a residential con-
7 tractor endorsement issued under this section.

8 (b) The department shall issue a residential contractor endorse-
9 ment to a person who

10 (1) has a certificate of registration as a general contrac-
11 tor;

12 (2) passes a residential contractor examination, which
13 shall be offered by the department at least twice a year; the examina-
14 tion, which may be written or practical, may test competence in rela-
15 tion to arctic structural and thermal construction techniques and
16 other matters as determined by the department in consultation with
17 representatives of the construction industry;

18 (3) applies for an endorsement within six months after
19 passing the examination required under (2) of this subsection;

20 (4) within the two years preceding the date of application
21 for the endorsement, has satisfactorily completed either the Alaska
22 craftsman home program sponsored by the Department of Community and
23 Regional Affairs or a postsecondary course in arctic engineering or
24 its equivalent;

25 (5) is not under indictment for, or in the preceding seven
26 years has not been under a sentence for, an offense related to forg-
27 ery, theft, extortion, or conspiracy to defraud creditors or for a
28 felony involving moral turpitude; and

29 (6) pays the appropriate fees.

1 (c) The department may not renew an endorsement issued under
2 this section unless the applicant submits proof of continued compe-
3 tency relating to residential contracting that satisfies the depart-
4 ment. A lapsed endorsement may be reinstated, within two years after
5 the lapse, upon proof of continued competency, payment of a renewal
6 fee for the intervening time period, and payment of any penalty fee
7 established under AS 08.01.100(b). If the endorsement has been lapsed
8 for more than two years, the department may not reinstate it until the
9 person also passes the residential contractor examination described in
10 (b) of this section.

11 * Sec. 4. AS 08.18.041 is repealed and reenacted to read:

12 Sec. 08.18.041. FEES. (a) The department shall set fees under
13 AS 08.01.065 for

14 (1) registration and renewal of registration for all cat-
15 egories of contractors;

16 (2) examination, issuance of initial endorsement, and
17 renewal of active or inactive endorsements for residential contrac-
18 tors; and

19 (3) departmental publications and seminars related to this
20 chapter.

21 (b) A person who fails a residential contractor examination
22 shall pay the examination fee set by the department if the person
23 applies to retake an examination.

24 * Sec. 5. AS 08.18.116 is amended to read:

25 Sec. 08.18.116. INVESTIGATIONS. Either the Department of Com-
26 merce and Economic Development or the Department of Labor may investi-
27 gate alleged or apparent violations of this chapter. These depart-
28 ments, upon showing proper credentials, may enter, during regular
29 hours of work, a construction site where it appears that contracting

1 work is being done. The departments may make inquiries about the
2 identity of the contractor or the person acting in the capacity of a
3 contractor. Upon demand, a contractor or person acting in the capac-
4 ity of a contractor, or that person's representative, shall produce
5 evidence of current endorsement, if applicable, and registration.

6 * Sec. 6. AS 08.18.121 is amended by adding a new subsection to read:

7 (h) The endorsement of a residential contractor is automatically
8 suspended or revoked while the contractor's registration is suspended
9 or revoked.

10 * Sec. 7. AS 08.18 is amended by adding a new section to read:

11 Sec. 08.18.123. DENIAL, SUSPENSION, AND REVOCATION OF ENDORSE-
12 MENT. (a) The department may suspend, revoke, or refuse to grant or
13 renew a residential contractor endorsement upon a finding that

14 (1) the application is fraudulent or misleading;

15 (2) the contractor has knowingly violated this chapter or a
16 lawful order or regulation of the department;

17 (3) the contractor is incompetent or has engaged in fraudu-
18 lent practices.

19 (b) Proceedings for the denial, suspension, or revocation of
20 residential contractor endorsement are governed by the Administrative
21 Procedure Act (AS 44.62).

22 * Sec. 8. AS 08.18.141(a) is amended to read:

23 (a) A contractor or a person acting in the capacity of a con-
24 tractor who knowingly violates [IN VIOLATION OF] AS 08.18.011 or
25 08.18.024 is guilty of a class B misdemeanor. A person who violates
26 another provision of this chapter is guilty of a violation punishable
27 under AS 12.

28 * Sec. 9. AS 08.18.171 is amended by adding a new paragraph to read:

29 (10) "residential contractor" means a general contractor

1 whose business and operation involve undertaking the construction or
2 alteration of a privately-owned residential structure of one to four
3 units that is used or intended to be used as a human dwelling.

4 * Sec. 10. AS 37.05 is amended by adding a new section to read:

5 ARTICLE 6A. MISCELLANEOUS PROVISIONS.

6 Sec. 37.05.800. RESTRICTION ON USE OF STATE MONEY FOR RESI-
7 DENTIAL CONTRACTING. (a) The state may not grant or loan money or
8 purchase a loan for the construction or alteration of a privately-
9 owned residential structure of one to four units unless the grant or
10 loan requires the construction or alteration to be undertaken by a
11 residential contractor with an endorsement issued under AS 08.18.

12 (b) The restriction of (a) of this section does not apply to a
13 state loan or grant or purchase of a loan made for work described in
14 AS 08.18.161 that is exempt from the requirements of AS 08.18.

15 * Sec. 11. TRANSITIONAL LICENSING. Notwithstanding AS 08.18.024(b)(2)
16 and (3), enacted by sec. 3 of this Act, the Department of Commerce and
17 Economic Development shall issue a residential contractor endorsement to a
18 person who

19 (1) applies for an endorsement under this section by July 1,
20 1990;

21 (2) meets the requirements of AS 08.18.024(b)(1) and (4) - (6);
22 and

23 (3) has been an active general contractor in the state for three
24 of the five years immediately preceding application for an endorsement
25 under this section.

