

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10316 HOUSE LABOR & COMMERCE

1 individual

2 (1) is employed by a licensed home inspector who supervises the
3 associate's work and the inspection is of the type that the supervising individual is
4 authorized to perform; and

5 (2) is registered with the board as an associate home inspector.

6 (c) A licensed home inspector who employs an associate home inspector
7 under (b) of this section is liable for the work done by the associate home inspector.

8 (d) An individual who holds a joint license is considered to be licensed as both
9 a home inspector for new construction and a home inspector for previously occupied
10 construction.

11 **Sec. 08.57.060. Qualifications.** The board shall authorize the department to
12 issue a home inspector license for new construction, previously occupied construction,
13 or both, as appropriate, to an individual who

14 (1) passes the appropriate home inspection examination; the
15 examination must include a written portion; the examination may, as determined by
16 the board,

17 (A) use testing methodologies in addition to the written
18 portion;

19 (B) test for competency in relation to Alaska construction
20 techniques and other matters;

21 (C) be based on a recognized national examination or other
22 methodology;

23 (2) meets the educational and experience requirements adopted by the
24 board in regulations for the type of license applied for;

25 (3) submits a complete application for licensure within one year
26 after passing the examination required under (1) of this section;

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

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

1 (6) is not the subject of an unresolved complaint or disciplinary action
2 before a regulatory authority in this state or in another jurisdiction; and

3 (7) pays the appropriate fees.

4 **Sec. 08.57.070. License renewal; continued competency.** (a) A license
5 issued under this chapter may not be renewed unless the applicant submits proof of
6 continued competency relating to home inspecting that satisfies the board.

7 (b) A lapsed license may be reinstated within two years after the lapse upon
8 proof of continued competency, payment of a renewal fee for the period for which the
9 reinstated license will be valid, and payment of any penalty fee established under
10 AS 08.01.100(b). If the license has been lapsed for more than two years, the license
11 may not be reinstated until the individual also passes the appropriate home inspection
12 examination described in AS 08.57.060. A license may not be reinstated if the license
13 has been lapsed for more than five years.

14 (c) The license of an applicant whose license has been suspended or against
15 whom a fine has been imposed under this chapter may not be renewed until the period
16 of suspension has expired and any fine has been paid.

17 **Sec. 08.57.080. Fees.** (a) The department shall set fees under AS 08.01.065
18 for

19 (1) licensure and renewal of licensure for a home inspector qualified to
20 inspect new construction;

21 (2) licensure and renewal of licensure for a home inspector qualified to
22 inspect previously occupied construction;

23 (3) joint licenses and renewal of joint licenses;

24 (4) registration and renewal of registration as an associate home
25 inspector;

26 (5) examinations; and

27 (6) board and departmental publications and seminars related to this
28 chapter.

29 (b) An individual who fails a home inspector examination shall pay the
30 examination fee set by the department if the individual applies to retake an
31 examination.

1 on whose behalf a home is inspected a written document specifying

2 (1) the scope of intended inspection; the scope of the intended
3 inspection may include systems and components that are not listed in
4 AS 08.57.990(3); and

5 (2) that the inspector will notify in writing the person on whose behalf
6 the inspection is being made of defects noted during the inspection along with a
7 recommendation, if any, that experts be retained to conduct further evaluation through
8 examination and analysis by a qualified professional, tradesperson, or service
9 technician beyond that provided by the home inspection to determine the extent of
10 defects and corrective action necessary to address the defects.

11 **Sec. 08.57.320. Conflict of interest must be disclosed.** (a) A licensed home
12 inspector who has a conflict of interest relating to a home inspection shall disclose that
13 conflict of interest at the time of initial substantive contact with the person requesting
14 the home inspection and confirm the conflict of interest in writing to the person
15 requesting the home inspection as soon as possible after the initial substantive contact.

16 (b) The failure of a licensee to disclose a conflict of interest as required under
17 this section does not give rise to a cause of action by a private person. However,

18 (1) the board may, under AS 08.57.400, impose a disciplinary sanction
19 for violation of this section; and

20 (2) nothing in this subsection may be construed to deprive a private
21 person of a cause of action if a violation of this section constitutes fraud, deceit, or
22 misrepresentation and the person suffered a loss as a result of the violation.

23 (c) In this section, "conflict of interest" is when

24 (1) a relative of the licensee or a person with whom the licensee has a
25 financial relationship has a present financial interest in the property being inspected or
26 considered for inspection; or

27 (2) the licensee receives compensation from someone other than a
28 party to the home inspection contract or another party having a financial interest in the
29 outcome of the home inspection.

30 **Sec. 08.57.330. Inspection report required.** After performance of a home
31 inspection, a licensed home inspector shall give a written home inspection report to

1 the person requesting the inspection. The written report must include a review of the
2 condition of each system and component identified as being within the scope of the
3 intended inspection under AS 08.57.310(1). An oral inspection report may be given
4 by the home inspector during or after the inspection.

5 **Article 5. Disciplinary Actions; Other Enforcement Mechanisms.**

6 **Sec. 08.57.400. Grounds for disciplinary sanctions or other license**
7 **decisions.** The board may take disciplinary action authorized under AS 08.01.075 or
8 refuse to grant or renew a license or registration under this chapter on a finding that

9 (1) the application is fraudulent or misleading;

10 (2) the individual has knowingly violated this chapter or a lawful order
11 or regulation of the department or the board;

12 (3) the individual is incompetent;

13 (4) the individual has engaged in fraudulent practices relating to home
14 inspection; or

15 (5) the individual has been under sentence in the preceding seven years
16 for an offense described in AS 08.57.060(4).

17 **Sec. 08.57.410. Administrative Procedure Act applicable.** The adoption of
18 regulations and proceedings under this chapter are governed by AS 44.62
19 (Administrative Procedure Act).