26 * Sec. 12. This Act takes effect July 1, 1989.
27
28
29

6-0388D
Lauterbach
4/3/89

Original sponsor: Szymanski

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 72 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to registration and endorsements for
7 contractors; prohibiting the use of state money in
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10 idential contractor endorsement; and providing for an
11 effective date."

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

13 * Section 1. AS 08.01.050(a) is amended to read:

14 (a) The department shall perform the following administrative
15 and budgetary services when appropriate:

16 (1) collect and record fees;
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18 (3) issue and receive application forms;
19 (4) notify applicants of acceptance or rejection as de-
20 termined by the board or as determined by the department under AS 08.-
21 11 for audiologists, under AS 08.18 for contractors, under AS 08.45
22 for naturopaths, or under AS 08.55 for hearing aid dealers;

23 (5) designate dates examinations are to be held and notify
24 applicants;

25 (6) publish notice of examinations and proceedings;
26 (7) arrange space for holding examinations and proceedings;
27 (8) notify applicants of results of examinations;
28 (9) issue licenses or temporary licenses as authorized by
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3 (10) issue duplicate licenses upon submission of a written
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5 the original and payment by the licensee of a fee established by
6 regulation adopted by the department;

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8 before the expiration date of their licenses;

9 (12) compile and maintain a current register of licensees;

10 (13) answer routine inquiries;

11 (14) maintain files relating to individual licensees;

12 (15) arrange for printing and advertising;

13 (16) purchase supplies;

14 (17) employ additional help when needed;

15 (18) perform other services that may be requested by the
16 board;

17 (19) provide inspection, enforcement, and investigative
18 services to the boards and for the occupations listed in AS 08.01.010,
19 regarding all licenses issued by or through the department;

20 (20) retain and safeguard the official seal of a board and
21 prepare, sign, and affix a board seal, as appropriate, for licenses
22 approved by a board;

23 (21) issue business licenses under AS 43.70.

24 * Sec. 2. AS 08.18 is amended by adding a new section to read:

25 Sec. 08.18.013. CATEGORIES OF CONTRACTORS. The department may
26 adopt regulations establishing categories of contractors and the
27 registration or endorsement requirements for persons in those categor-
28 ies.

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

1 Sec. 08.18.024. RESIDENTIAL CONTRACTORS. (a) A general con-
2 tractor or builder may not oversee the construction or alteration, or
3 submit a bid to oversee the construction or alteration of a privately-
4 owned residential structure of one to four units or advertise or
5 publicly represent that the general contractor or builder may oversee
6 work of this type in the state without a residential contractor
7 endorsement issued under this section.

8 (b) The department shall issue a residential contractor endorse-
9 ment to a person who

10 (1) has a certificate of registration as a general contrac-
11 tor;

12 (2) passes a residential contractor examination, which
13 shall be offered by the department at least twice a year; the examina-
14 tion, which may be written or practical, may test competence in rela-
15 tion to arctic structural and thermal construction techniques and
16 other matters as determined by the department in consultation with
17 representatives of the construction industry;

18 (3) applies for an endorsement within six months after
19 passing the examination required under (2) of this subsection;

20 (4) within the two years preceding the date of application
21 for the endorsement, has satisfactorily completed the Alaska craftsman
22 home program sponsored by the Department of Community and Regional
23 Affairs;

24 (5) is not under indictment for, or in the preceding seven
25 years has not been under a sentence for, an offense related to forg-
26 ery, theft, extortion, or conspiracy to defraud creditors or for a
27 felony involving moral turpitude; and

28 (6) pays the appropriate fees.

29 (c) The department may not renew an endorsement issued under

1 this section unless the applicant submits proof of continued compe-
2 tency relating to residential contracting that satisfies the depart-
3 ment. A lapsed endorsement may be reinstated, within two years after
4 the lapse, upon proof of continued competency, payment of a renewal
5 fee for the intervening time period, and payment of any penalty fee
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28 hours of work, a construction site where it appears that contracting
29 work is being done. The departments may make inquiries about the

1 identity of the contractor or the person acting in the capacity of a
2 contractor. Upon demand, a contractor or person acting in the capac-
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7 suspended or revoked while the contractor's registration is suspended
8 or revoked.

9 * Sec. 7. AS 08.18 is amended by adding a new section to read:

10 Sec. 08.18.123. DENIAL, SUSPENSION, AND REVOCATION OF ENDORSE-
11 MENT. (a) The department may suspend, revoke, or refuse to grant or
12 renew a residential contractor endorsement upon a finding that

13 (1) the application is fraudulent or misleading;

14 (2) the contractor has knowingly violated this chapter or a
15 lawful order or regulation of the department;

16 (3) the contractor is incompetent or has engaged in fraudu-
17 lent practices.

18 (b) Proceedings for the denial, suspension, or revocation of
19 residential contractor endorsement are governed by the Administrative
20 Procedure Act (AS 44.62).

21 * Sec. 8. AS 08.18.141(a) is amended to read:

22 (a) A contractor or a person acting in the capacity of a con-
23 tractor who knowingly violates [IN VIOLATION OF] AS 08.18.011 or
24 08.18.024 is guilty of a class B misdemeanor. A person who violates
25 another provision of this chapter is guilty of a violation punishable
26 under AS 12.

27 * Sec. 9. AS 08.18.171 is amended by adding a new paragraph to read:

28 (10) "residential contractor" means a general contractor
29 whose primary business operation involves overseeing the construction

provided by Sen Szymanski

Xed sections were deleted

1 IN THE SENATE

BY SZYMANSKI

2

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 72

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to registration and licensing of
7 contractors; prohibiting the use of state money for
8 certain residential work unless the work is performed
9 by a licensed residential contractor; and providing
10 for an effective date."

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

12 * Section 1. AS 08.01.050(a) is amended to read:

13

(a) The department shall perform the following administrative
14 and budgetary services when appropriate:

15

(1) collect and record fees;

16

(2) maintain records and files;

17

(3) issue and receive application forms;

18

(4) notify applicants of acceptance or rejection as de-

19

termined by the board or as determined by the department under AS 08.-

20

11 for audiologists, under AS 08.18 for contractors, under AS 08.45

21

for naturopaths, or under AS 08.55 for hearing aid dealers;

22

(5) designate dates examinations are to be held and notify

23

applicants;

24

(6) publish notice of examinations and proceedings;

25

(7) arrange space for holding examinations and proceedings;

26

(8) notify applicants of results of examinations;

27

(9) issue licenses or temporary licenses as authorized by

28

the board or as authorized by the department under AS 08.11 for audio-

29

logists, under AS 08.18 for contractors, under AS 08.45 for

1 naturopaths, or under AS 08.55 for hearing aid dealers;

2 (10) issue duplicate licenses upon submission of a written
3 request by the licensee attesting to loss of or the failure to receive
4 the original and payment by the licensee of a fee established by
5 regulation adopted by the department;

6 (11) notify licensees of renewal dates at least 30 days
7 before the expiration date of their licenses;

8 (12) compile and maintain a current register of licensees;

9 (13) answer routine inquiries;

10 (14) maintain files relating to individual licensees;

11 (15) arrange for printing and advertising;

12 (16) purchase supplies;

13 (17) employ additional help when needed;

14 (18) perform other services that may be requested by the
15 board;

16 (19) provide inspection, enforcement, and investigative
17 services to the boards and for the occupations listed in AS 08.01.010,
18 regarding all licenses issued by or through the department;

19 (20) retain and safeguard the official seal of a board and
20 prepare, sign, and affix a board seal, as appropriate, for licenses
21 approved by a board;

22 (21) issue business licenses under AS 43.70.

23 * Sec. 2. AS 08.18 is amended by adding a new section to read:

24 Sec. 08.18.013. CATEGORIES OF REGISTRATION. The department may
25 adopt regulations establishing categories of contractors and the
26 registration requirements for persons in those categories.

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

28 Sec. 08.18.024. RESIDENTIAL CONTRACTORS. (a) A general con-
29 tractor or builder may not oversee the construction or alteration, or

1 submit a bid to oversee the construction or alteration of a privately-
2 owned residential structure of one to four units or advertise or
3 publicly represent that the general contractor may oversee
4 work of this type in the state without a residential contractor li-
5 cense issued under this section.

6 (b) The department shall issue a residential contractor license
7 to a person who

8 (1) has a certificate of registration as a general contrac-
9 tor;

10 (2) passes a residential contractor examination, which
11 shall be offered by the department at least twice a year; the examina-
12 tion, which may be written or practical, may test competence in rela-
13 tion to arctic structural and thermal construction techniques and
14 other matters as determined by the department in consultation with
15 representatives of the construction industry;

16 (3) applies for a license within six months after passing
17 the examination required under (2) of this subsection;

18 (4) within the two years preceding the date of application
19 for licensure, has satisfactorily completed the Alaska craftsman home
20 program sponsored by the Department of Community and Regional Affairs;

21 (5) is not under indictment for, or in the preceding seven
22 years has not been under a sentence for, an offense related to forg-
23 ery, theft, extortion, or conspiracy to defraud creditors or for a
24 felony involving moral turpitude; and

25 (6) pays the appropriate fees.

26 (c) The department may not renew a license issued under this
27 section unless the licensee submits proof of continued competency that
28 satisfies the department. A lapsed license may be reinstated, within
29 two years after the lapse, upon proof of continued competency, payment

1 of a renewal fee for the intervening time period, and payment of any
2 penalty fee established under AS 08.01.100(b). If the license has
3 been lapsed for more than two years, the department may not reinstate
4 it until the person also passes the residential contractor examination
5 described in (b) of this section.

6 * Sec. 4. AS 08.18.041 is repealed and reenacted to read:

7 Sec. 08.18.041. FEES. (a) The department shall set fees under
8 AS 08.01.065 for

9 (1) registration and renewal of registration for all cat-
10 egories of contractors;

11 (2) examination, issuance of initial license, and renewal
12 of active or inactive licenses for residential contractors; and

13 (3) departmental publications and seminars related to this
14 chapter.

15 (b) A person who fails a residential contractor examination
16 shall pay the application fee set by the department if the person
17 applies to retake an examination.

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

19 (b) If the applicant is a general contractor or residential
20 contractor, the amount of the bond shall be \$10,000; if the applicant
21 is a mechanical or specialty contractor, the amount of the bond shall
22 be \$5,000. In lieu of the surety bond the applicant may file with the
23 commissioner a cash deposit or other negotiable security acceptable to
24 the commissioner in the amount specified for bonds.

25 * Sec. 6. AS 08.18.116 is amended to read:

26 Sec. 08.18.116. INVESTIGATIONS. Either the Department of Com-
27 merce and Economic Development or the Department of Labor may investi-
28 gate alleged or apparent violations of this chapter. These depart-
29 ments, upon showing proper credentials, may enter, during regular

1 hours of work, a construction site where it appears that contracting
2 work is being done. The departments may make inquiries about the
3 identity of the contractor or the person acting in the capacity of a
4 contractor. Upon demand, a contractor or person acting in the capac-
5 ity of a contractor, or that person's representative, shall produce
6 evidence of current licensure, if applicable, and registration.

7 * Sec. 7. AS 08.18.121 is amended by adding a new subsection to read:

8 (h) The license of a residential contractor is automatically
9 suspended or revoked while the contractor's registration is suspended
10 or revoked.