20 **Sec. 08.57.420. Injunction.** In addition to the powers granted under
21 AS 08.01.087(b), the board or the department may institute an action in the superior
22 court requesting the court to enjoin an individual from performing a home inspection
23 in violation of this chapter. In addition to other relief, the court may impose a civil
24 penalty of not more than \$500 for each violation. Each day that an unlawful act
25 continues constitutes a separate violation.

26 **Sec. 08.57.430. Violations.** (a) An individual who knowingly violates
27 AS 08.57.050 is guilty of a class B misdemeanor. A person who violates another
28 provision of this chapter is guilty of a violation punishable under AS 12.

29 (b) Criminal prosecution for a violation of this chapter does not preclude the
30 board or the department from seeking available civil remedies.

31 **Article 6. Miscellaneous Provisions.**

1 **Sec. 08.57.800. Legal actions by home inspector.** An individual may not
2 bring an action in a court of this state for the collection of compensation for the
3 performance of a home inspection or for breach of a contract for which a license or
4 registration is required under this chapter without proving that the individual was a
5 licensed home inspector or registered associate home inspector at the time of
6 contracting for the performance of the work.

7 **Sec. 08.57.810. Legal actions against home inspector.** A person may not
8 bring an action against an individual licensed or registered under this chapter based on
9 a written home inspection report prepared by the inspector if the report is more than
10 180 days old or was unlawfully disclosed to the person bringing the action.

11 **Article 7. General Provisions.**

12 **Sec. 08.57.900. Prohibited acts.** (a) An individual licensed or registered
13 under this chapter may not

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

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

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

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

27 (A) more than 180 days after the date of the report;

28 (B) to a subsequent client who requests a home inspection of
29 the same premises; or

30 (C) by the home inspector in an administrative or judicial
31 proceeding in which disclosure of the home inspection report is relevant to

1 resolution of the legal issues in the proceeding;

2 (5) without the written consent of all interested parties, accept
3 compensation from more than one interested party for the same services;

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

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

10 (b) Contractual provisions that purport to limit the liability of a home
11 inspector to the cost of the home inspection report are contrary to public policy and
12 void.

13 **Sec. 08.57.910. Limitation on activities.** A license or registration issued
14 under this chapter does not authorize the holder to perform an activity for which a
15 license is required under provisions of this title that are outside of this chapter.

16 **Sec. 08.57.920. Exemptions.** Notwithstanding other provisions of this
17 chapter, an individual who inspects a home is not required to be licensed or registered
18 under this chapter if the individual is

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

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

24 (3) registered as an engineer or architect under AS 08.48, prepares a
25 written report after the inspection, and either

26 (A) affixes the individual's seal to the home inspection report;

27 or

28 (B) signs the report and puts the individual's registration
29 number on the report;

30 (4) engaged as an engineer in training or architect in training who
31 works for and is supervised by a person described in (3) of this section and the person

1 described in (3) of this section affixes the person's seal to the home inspection report
2 or signs and puts the person's registration number on the report;

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

6 (6) registered as a general contractor with a residential contractor
7 endorsement under AS 08.18 and is performing only activities within the scope of that
8 registration;

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

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

13 **Sec. 08.57.990. Definitions.** In this chapter,

14 (1) "board" means the Board of Home Inspectors;

15 (2) "department" means the Department of Community and Economic
16 Development;

17 (3) "home inspection" means a visual examination, performed in
18 accordance with standards of practice adopted by the board, of the readily accessible
19 parts of one or more of the following systems and components of a residence or
20 intended residence:

21 (A) heating and air-conditioning systems;

22 (B) plumbing and electrical systems;

23 (C) built-in appliances;

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

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

26 (F) foundation and basement;

27 (G) visible interior and exterior structures;

28 (H) drainage to and from the residence;

29 (I) other systems or components as specified by the board

30 regulations;

31 (4) "home inspector" means a person who performs or offers to

1 perform a home inspection;

2 (5) "joint license" means a license that authorizes an individual to
3 inspect both new construction and previously occupied residences;

4 (6) "knowingly" has the meaning given in AS 11.81.900;

5 (7) "real estate transaction" means the transfer or attempted transfer of
6 an interest in a unit of real property or an act conducted as a result of or in pursuit of a
7 contract to transfer an interest in a unit of real property;

8 (8) "residence" means

9 (A) 1 single-family home;

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

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

12 (9) "visual examination" means an examination performed in person at
13 the physical location of the residence unless a method other than personal physical
14 inspection has been approved by the Alaska Housing Finance Corporation under
15 AS 18.56.300(b).

16 * Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

17 (37) Board of Home Inspectors (AS 08.57.010).

18 * Sec. 3. AS 08.03.010(c) is amended by adding a new paragraph to read:

19 (22) Board of Home Inspectors (AS 08.57.010) -- June 30, 2005.

20 * Sec. 4. AS 18.56.300(b) is amended to read:

21 (b) As a condition of a commitment to purchase or approve a loan under this
22 section for residential housing the construction of which begins after June 30, 1992,
23 the corporation shall require inspection of the unit of residential housing that is the
24 subject of the loan. The inspection must be performed by a municipal building
25 inspector, by a person who is approved or certified to perform residential inspections
26 by the International Conference of Building Officials or the International Association
27 of Electrical Inspectors, by an individual who is licensed or registered under
28 AS 08.57.050 to perform home inspections for new construction [OR, WHEN THE
29 UNIT OF RESIDENTIAL HOUSING IS LOCATED IN A RURAL AREA], by an
30 architect licensed under AS 08.48, by an engineer licensed under AS 08.48, or by
31 another person approved by the corporation. When the unit of residential housing is

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

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

15 * Sec. 5. AS 18.56.300(b) is amended to read:

16 (b) As a condition of a commitment to purchase or approve a loan under this
17 section for residential housing the construction of which begins after June 30, 1992,
18 the corporation shall require inspection of the unit of residential housing that is the
19 subject of the loan. The inspection must be performed by a municipal building
20 inspector, [BY A PERSON WHO IS APPROVED OR CERTIFIED TO PERFORM
21 RESIDENTIAL INSPECTIONS BY THE INTERNATIONAL CONFERENCE OF
22 BUILDING OFFICIALS OR THE INTERNATIONAL ASSOCIATION OF
23 ELECTRICAL INSPECTORS,] by an individual who is licensed or registered under
24 AS 08.57.050 to perform home inspections, by an architect licensed under AS 08.48,
25 by an engineer licensed under AS 08.48, or by another person approved by the
26 corporation. When the unit of residential housing is located in a rural area, the person
27 who makes the inspection may use methods other than a personal physical inspection
28 to make the inspection if the method is approved by the corporation, and variations
29 from the applicable code may be accepted at the corporation's discretion, if the person
30 authorized to inspect the unit under this subsection satisfies the corporation that the
31 variation does not adversely affect the structural integrity of the unit or the health and

1 safety of the residents. The person who makes the inspection shall determine whether
2 the construction conforms to relevant provisions of the construction codes of the
3 municipality or of the state building code, as applicable, at each of the following
4 stages of construction:

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

10 * Sec. 6. AS 44.62.330(a) is amended by adding a new paragraph to read:

- 11 (60) Board of Home Inspectors.

12 * Sec. 7. AS 45.50.471(b) is amended by adding a new paragraph to read:

- 13 (43) violating AS 08.57.320, 08.57.330, or 08.57.900.

14 * Sec. 8. AS 18.56.300(c) is repealed.

15 * Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 APPLICABILITY. The change made by sec. 8 of this Act applies to causes of action
18 that accrue on or after July 1, 2003.

19 * Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 REGULATIONS. The Board of Home Inspectors may proceed to adopt regulations to
22 implement this Act. A regulation adopted under this section takes effect under AS 44.62
23 (Administrative Procedure Act) but not before the effective date of the law implemented by
24 the regulation.

25 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 TRANSITIONAL BOARD PROVISIONS. Notwithstanding AS 08.57.010, added by
28 sec. 1 of this Act, the three home inspectors appointed to the initial Board of Home Inspectors
29 are not required to be licensed as home inspectors before appointment but must be licensed as
30 home inspectors in order to be appointed or reappointed after expiration of their first term in
31 office.

1 * Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 TRANSITIONAL LICENSING PROVISIONS. (a) Notwithstanding AS 08.57,
4 added by sec. 1 of this Act, the Board of Home Inspectors shall issue a joint license that is
5 valid until January 1, 2004, to an individual who submits to the board satisfactory evidence of
6 being in the business of home inspection in the state at the time of application for a license
7 under this subsection and of having

8 (1) been in the business of home inspection in the state on October 1, 2000;
9 and

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

12 (b) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home
13 Inspectors shall issue a license to practice home inspection of previously occupied residences
14 that is valid until January 1, 2004, to an individual who submits to the board satisfactory
15 evidence of being in the business of home inspection in the state at the time of application for
16 a license under this subsection and of having passed

17 (1) the national home inspector examination given by the American Society of
18 Home Inspectors; or

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

21 (c) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home
22 Inspectors shall issue a license to practice home inspection of new construction that is valid
23 until January 1, 2004, to an individual who submits to the board satisfactory evidence of being
24 in the business of home inspection in the state at the time of application for a license under
25 this subsection and of having passed the combination inspector examination or the
26 combination dwelling inspector examination given by the International Conference of
27 Building Officials.

28 (d) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home
29 Inspectors shall grant registration as an associate home inspector that is valid until January 1,
30 2004, to an individual who submits to the board satisfactory evidence of being employed by
31 an individual who is in the business of home inspection and is licensed under this section or

1 under AS 08.57.

2 (e) A license or registration issued under this section may not be renewed or
3 extended.

4 (f) Except as provided in (e) of this section, a license or registration issued under this
5 section is considered to be a license or registration issued under AS 08.57, added by sec. 1 of
6 this Act.

7 (g) In this section, "joint license" has the meaning given in AS 08.57.990, added by
8 sec. 1 of this Act.

9 * **Sec. 13.** AS 08.57.050, 08.57.300 - 08.57.330, 08.57.430(a), 08.57.800 - 08.57.810,
10 enacted by sec. 1 of this Act, and the amendment of AS 18.56.300(b), made by sec. 4 of this
11 Act, take effect July 1, 2002.

12 * **Sec. 14.** Section 5 of this Act takes effect January 1, 2004.

13 * **Sec. 15.** Sections 8 and 9 of this Act take effect July 1, 2003.

14 * **Sec. 16.** Except as provided in secs. 13 - 15 of this Act, this Act takes effect immediately
15 under AS 01.10.070(c).

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(2) repurchase a mortgage loan sold or pledged by the corporation for the purpose of exercising a power conferred by this section;

(3) for the purpose of qualifying residential housing situated in a condominium project to obtain the best available financing for mortgage loans, make and execute agreements and contracts necessary to encourage all owners who occupy units in a condominium project that is not eligible for financing under this chapter to exchange their ownership interest in a condominium unit owned by the corporation in another project;

(4) make and execute appropriate agreements with insurers, investors, and guarantors concerning the temporary removal of residential housing owned by the corporation from the resale market;

(5) convert residential housing owned by the corporation that is designed and constructed for owner occupancy to another beneficial use;

(6) make bulk sales of property owned by the corporation under procedures and terms that the corporation determines are in the best interests of the corporation;

(7) after giving due consideration to the interests of competing individual sellers of residential housing, provide financing under terms established by the board to promote the sale of residential housing owned by the corporation;

(8) invest funds of the corporation in the removal and disposal of substandard publicly owned residential housing if the board of directors determines that the investment is prudent, properly secured, and in the long-term best interests of the corporation;

(9) create subsidiary entities to implement a power conferred by this section and to provide insurance under AS 18.56.093 and 18.56.095;

(10) purchase loans from the former housing assistance loan fund (former AS 44.47.380) if and only if the payments of principal and interest on the loans, or amounts equal to the payments of principal and interest on the loans, are deposited in a separate fund of the corporation to be used for the purposes, and subject to the standards and criteria, of former AS 44.47.360 — 44.47.560 as those statutes provided on June 10, 1988; and

(11) take other actions necessary, convenient, or desirable to carry out the powers granted in this subsection.