11 * Sec. 8. AS 08.18 is amended by adding a new section to read:

12 Sec. 08.18.123. DENIAL, SUSPENSION, AND REVOCATION OF LICENSE.

13 (a) The department may suspend, revoke, or refuse to grant or renew a
14 residential contractor license upon a finding that

15 (1) the application is fraudulent or misleading;

16 (2) the licensee has knowingly violated this chapter or a
17 lawful order or regulation of the department;

18 (3) the licensee is incompetent or has engaged in fraudu-
19 lent practices.

20 (b) Proceedings for the denial, suspension, or revocation of
21 residential contractor license shall be governed by the Administrative
22 Procedure Act (AS 44.62).

23 * Sec. 9. AS 08.18.141(a) is amended to read:

24 (a) A contractor or a person acting in the capacity of a con-
25 tractor in violation of AS 08.18.011 or 08.18.024 is guilty of a class
26 B misdemeanor. A person who violates another provision of this chap-
27 ter is guilty of a violation punishable under AS 12.

28 * Sec. 10. AS 08.18.171(4) is amended to read:

29 (4) "contractor" means ~~a~~ a person who, in the pursuit of an

1 independent business, undertakes or offers to perform, or claims to
2 have the capacity to perform, or submits a bid for a project to con-
3 struct, alter, repair, move, or demolish a building, highway, road,
4 railroad, or any type of fixed structure, including excavation and
5 site development and erection of scaffolding; "contractor" includes a
6 general contractor, builder, residential contractor, mechanical con-
7 tractor, specialty contractor, and subcontractor;

8 * Sec. 11. AS 08.18.171 is amended by adding a new paragraph to read:

9 (10) "residential contractor" means a general contractor
10 whose primary business operation involves overseeing the construction
11 or alteration of a privately-owned residential structure of one to
12 four units that is used or intended to be used as a human dwelling.

13 * Sec. 12. AS 37.05 is amended by adding a new section to read:

14 ARTICLE 6A. MISCELLANEOUS PROVISIONS.

15 Sec. 37.05.800. RESTRICTION ON USE OF STATE MONEY FOR RESI-
16 DENCES. (a) The state may not grant or loan money for the construc-
17 tion or alteration of a privately-owned residential structure of one
18 to four units unless the grant or loan requires the construction or
19 alteration to be performed under the oversight of a residential
20 contractor licensed under AS 08.18.

21 (b) Notwithstanding the exemptions in AS 08.18.161(9), (11), and
22 (13), the restriction of (a) of this section applies to a state loan
23 or grant made for work described in AS 08.18.161(9), (11), and (13)
24 that is the construction or alteration of a privately-owned residen-
25 tial structure of one to four units.

26 * Sec. 13. TRANSITIONAL LICENSING. Notwithstanding AS 08.18.024(b)(2)
27 and (3), enacted by sec. 3 of this Act, the Department of Commerce and
28 Economic Development shall issue a residential contractor license to a
29 person who

- 1 (1) applies for a license under this section by July 1, 1990;
2 (2) meets the requirements of AS 08.18.024(b)(1) and (4) - (6);
3 and
4 (3) has actively engaged in the business of residential contrac-
5 ting for at least a total of three years before applying for a license
6 under this section.
7 * Sec. 14. This Act takes effect July 1, 1989.

provided by ^{Sen} Szymanski

6-0388J.
Lauterbach
3/30/89

Original sponsor: Szymanski

1 IN THE SENATE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 72 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to registration and endorsements for
7 contractors; prohibiting the use of state money in
8 relation to certain residential work unless the work
9 is performed by a general contractor who has a res-
10 idential contractor endorsement; and providing for an
11 effective date."

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

13 * Section 1. AS 08.01.050(a) is amended to read:

14 (a) The department shall perform the following administrative
15 and budgetary services when appropriate:

- 16 (1) collect and record fees;
- 17 (2) maintain records and files;
- 18 (3) issue and receive application forms;
- 19 (4) notify applicants of acceptance or rejection as de-
20 termined by the board or as determined by the department under AS 08.-
21 11 for audiologists, under AS 08.18 for contractors, under AS 08.45
22 for naturopaths, or under AS 08.55 for hearing aid dealers;

23 (5) designate dates examinations are to be held and notify
24 applicants;

- 25 (6) publish notice of examinations and proceedings;
- 26 (7) arrange space for holding examinations and proceedings;
- 27 (8) notify applicants of results of examinations;
- 28 (9) issue licenses or temporary licenses as authorized by
29 the board or as authorized by the department under AS 08.11 for

1 audiologists, under AS 08.18 for contractors, under AS 08.45 for
2 naturopaths, or under AS 08.55 for hearing aid dealers;

3 (10) issue duplicate licenses upon submission of a written
4 request by the licensee attesting to loss of or the failure to receive
5 the original and payment by the licensee of a fee established by
6 regulation adopted by the department;

7 (11) notify licensees of renewal dates at least 30 days
8 before the expiration date of their licenses;

9 (12) compile and maintain a current register of licensees;

10 (13) answer routine inquiries;

11 (14) maintain files relating to individual licensees;

12 (15) arrange for printing and advertising;

13 (16) purchase supplies;

14 (17) employ additional help when needed;

15 (18) perform other services that may be requested by the
16 board;

17 (19) provide inspection, enforcement, and investigative
18 services to the boards and for the occupations listed in AS 08.01.010,
19 regarding all licenses issued by or through the department;

20 (20) retain and safeguard the official seal of a board and
21 prepare, sign, and affix a board seal, as appropriate, for licenses
22 approved by a board;

23 (21) issue business licenses under AS 43.70.