(b) The corporation shall implement the powers conferred by (a) of this section by adopting regulations under AS 18.56.088. (§ 2 ch 147 SLA 1988; am §§ 96, 97 ch 4 FSSLA 1992)

Revisor's notes. — Paragraph (a)(10) of this section gives effect to the amendment made by § 97, ch. 4, FSSLA 1992, effective July 1, 1992. From June 26, 1992 to July 1, 1992, under § 96, ch. 4, FSSLA 1992, paragraph (a)(10) read as set out above, except that neither occurrence of "former" appeared. Due to a manifest error, § 150, ch. 4, FSSLA 1992 did not give § 96, ch. 4, FSSLA 1992 an immediate effective date. The error was corrected under AS 01.05.031.

Former AS 18.56.210 was renumbered as AS 18.56.900 in 1986.

Cross references. — For transitional provisions relating to the purchase of certain housing loans of the

Department of Community and Regional Affairs as of June 26, 1992, by the Alaska Housing Finance Corporation, see § 147, ch. 4, FSSLA 1992 in the Temporary and Special Acts; for legislative findings and intent in connection with the enactment of this section, see sec. 1, ch. 147, SLA 1988 in the Temporary and Special Acts.

Effect of amendments. — The 1992 amendment, effective July 1, 1992, rewrote paragraph (a)(10).

Legislative history reports. — For legislative letter of intent relating to a legislative oversight committee in connection with AHFC activities under this section, see 1988 Senate Journal 3681.

Sec. 18.56.220. Duty to advise about corporation's programs. The corporation shall make a reasonable effort, through seminars, training sessions, and other forms of technical assistance, to assist local governments, regional housing authorities, nonprofit organizations, and other organizations and individuals to understand the corporation's housing programs and the opportunities that exist to obtain financial assistance from the corporation. (§ 98 ch 4 FSSLA 1992)

Sec. 18.56.300. Construction standards for housing eligible for purchase of loans. (a) The corporation may not make or purchase a housing loan for residential

housing the construction of which begins after June 30, 1992, unless the seller of the mortgage loan complies with the provisions of this section and unless

(1) the unit is in compliance with the construction codes of the municipality, if the unit is located within a municipality that has adopted and enforces construction codes and each of those codes meets or exceeds the comparable standards for similar housing established by the state building code; or

(2) the unit is in compliance with the comparable standards for similar housing established by the state building code

(A) if the unit is located

(i) within a municipality whose construction codes do not meet the standards for similar housing established by the state building code;

(ii) within a municipality that does not enforce construction codes; or

(iii) outside a municipality; or

(B) as to each specific code within the construction codes of the municipality that has adopted and enforces construction codes if the specific code does not meet or exceed the comparable standard for similar housing established by the state building code.

(b) As a condition of a commitment to purchase or approve a loan under this section for residential housing the construction of which begins after June 30, 1992, the corporation shall require inspection of the unit of residential housing that is the subject of the loan. The inspection must be performed by a municipal building inspector, by a person who is approved or certified to perform residential inspections by the International Conference of Building Officials or the International Association of Electrical Inspectors, or, when the unit of residential housing is located in a rural area, by an architect licensed under AS 08.48, by an engineer licensed under AS 08.48, or by another person approved by the corporation. When the unit of residential housing is located in a rural area, the person who makes the inspection may use methods other than a personal physical inspection to make the inspection if the method is approved by the corporation, and variations from the applicable code may be accepted at the corporation's discretion, if the person authorized to inspect the unit under this subsection satisfies the corporation that the variation does not adversely affect the structural integrity of the unit or the health and safety of the residents. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:

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

(c) A person may not bring an action for damages based on a duty imposed by (b) of this section to inspect a residential unit unless the action is for damages caused by gross negligence or intentional misconduct.

(d) This section does not apply to a nonconforming housing loan made or purchased by the corporation.

(e) In this section,

(1) "construction codes" means, with reference to a municipality, the building, mechanical, plumbing, and electrical codes, or any of them that have been adopted and are enforced by the municipality;

(2) "rural area" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks;

(3) "state building code" means

(A) for building standards, the standards set out in the version of the Uniform Building Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes contain-

ing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(B) for mechanical standards, the standards set out in the version of the Uniform Mechanical Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(C) for plumbing standards, the minimum plumbing code adopted for the state under AS 18.60.705; and

(D) for electrical standards, the minimum electrical standards prescribed by AS 18.60.580. (§ 2 ch 85 SLA 1990; am § 1 ch 29 SLA 1991; am §§ 1, 2 ch 52 SLA 1991; am § 99 ch 4 FSSLA 1992; am §§ 1, 2 ch 81 SLA 1994; am § 1 ch 2 SLA 1996)

Revisor's notes. — Paragraph (e)(2) was enacted as (e)(3). Renumbered in 1994, at which time former (e)(2) was renumbered as (e)(3).

Effect of amendments. — The first 1991 amendment, effective June 12, 1991, in former subparagraph (a)(2)(C) (now (e)(3)(C)), substituted "the publications identified as the minimum plumbing code" for "the minimum plumbing code adopted by the Department of Labor."

The second 1991 amendment, effective June 16, 1991, in the first sentences of subsections (a) and (b), substituted "June 30, 1992" for "June 30, 1991."

The 1992 amendment, effective July 1, 1992, in subsection (d), inserted "nonconforming" and "or purchased" and deleted "under AS 18.56.106" from the end.

The 1994 amendment, effective September 4, 1994, rewrote the second sentence in subsection (b) and added present paragraph (e)(2).

The 1996 amendment, effective May 30, 1996, in

subparagraph (e)(3)(C), deleted "publications identified as the" following "plumbing standards, the" and inserted "adopted for the state."

Editor's notes. — Section 3, ch. 85, SLA 1990, as amended by § 4, ch. 52, SLA 1991, provides that former AS 18.56.300(e)(2)(A) and (B) (now (e)(3)(A) and (B)) "are intended to assure that, for purposes of determining whether housing the construction of which begins after June 30, 1992, meets the building and mechanical standards under AS 18.56.300(a) and (b), enacted by § 2 of this Act, the standards set out in each of the following fully apply to residences containing fewer than four dwelling units, even though those residences are excepted from regulation by AS 18.70.080(a)(2):

"(1) the Uniform Building Code, adopted for the state by 13 AAC 50.020(a);

"(2) the Uniform Mechanical Code, adopted for the state by 13 AAC 50.020(b)."

Sec. 18.56.390. Definitions for AS 18.56.010 — 18.56.390. In AS 18.56.010 — 18.56.390, unless the context clearly indicates a different meaning,

(1) "adjustable rate mortgage loan" means a mortgage loan with respect to which the interest rate varies or is expected to vary from time to time by reference to an index or formula or other reference point;

(2) "bond" or "obligation" means a bond, bond anticipation note, or other note of the corporation authorized to be issued by the corporation under this chapter, or a mortgage participation certificate issued with respect to mortgages of the corporation;

(3) "construction loan" means a construction loan for land development or residential housing that is secured by a federally insured or guaranteed mortgage or that is insured or guaranteed by the United States or an instrumentality of the United States, or for which there is a commitment by the United States or an instrumentality of the United States to insure or guarantee such a loan, or a construction loan for land development or residential housing which land development or residential housing will be secured by a mortgage loan;

(4) "development costs" means the costs approved by the corporation as appropriate expenditures that may be incurred by sponsors, builders, and developers of residential housing, before commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including but not limited to

(A) payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of the properties;

(B) legal and organizational expenses, including payments of attorney fees, project manager, clerical, and other staff salaries, office rent, and other incidental expenses;

These comments and proposed amendments relate to the bill version currently under consideration by the House Labor and Commerce Committee, the work draft CSHB 27 (L&C) dated 1/30/01.

- 1) The bill does not clearly grant the board general authority to write regulations implementing the law. The division recommends amending the bill to add language such as, "the board may adopt regulations to implement this chapter."
- 2) Page 1, line 9 establishes the Board of Home Inspectors. The board is comprised of six members, one of whom is the executive director of AHFC. The AHFC member becomes a non-voting member on July 1, 2002 (page 13, line 7).

The Division of Occupational Licensing recommends amending the bill to clarify that the travel and other board costs of the AHFC member will be paid by AHFC.

The division also recommends extending the AHFC member's voting status until July 1, 2003 as the initial regulation-writing work of the board will probably continue past 2002.

- 3) Page 2, line 7 directs the board to establish education and experience requirements for licensure and mandates the requirements to include, "Alaska or northern education or experience in Arctic construction or building."

The division recommends deleting the words, "Alaska or northern" because the current wording is confusing due to the multiple "or."

- 4) Page 2, line 25 establishes the qualifications for registration as an associate home inspector. The division recommends adding the requirement that the person has not had his or her home inspector license revoked in this or any other jurisdiction and does not have a home inspector license that is currently under disciplinary action
- 5) Page 3, line 9 requires an examination for licensure selected or created by the board.

The division interprets the current wording to require both a written examination and an oral or practical exam (other test methodologies). The division recommends substituting the following language: "The examination must include a written portion and may include other test methodologies."

The division also believes the requirement to test; "competence in relation to Alaska construction techniques" will eliminate the option of using a national examination and lead to increased costs. If the legislature wishes to retain reference to northern construction, the division recommends substituting the following language: "The examination may test competence in construction techniques suitable to the Alaska environment and other matters as determined by the board."

- 6) Page 3, line 18 says that a license cannot be issued to a person who has been under a sentence for specific crimes within the past seven years. This language means that a person must complete probation, then wait seven years.

The division believes, "conspiracy to defraud creditors" should read "defrauding creditors" to match AS 11.46.730. The legislature may wish to review the list of crimes in AS 11.46.600-740 to determine if there are other similar crimes that should be added to the list, such as burglary or check forging.

- 7) Page 3, line 26 establishes the requirements for renewal of a lapsed license. The bill requires an individual whose license lapses for no more than two years to pay back fees and submit evidence of continuing education.

People whose licenses lapse from two to five years must pay back fees, submit evidence of continuing education and retake the license examination.

The division does not think people will choose to meet those requirements when they can apply for a new license more cheaply. Furthermore, it may be unreasonable to ask people to pay fees for a time period in which they did not hold a license. Therefore, the division recommends removing the requirement for payment of back fees and simply requiring payment for the period for which the reinstated license will be valid. For an individual who retakes the examination, proof of continuing education may not be necessary because the person has satisfied the knowledge requirement for entry into the profession.