24 * ~~Sec. 2. AS 08.18 is amended by adding a new section to read:~~

25 Sec. 08.18.013. CATEGORIES OF CONTRACTORS. The department may
26 adopt regulations establishing categories of contractors and the
27 registration ~~or endorsement~~ requirements for persons in those categor-
28 ies.

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

1 Sec. 08.18.024. RESIDENTIAL CONTRACTORS. (a) A general con-
2 tractor or builder may not oversee the construction or alteration, or
3 submit a bid to oversee the construction or alteration of a privately-
4 owned residential structure of one to four units or advertise or
5 publicly represent that the general contractor ~~or builder~~ may oversee
6 work of this type in the state without a residential contractor
7 ~~endorsement~~ issued under this section.

8 (b) The department shall issue a residential contractor ~~endorse-~~
9 ~~ment~~ to a person who

10 (1) has a certificate of registration as a general contrac-
11 tor;

12 (2) passes a residential contractor examination, which
13 shall be offered by the department at least twice a year; the examina-
14 tion, which may be written or practical, may test competence in rela-
15 tion to arctic structural and thermal construction techniques and
16 other matters as determined by the department in consultation with
17 representatives of the construction industry;

18 (3) applies for an ~~endorsement~~ within six months after
19 passing the examination required under (2) of this subsection;

20 (4) within the two years preceding the date of application
21 for the ~~endorsement~~, has satisfactorily completed the Alaska craftsman
22 home program sponsored by the Department of Community and Regional
23 Affairs;

24 (5) is not under indictment for, or in the preceding seven
25 years has not been under a sentence for, an offense related to forg-
26 ery, theft, extortion, or conspiracy to defraud creditors or for a
27 felony involving moral turpitude; and

28 (6) pays the appropriate fees.

29 (c) The department may not renew an ~~endorsement~~ issued under

1 this section unless the applicant submits proof of continued compe-
2 tency relating to residential contracting that satisfies the depart-
3 ment. A lapsed ~~endorsement~~ may be reinstated, within two years after
4 the lapse, upon proof of continued competency, payment of a renewal
5 fee for the intervening time period, and payment of any penalty fee
6 established under AS 08.01.100(b). If the ~~endorsement~~ has been lapsed
7 for more than two years, the department may not reinscate it until the
8 person also passes the residential contractor examination described in
9 (b) of this section.

10 * Sec. 4. AS 08.18.041 is repealed and reenacted to read:

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

13 (1) registration and renewal of registration for all cat-
14 egories of contractors;

15 (2) examination, issuance of initial ~~endorsement~~, and
16 renewal of active or inactive ~~endorsements~~ for residential contrac-
17 tors; and

18 (3) departmental publications and seminars related to this
19 chapter.

20 (b) A person who fails a residential contractor examination
21 shall pay the application fee set by the department if the person
22 applies to retake an examination.

23 * Sec. 5. AS 08.18.116 is amended to read:

24 Sec. 08.18.116. INVESTIGATIONS. Either the Department of Com-
25 merce and Economic Development or the Department of Labor may investi-
26 gate alleged or apparent violations of this chapter. These depart-
27 ments, upon showing proper credentials, may enter, during regular
28 hours of work, a construction site where it appears that contracting
29 work is being done. The departments may make inquiries about the

1 identity of the contractor or the person acting in the capacity of a
2 contractor. Upon demand, a contractor or person acting in the capaci-
3 ty of a contractor, or that person's representative, shall produce
4 evidence of current endorsement, if applicable, and registration.

5 * Sec. 6. AS 08.18.121 is amended by adding a new subsection to read:

6 (h) The ~~endorsement~~ of a residential contractor is automatically
7 suspended or revoked while the contractor's registration is suspended
8 or revoked.

9 * Sec. 7. AS 08.18 is amended by adding a new section to read:

10 Sec. 08.18.123. DENIAL, SUSPENSION, AND REVOCATION OF ENDORSE-
11 MENT. (a) The department may suspend, revoke, or refuse to grant or
12 renew a residential contractor endorsement upon a finding that

13 (1) the application is fraudulent or misleading;

14 (2) the contractor has knowingly violated this chapter or a
15 lawful order or regulation of the department;

16 (3) the contractor is incompetent or has engaged in fraudu-
17 lent practices.

18 (b) Proceedings for the denial, suspension, or revocation of
19 residential contractor ~~endorsement~~ are governed by the Administrative
20 Procedure Act (AS 44.62).

21 * Sec. 8. AS 08.18.141(a) is amended to read:

22 (a) A contractor or a person acting in the capacity of a con-
23 tractor ~~who knowingly violates~~ [IN VIOLATION OF] AS 08.18.011 or
24 08.18.024 is guilty of a class B misdemeanor. A person who violates
25 another provision of this chapter is guilty of a violation punishable
26 under AS 12.

27 * Sec. 9. AS 08.18.171 is amended by adding a new paragraph to read:

28 (10) "residential contractor" means a general contractor
29 whose primary business operation involves overseeing the construction

1 or alteration of a privately-owned residential structure of one to
2 four units that is used or intended to be used as a human dwelling.

3 * Sec. 10. AS 37.05 is amended by adding a new section to read:

4 ARTICLE 6A. MISCELLANEOUS PROVISIONS.

5 Sec. 37.05.800. RESTRICTION ON USE OF STATE MONEY FOR RESI-
6 DENTIAL CONTRACTING. (a) The state may not grant or loan money ~~or~~
7 ~~purchase a loan~~ for the construction or alteration of a privately-
8 owned residential structure of one to four units unless the grant or
9 loan requires the construction or alteration to be performed under the
10 oversight of a residential contractor with an endorsement issued under
11 AS 08.18.

12 (b) Notwithstanding the exemptions in AS 08.18.161(9), (11), and
13 (13), the restriction of (a) of this section applies to a state loan
14 or grant or purchase of a loan made for work described in AS 08.18.-
15 161(9), (11), and (13) that is the construction or alteration of a
16 privately-owned residential structure of one to four units.

17 * Sec. 11. TRANSITIONAL LICENSING. Notwithstanding AS 08.18.024(b)(2)
18 and (3), enacted by sec. 3 of this Act, the Department of Commerce and
19 Economic Development shall issue a residential contractor ~~endorsement~~ to a
20 person who

21 (1) applies for an ~~endorsement~~ under this section by July 1,
22 1990;

23 (2) meets the requirements of AS 08.18.024(b)(1) and (4) - (6);
24 and

25 (3) has actively engaged in the business of residential contrac-
26 ting for at least a total of three years before applying for an ~~endorsement~~
27 under this section.

28 * Sec. 12. This Act takes effect July 1, 1989.

Cited in *Fomby v. Whisenhunt*, Sup. Ct. Op. No. 2801 (File No. 7434), 680 P.2d 787 (1984).

Sec. 08.18.150. [Repealed, § 1 ch 100 SLA 1968.]

Sec. 08.18.151. Legal actions by contractor. A person acting in the capacity of a contractor may not bring an action in a court of this state for the collection of compensation for the performance of work or for breach of a contract for which registration is required under this chapter without alleging and proving that the contractor was a registered contractor at the time of contracting for the performance of the work. (§ 2 ch 100 SLA 1968)

NOTES TO DECISIONS

Strict construction. — This section imposes a harsh penalty on contractors and thus has not been given a broad or liberal construction; it required substantial compliance rather than strict compliance with the registration provisions of the statute, the goal being to determine whether the contractor has sufficiently afforded the other party the effective protection of the statute. *Alaska Protection Servs., Inc. v. Frontier Colorcable, Inc.*, Sup. Ct. Op. No. 2800 (File Nos. 7562, 7609), 680 P.2d 1119 (1984).

This section causes the forfeiture of an otherwise valid claim. Because of this, it will not be given a broad or liberal construction. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Public policy precludes giving this statute anything but a literal reading; it would be unfair to prevent one from recovering damages for the torts of another simply because his contract is unenforceable. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Contract to purchase prefabricated modular homes. — A contract to purchase prefabricated modular homes was, from the standpoint of the purchaser, a contract for which registration was required within the meaning of this section when the purchaser was not exempt under the provisions of AS 08.18.161. *Industrial Power & Lighting Corp. v. Western Modu-*

lar Corp., Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Abrogation of statutory bar. — The statutory bar of this section may be abrogated by a general contractor's substantial compliance with AS 08.18.011. *Jones v. Short*, Sup. Ct. Op. No. 2916 (File No. S-220), 696 P.2d 665 (1985).

Application where registered name provision is violated. — The penalty for violating AS 08.18.051 is contained in AS 08.18.141, which makes it a misdemeanor to violate any provision of the chapter; and this section should only be applied to bar an action when the contractor has not registered at all at the time of contracting. *Alaska Protection Servs., Inc. v. Frontier Colorcable, Inc.*, Sup. Ct. Op. No. 2800 (File Nos. 7562, 7609), 680 P.2d 1119 (1984).

Recovery under Little Miller Act subject to this section. — Recovery under the Little Miller Act, AS 36.25.020, is subject to, and not independent of, the express penalty of this section. *State ex rel. Smith v. Tyonek Timber, Inc.*, Sup. Ct. Op. No. 2813 (File Nos. 7170, 7256), 680 P.2d 1148 (1984).

Applied in *Fomby v. Whisenhunt*, Sup. Ct. Op. No. 2801 (File No. 7434), 680 P.2d 787 (1984); *Gross v. Bayshore Land Co.*, Sup. Ct. Op. No. 3002 (File Nos. S-711, S-713), 710 P.2d 1007 (1985).

Stated in *Balboa Ins. Co. v. Senco Alaska, Inc.*, Sup. Ct. Op. No. 1468 (File No. 3076), 567 P.2d 295 (1977).

Cited in *Lost Valley Timber, Inc. v. Power City Constr., Inc.*, 809 F.2d 590 (9th Cir. 1987).

Collateral references. — Recovery of business license or permit to make contract. 74 ALR3d 637.
back of money paid to unlicensed person required by law to have occupation or

Sec. 08.18.160. [Repealed, § 1 ch 100 SLA 1968.]

Article 4. General Provisions.

Section

161. Exemptions
171. Definitions

Sec. 08.18.161. Exemptions. This chapter does not apply to:

- (1) an authorized representative of the United States government, the State of Alaska, or a political subdivision or agency of the state;
- (2) an officer of a court when acting within the scope of office;
- (3) a public utility operating under the regulations of the public service commission in construction, maintenance or development work incidental to its own business;
- (4) a construction, repair or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning or other operation of a petroleum or gas well or a surface or underground mine or mineral deposit when performed by an owner or lessee;
- (5) the sale or installation of finished products, materials or articles of merchandise which are not actually fabricated into and do not become a permanent, fixed part of a structure;
- (6) construction, alteration, or repair of personal property;
- (7) construction, alteration, or repair carried on within the boundaries of a site under legal jurisdiction of the federal government;
- (8) a person who only furnished materials, supplies or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;
- (9) work on one project under one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than \$10,000, this work being considered as of a casual, minor, or inconsequential nature; this exemption does not apply when the work is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or when the work is divided into contracts of amounts less than \$10,000 for the purpose of evasion of this chapter or otherwise; this exemption does not apply to a person who advertises or puts out a sign or card or other device which might indicate to the public that the person is a contractor, or that the person is qualified to engage in the contracting business; a contractor who performs work priced at \$2,500 or more, under this exemption, shall nevertheless keep in force public liability and property damage

insurance with coverage in at least the amounts set out in AS 08.18.101;

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

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

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

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

(14) a person performing construction work incidental to farming, dairying, agriculture, horticulture, stock or poultry raising, mining, logging, fishing, clearing or other work upon the land in rural districts for fire prevention purposes, or access road building, unless the person is a licensee. (§ 2 ch 100 SLA 1968; am § 1 ch 51 SLA 1976; am §§ 2, 3 ch 108 SLA 1982)

Opinions of attorney general. — Public utilities are clearly exempt both from construction contractor registration under AS 08.18 and from electrical administrator licensing under AS 08.40, regardless of

whether they are bidding against others who are not public utilities for work on projects which are not part of the utility distribution system. June 6, 1984 Op. Att'y Gen.