- 8) Page 4, line 2 prevents a person from renewing a license while under or while owing a fine. The division believes subsection (c) should be deleted because it prevents plans to pay fines over time, because suspended individuals should continue paying license fees into the system and because some suspended people will lose their ability to reinstate.
- 9) Page 4, line 21 requires home inspectors to have public liability and property damage insurance. The division believes line 23 should be amended to require the insurance to also cover "all associates under the applicant's supervision."
- 10) Page 5, line 1 prohibits home inspectors from doing business under another name, "unless the individual is also licensed or registered under that name." The division believes all of subsection (a) should be deleted because it suggests that inspectors may have multiple licenses under aliases. Subsections (b) and (c) appear to take cover the need for proper identification while allowing use of a company name in advertising.
- 11) Page 6, line 5 prevents consumers from suing the inspector for failure to disclose a conflict of interest. The division questions the need for this limit on consumer action.
- 12) Page 6, line 10 defines "conflict of interest" to exist, "when a relative of the licensee....has a present financial interest in the property being inspected..." The division believes the bill should be amended to say, "when the licensee, registrant, , a relative of the licensee or registrant or a person with whom the licensee or registrant..."
- 13) Page 6, line 13 further defines "conflict of interest." The division believes the wording is confusing because it does not link compensation to the inspection. The division recommends amending the bill to read, "(2) the licensee or registrant (A) receives compensation for the inspection from a person other than a party to the home inspection contract or (B) receives compensation from a person other than a party to the home inspection contract who has a present financial interest in the property being inspected or considered for inspection."
- 14) Page 6, line 17 requires an inspector to give the consumer a home inspection report, but allows the report to be oral. The division strongly believes a written report should be mandatory. Only a written report can be examined by the board, the courts or others in later proceedings. The requirement for a written report would not prevent the inspector from speaking with the consumer as the inspector examines the house.
- 15) Page 6, line 28 lists the grounds for denial of a license or disciplinary action against a licensee. The division recommends separating paragraph (3) into two parts and adding being under a sentence within the last seven years for the crimes listed on page 3, line 18. This amendment would allow the board to revoke a license for the same crimes that prevent an applicant from obtaining an initial license.
- 16) Page 6, line 30 places certain board actions under the Administrative Procedures Act. The division recommends making APA coverage more general by deleting, "for the denial, suspension, or revocation of a license or registration." The result would be that all board actions (fines, probation, etc.) would be taken in accordance

with the APA. In addition, the division recommends adding the Board of Home Inspectors to the list of boards placed under the APA in AS 44.62.330(a)(60), simply for consistency.

- 17) Page 7, line 2 allows the board to seek a court injunction against a person violating the home inspector law. The division recommends amending this section to clarify that the department retains its authority to issue a stop order under AS 08.01.087(b)(1). The section would be amended to read, "In addition to the provisions of AS 08.01.087(b)(1), the board or the department may institute an action in Superior Court requesting the court to enjoin..."
- 18) Page 7, line 19 prevents consumers from suing a home inspector more than six months after the home inspection report is prepared. The division believes six months is not enough time for an average home buyer to move into a home, identify a problem, attempt to resolve it alone, then obtain an attorney to sue. The current limitations on filing suit regarding other types of contracts and professional services in AS 09.10 range from three years to ten years. The 180-day limit seems inconsistent with other litigation limits. Furthermore, disciplinary action by the board is not a substitute for consumer litigation because the board cannot order restitution to the consumer.
- 19) Page 7, line 24 prohibits a home inspector or a company that employs or controls a home inspector from engaging in certain acts. The division wants the legislature to be aware that the board does not have authority to enforce these prohibitions against companies. The board can only discipline individual inspectors.
- 20) Page 9, line 21 exempts from the law general contractors with residential construction endorsements when acting under the scope of their contractor licenses. The purpose of this exemption is to allow contractors to examine houses and identify problems in their bids for repair work. The division believes that all licensed contractors (all persons holding licenses issued under AS 08.18) should be exempted because specialty contractors also need to bid on work.
- 21) Page 10, line 1 defines "home inspection" as a visual inspection. The AHFC sections of the bill permit inspection by methods other than a personal physical inspection under certain rural situations. The division believes the conflict in the two sections of statute needs to be resolved in a manner that will prevent video inspection in situations that do not qualify for the AHFC exception.
- 22) Page 13, line 14 contains grandparent/transitional license provisions for current home inspectors. **The division is very concerned about the effect of these provisions on existing inspectors.**

Page 14, line 12 prevents the transitional licenses from being renewed. All current inspectors will have to satisfy the education and training and examination requirements established by the board in regulation in order to continue working after January 1, 2003. Most transitional licenses will be valid for only 6 months, since licenses are not required until June 30, 2002. . The system will send them back through a second application process a short six months after their first application. If the legislature intends all existing inspectors to meet the standard entry requirements, there is no reason for a transitional license. Instead, the bill should delay mandatory licensing until January 1, 2003. However, the division recommends allowing transitional licenses to be renewed.

Page 13, line 19 should require current practice and the exam rather than "or". The division is unclear why a joint license requires the applicant to be in business on October 1, 2000, but the individual licenses require only business activity at the time of application. Finally, the division is concerned that the tests identified in the transitional license sections may not be the appropriate exams or titles.

The division is concerned that existing inspectors may be eliminated by the current law.

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: HB 27
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title: License Home Inspectors BRU: Alaska Housing Finance
 Component: Operations
 Sponsor: Rep. Rokeberg
 Requester: House Labor & Commerce Component Number: 110

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

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

Sections 4 and 5 amend AS 18.56.300 to qualify state-licensed home inspectors to approve the construction of homes for mortgage purchases by the Alaska Housing Finance Corporation. The current construction standard of inspection by individuals approved by the International Conference of Building Officials (ICBO) is also deleted on January 1, 2003.

Costs envisioned would relate to education and outreach across the state to modify the home inspection process for mortgages purchased by AHFC. For example, homebuyers, realtors, homebuilders and mortgage lenders will need to be informed of the change in law to ensure minimal disruptions in closing home mortgage transactions. These activities can be adequately covered through regular annual budget authorizations.