NOTES TO DECISIONS

Material and equipment excluded from operation of AS 08.18.071 and AS 08.18.081. — Paragraph (5) of this section, which makes the chapter inapplicable to materials and equipment not incorporated or consumed in the construction of a structure, operates to exclude such material and equipment from the operation of AS 08.18.071 and AS 08.18.081. *Balboa Ins. Co. v. Senco Alaska, Inc.*, Sup. Ct. Op. No. 1468 (File No. 3076), 567 P.2d 295 (1977).

Paragraph (5) bars the claim of an equipment supplier against a construction contractor's registration bond when the equipment has not been fabricated into a structure, but rather has become part of the contractor's capital equipment. *Balboa Ins. Co. v. Senco Alaska, Inc.*, Sup. Ct. Op. No. 1468 (File No. 3076), 567 P.2d 295 (1977).

Subcontractor's work did not come within literal language of paragraph

(7) where its work was not carried on totally "within" federal boundaries. *Lost Valley Timber, Inc. v. Power City Constr., Inc.*, 809 F.2d 590 (9th Cir. 1987).

Paragraph (8) interpreted. — Paragraph (8) of this section exists in substantially identical form in statutes in California and Washington, and has been interpreted there to exempt from registration one who prefabricates but does not install materials which become a part of real property. The supreme court of Alaska finds this interpretation persuasive. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Contract to purchase prefabricated modular homes. — A contract to purchase prefabricated modular homes was, from the standpoint of the purchaser, a contract for which registration was re-

quired within the meaning of AS 08.18.161 when the purchaser was not exempt under the provisions of this section. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Because a manufacturer of modular homes had no installation responsibilities under its contract, it was not required to register under this chapter in order to obtain payment in compensation for its performance of that contract. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Owner-builders constructing more than one building per year. — To construe "undertake" in AS 08.18.171(3) in the narrower sense of a contractual undertaking would exempt all professional builders who build on their own property for eventual resale. Such a result is plainly not contemplated by the statute since paragraph (13) of this section specifically exempts an owner-builder who constructs one building per year. By clear implication such owner-builders would be

covered by the statute except for this exemption, and owner-builders who build more than one building per year are covered by the statute. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Incidental logging activities held not exempt. — Where the prime contract was for power line construction, even though a subcontractor performing clearing work on the project may have performed logging activities, those were incidental to power line construction, not to logging, and it did not fall within the logging exemption of paragraph (14). *Lost Valley Timber, Inc. v. Power City Constr., Inc.*, 809 F.2d 590 (9th Cir. 1987).

Applied in *Olsen & Sons Logging, Ltd. v. Owens*, Sup. Ct. Op. No. 2033 (File Nos. 3758, 4558), 607 P.2d 949 (1980).

Quoted in *Gaudiano v. Lundgren*, Sup. Ct. Op. No. 3105 (File No. S-879), 723 P.2d 1267 (1986).

Cited in *State ex rel. Smith v. Tyonek Timber, Inc.*, Sup. Ct. Op. No. 2813 (File Nos. 7170, 7256), 680 P.2d 1148 (1984).

Sec. 08.18.170. [Repealed, § 1 ch 100 SLA 1968.]

Sec. 08.18.171. Definitions. In this chapter

(1) "cash deposit" means a cash deposit or other negotiable security filed with the commissioner in lieu of a surety bond under AS 08.18.071(b);

(2) "commissioner," unless the text reads otherwise, means the commissioner of the Department of Commerce and Economic Development;

(3) "contractor" means a person who, in the pursuit of an independent business, undertakes or offers to perform, or claims to have the capacity to perform, or submits a bid for a project to construct, alter, repair, move or demolish a building, highway, road, railroad, or any type of fixed structure, including excavation and site development and erection of scaffolding; a "general contractor" is a contractor whose business operations require the use of more than two distinct trades whose work the general contractor superintends; the terms "general contractor" and "builder" are synonymous; a "specialty contractor" is a contractor whose operations do not fall within the definition of "general contractor";

(4) "department" means the Department of Commerce and Economic Development, unless the context indicates otherwise. (§ 2 ch 100 SLA 1968; am § 3 ch 37 SLA 1971; am § 41 ch 218 SLA 1976; am § 3 ch 15 SLA 1977; am § 10 ch 83 SLA 1985)

S B

82

Publication
Notice
Waived
2/8/89

SENATE COMMITTEE REPORT

FURTHER FINANCE

2/6/89

DATE TURNED INTO OFFICE 2/8/89

Mr. President:

L&C

Committee considered SB 82

loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; efd and recommended.

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and _____) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published 2/6/89

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

No Rec.

No Rec.

Chairman signature and recommendation

Committee Backup attached



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

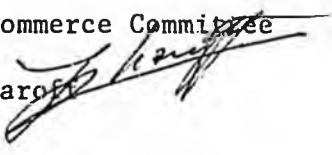
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ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Richard Eliason
Chairman
Senate Labor and Commerce Committee

FROM: Senator Fred F. Zharoff 

DATE: Feb. 6, 1989

RE: Senate Bill 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

I respectfully request you to waive the Labor and Commerce Committee referral for SB 82. The bill passed out of the Senate Resources Committee on Feb. 3 with five "do pass" recommendations.