Prepared by: John Bitney, Legislative Liaison Phone 330-8445
 Division: Alaska Housing Finance Corporation Date/Time 1/26/01 1:34 PM
 Approved by: Larry Persily, Deputy Commissioner Date Jan. 27, 2001
 Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 27
 () Publish Date: _____

Revision Date/Time (Note if correction): 1/30/2001 5:30p.m. Dept. Affected: DCED
 Title: An Act relating to the licensure and registration BRU: Occupational Licensing
of individuals who perform home inspections;.... Component: Occupational Licensing
 Sponsor: Representative Rokeberg
 Requester: House Labor and Commerce Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	51.5	51.5	51.5	51.5	51.5	51.5
Travel	6.3	6.3	6.3	6.3	6.3	6.3
Contractual	6.0	6.0	6.0	6.0	6.0	6.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	70.8	64.8	64.8	64.8	64.8	64.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	135.6	0.0	129.6	0.0	129.6	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 RSS	70.8	64.8	64.8	64.8	64.8	64.8
TOTAL	70.8	64.8	64.8	64.8	64.8	64.8

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time	2	2	2	2	2	2
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 HB 27 creates a five member Board of Home Inspectors. This fiscal note is based on the board holding at least two meetings each year. An explanation of the costs shown above is attached.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division: Occupational Licensing Date/Time 1/30/2001 5:30p.m.
 Approved by: Commissioner Deborah B. Sedwick Date 1/30/2001
 Agency: Dept. of Community and Economic Development

For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

HB 27: An Act relating to the licensure and registration of individuals who perform home inspections;...

Page 2 of 2

- Occupational Licensing Examiner I position, PPT, Range 12.

It is possible that in the first year of licensure additional staff time will be required to initiate the program by preparing application forms, notify potential licensees, writing regulations, etc., \$20.7

- 1/2 Investigator III position, Range 18A, \$30.8

PERSONAL SERVICES: \$51.5

Assuming the Board consists of 5 members (2-Anchorage; 2-Juneau; 1-Fairbanks) and meetings are held each year in the following locations:

Anchorage Meeting (including 2 staff from Juneau), \$3.9

Juneau Meeting, \$2.4

TRAVEL: \$6.3

-30 hours of AG legal time for regulations and license appeals, \$3.0

-Printing, postage, communication, and advertising costs, \$3.0

The contractual services total does not include any expenditures for purchase of a license examination.

This fiscal note assumes applicants will pay the testing service directly for the examination.

CONTRACTUAL SERVICES: \$6.0

To fund daily operating supplies of the program.

SUPPLIES: \$1.0

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

EQUIPMENT (one-time costs): \$6.0

TOTAL FISCAL NOTE: \$70.8

REVENUE & FUND SOURCE: Revenue will be generated by licensing fees sufficient to cover program costs. Licensing fees must cover direct costs (\$135,600.00) plus approximately \$100 per licensee for division/department indirect costs for the two-year period. Based on 100 licensees, licensing fees will be \$1,456.00 for the first biennium. If evidence indicates that 200 people will be licensed, the license fee will be \$778.00.

After the first license period, fees will be adjusted to reflect actual costs based on timekeeping and cost accounting.



ALASKA ASSOCIATION OF REALTORS, INC.
741 Sesame Street, Suite 100 - Anchorage, Alaska 99503
Telephone 907-563-7133 • Fax 907-561-1779

January 16, 2001

JAN 16 2001

Representative Rokeberg
State Capitol
Juneau, Alaska 99801-1182

RE: HB 27 - Relating to the licensing of home inspections

Dear Representative Rokeberg,

The Alaska Association of REALTORS with over 1,100 members statewide supports House Bill 27 relating to the licensing of home inspectors.

We agree that there should be some minimum standards set forth in this bill to protect the consumer. Minimum standards should include but are not limited to testing, insurance, education and the forming of a home inspector bill.

The Association encourages the passage of HB 27 during the first session. We continue to be available as a resource to pass this bill. Please feel free to contact the Association at (907) 563-7133.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Brady', written over a horizontal line.

Bill Brady, CRS, GRI
President





**ANCHORAGE BOARD
OF REALTORS, INC.**

REALTOR® *The Voice for Real Estate™* In Anchorage

741 Sesame Street
Suite #100
Anchorage, Alaska 99503
(907) 561-2338
(907) 563-8476 Fax

January 16, 2001

JAN 16 2001

Representative Rokeberg
State Capitol
Juneau, Alaska 99801-1182

RE: HB 27 – Relating to the licensing of home inspections

Dear Representative Rokeberg,

The Anchorage Board of REALTORS with over 600 members statewide supports House Bill 27 relating to the licensing of home inspectors.

The Anchorage Board is in agreement with the Alaska Association that there should be minimum standards set forth for home inspectors to protect the consumer.

The Board encourages the passage of HB 27.

Sincerely,

Gary Gearhart
President



Mike Tauriainen, P.E., Consulting Engineers, Inc.

35188 Spur Hwy Soldotna, AK 99660 (807)282-4624 FAX 282-5777

FAX MEMO

Date: 30 January 2001

To: Representative Lisa Murkowski, Chair Fax: 465-2293
Members, House Labor & Commerce Committee

From: Mike Tauriainen *MT*

Subject: HB 27 Licensing of House Inspectors
1 page + Attachment

I am opposed to HB 27 because it is not in the best, long-term interests of home buyers, home owners, or the general public. No clearly compelling reason has been advanced to support licensing house inspectors. Rather, HB 27 would be counterproductive because it would:

1. limit competition,
2. Increase the cost of services to consumers,
3. Increase cost of state government, and
4. increase regulation.

Unfortunately, a primary motivation for licensing any occupation is economic protection for select practitioners of that trade. There is little reason to believe otherwise in this case. However, the only legitimate reason for the State to license an occupation is to protect public safety, health and property. I am not aware of incompetent or negligent practice that has been alleged that would best be remedied by licensing.