As you know, SB 82 allows CFAB to set up a new financing program for limited entry permits, involving loan participation certificates. CFAB is under something of a time constraint with regard to the enactment of this legislation. Even though limited entry permits are bought and sold throughout the year, the market sees the most activity and peaks in the period between early March and May. If we can pass SB 32 in a timely manner, CFAB will be able to have this program -- which would help keep limited entry permits in Alaska -- in place in time for this year's main permit buying and selling season.

A waiver of the Labor and Commerce referral would help us meet this deadline and expedite consideration by the Finance Committee, the full Senate, and the House.

As I understand, the aspects of the bill that concern the Division of Banking, Securities and Corporations were reviewed during the Resources Committee hearing.

Thank you for your consideration of this request.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

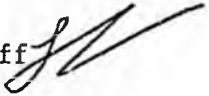
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ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Richard Eliason
Chairman
Senate Labor and Commerce Committee

FROM: Senator Fred F. Zharoff 

DATE: February 8, 1989

RE: Senate Bill 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

SB 82 would allow the Alaska Commercial Fishing and Agriculture Bank (CFAB) to establish a new program that will help keep limited entry permits in the hands of Alaska residents.

The new program will be especially applicable to those situations in which a commercial fisherman wishes to liquidate his fishing operation by selling his or her limited entry permit to a specific resident fisherman -- frequently a younger family member -- who has little cash and who, alone, is not perceived to be sufficiently creditworthy to be granted a permit purchase loan. Under the new program, a seller may share in the credit risk of a CFAB-financed permit purchase by using a portion of the sale proceeds to purchase a participation in the loan involved. The seller's financial interest is protected because of CFAB's ability to foreclose its permit lien in the event of irremediable default. Also, if desired, the seller can retrieve the permit by having the purchaser (the borrower) designate the seller as the person to assume the debt in the event of default and foreclosure.

As an investment, the loan participation certificate will allow the seller to receive the market interest rate on the deferred portion of the sale proceeds.

The program offers an alternative to what is commonly called "permit migration" or "permit drain". Under current circumstances, a rural permit holder -- unable to find a local fisherman with the financial capacity to buy the permit -- concludes there is no alternative other than to sell the permit to an urban Alaskan or nonresident who can raise the cash upfront.

The bill also makes a number of miscellaneous amendments to CFAB's statute. The sections related to the program described above are Sec. 2, (f) in Sec. 3, Sec. 6, and Sec. 9.

The following backup information is attached:

1. Sectional analysis.
2. Department of Commerce and Economic Development position paper and fiscal note.
3. Letter from Mr. Bruce Twomley, chairman of the Commercial Fisheries Entry Commission.
4. 1987 Annual Examination Report prepared by the Division of Banking, Securities, Small Loans and Corporation.
5. CFAB 1988 Annual Report.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

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SECTIONAL ANALYSIS

Senate Bill No. 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

SECTION 1 PURPOSE.

Explains the rationale behind the bill.

SECTION 2

New paragraph (12) added to 44.81.210(a).

Gives CFAB the power to issue loan participation certificates.

SECTION 3

New subsections (e) and (f) added to 44.81.230.

(e) Allows a borrower to pledge more than one limited entry permit as security for a loan. This will be of benefit to fishermen who have multiple permits and are trying to expand their operations. They will be able to use their limited entry permits as financial assets to leverage the funds they need to purchase vessels, gear, etc. They can diversify and spread fixed costs over more fisheries. This will be of particular benefit to fishermen who have little liquidity, but substantial equity in existing permits.

(f) Allows a borrower to nominate another person to assume the debt on a permit loan. This way the individual who holds a loan participation certificate can take over the loan in the case of foreclosure.

SECTION 4

Amendment to subsection (b) in 44.81.235.

Corrects an oversight in the existing statute by allowing a loan made to purchase a limited entry permit to be included when a single permit is pledged to secure multiple loans.

SECTION 5

Amendment to subsection (c) in 44.81.235.

Corrects an oversight in the existing statute by allowing CFAB to refinance a loan which is made to purchase a limited entry permit. Under the current statute, CFAB may accept a permit as collateral when refinancing loans for fishing vessels, fishing gear, set net sites, and working capital, but not loans which are for the purchase of a permit.

SECTION 6

Amendment to subsection (b) in 44.81.250.

Makes this section of the existing CFAB statute consistent with the amendment in paragraph (f) of Section 3, above, by including a reference to the nomination of a person to assume debt.

SECTION 7

Amendment to subsection (d) in 44.81.250.

Adds reference to loans for the purchase of limited entry permits to the statute regarding CFAB's legal rights during foreclosure.

SECTION 8

New subsection (e) added to 44.81.250.

Describes the procedure CFAB shall follow when it has repossessed a limited entry permit.

SECTION 9

New paragraph (12) added to 45.55.140(a).

Exempts CFAB from the state's securities registration requirements. This restores the exemption CFAB had in statute when it was originally created. The exemption is currently granted to banks, savings institutions, savings and loan associations, trust companies, foreign governments, employee benefit plans, insurance companies, credit unions, nonprofit organizations, and others. The exemption will allow CFAB to offer loan participation certificates and remove the question of whether this transaction must comply with the extensive requirements for securities registration. CFAB will still be subject to annual audits by the Division of Banking, Securities and Corporations, an independent outside auditor, and, upon legislative instruction, by the Legislative Audit Division, as provided for in 44.81.270.

SECTION 10

Immediate effective date.