When inspectors compete, consumers win; the more competition, the more consumers win. For several years now, without licensing, competent house inspectors have provided the desired service. I urge you to oppose these proposed restrictions to Alaska's market economy that would benefit only a few. Attached is testimony I presented to the Labor & Commerce Committee 21 Oct 99 on last session's bill (HB207).

END OF FAX TEXT

30 January 2001
Fax

Mike Taurainen, P.E.
Consulting Engineers, Inc

TESTIMONY ON HB 207

Mike Taurainen, PE (35186 Spur Hwy, Soldotna, AK 99689) presented the following testimony at the 21 Oct 99 House Commerce Committee Public Hearing in Anchorage.

Background

BS Civil Engineering 1967, MS Arctic Engineering 1972

Consulting Civil Engineering Practice 1978 - Present

Served seven years on State Board of Architects, Engineers and Land Surveyors

Have performed house and commercial building inspections for over 20 years

I am opposed to HB 207. Licensing of house inspectors would assure four things.

1. Reduced competition
2. Increased inspection fees
3. Increased state budget
4. Forever increasing regulations.

The market is a great system for assuring competence and weeding out incompetence. The system is not perfect and never will be. However, people in the housing industry concerned with house inspections (bankers, realtors, etc.) are very capable of determining who is competent or incompetent to perform inspections. Also, several home inspection organizations have entered the market that improve the market by providing education and business practice advice for their members.

Licensing will not prevent incompetence and fraud. As an example, consider the ADEC septic system certified installers program. We have good installers and not good installers; most who stand by their work and a few who cheat; a few who cut too many corners and most who don't, a few frauds but most honest. It's the same in any line of work including the housing inspection trade. Laws and contracts currently provide for holding incompetent and fraudulent people accountable.

Licensing, while setting a minimum standard, impedes raising the standard of performance. A free market slowly but continually raises the bar.

Over the past 20 years many people have entered the market and my firm's share of the market has decreased. That's OK, that's competition; I'm forced to improve my services, and keep my fees lower than if competition was restricted. Right now, without licensing, competent house inspectors abound.

In summary, licensing would result in:
gate keeping and reduced competition
slower improvement of services
higher costs
more regulation.

The market system is working and doesn't need fixing.



Alaska Professional Design Council
P.O. Box 103115, Anchorage, AK 99510-3115

January 28, 2001

Representative Norman Rokeberg
Alaska State Legislature
Capitol Room 118
Juneau, AK 99801

Re: HB 27 - Home Inspector Licensure

Dear Representative Rokeberg,

APDC represents 5,000 registered design professionals, and with our newsletter and legislative outreach, we bring design issues to the forefront of the legislative process.

We support the efforts of home inspectors in establishing their own board (HB 27, An act relating to licensure and registration of individuals who perform home inspections), which you have sponsored. Our support is contingent on maintaining the exemption for civil engineers and architects, as currently specified in the legislation. It is critical to our membership that those design professionals who are operating within their specific areas of expertise and already practicing, continue to have the ability to perform home inspections. This key issue provides the basis of our support.

Your interest in the views of APDC is appreciated.

Sincerely,

Sam Kito III
Chair
Legislative Liaison Committee

Jeffery Wilson
President
Alaska Professional Design Council

Member Societies

American Congress of Surveying and Mapping (ACSM) - American Society of Civil Engineers (ASCE)
Alaska Society of Professional Engineers (ASPE) - Alaska Society of Professional Land Surveyors (ASPLS)
American Institute of Architects (AIA) Alaska Chapter - Structural Engineers Association of Alaska (SEAA)
Architecture/Engineering Marketing Association of Alaska (AEMAA) - Consulting Engineers Council of Alaska (CECA)
American Society of Landscape Architects (ASLA) Alaska Chapter - Professional Engineers in Private Practice (PEPP) Alaska Chapter



REAL ESTATE PROFESSIONALS, Inc.

Friday, January 26, 2001
Representative Norman Rokeberg
Via facsimile to 907 465 2040

RE: HB27

Relative to the following, I have those questions:

05 Sec. 08.57.800. Legal actions by home inspector. An individual may not
06 bring an action in a court of this state for the collection of compensation for the
07 performance of a home inspection or for breach of a contract for which a license or
08 registration is required under this chapter without proving that the individual was a
09 licensed home inspector or registered associate home inspector at the time of
10 contracting for the performance of the work.

1] Can an associate home inspector bill for services without the knowledge of the licensed home inspector or owner of a business that is in that business?

14 (5) "home inspector" means a person who performs or offers to
15 perform a home inspection;

1] Should not the "associate home inspector" be included in the definitions list?

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

1] Could this be construed as a violation of fair trade?

31 (d) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home
01 Inspectors shall grant registration as an associate home inspector that is valid until January 1,
02 2003, to an individual who submits to the board satisfactory evidence of being employed by
03 an individual who is in the business of home inspection and is licensed under this section or
04 under AS 08.57.

1] Does an associate home inspector need to be an employee of a Home Inspector or any individual that is in the business? How about a franchise that is owned by a real estate company for example?

Comments: It is apparent that the home inspector is akin to a real estate broker in responsibility, but the points I have highlighted seem to be either in conflict with that position or create an ambiguity. If a corporation owns a Home Inspection franchise, does the corporation hire a home inspector or can the corporation hire just associate inspectors? If the corporation terminates the services of its hired inspector what is the position of the associates that have worked under the licensed as required by Sec. 08.57.050. (b) (1).

I support the concept and appreciate all the work accomplished thus far

Ron Johnson, Broker

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FON 907-283-7755

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FAX: 907-283-8103

Ti-Le-An Management, Inc.
165 East Parks Highway, Suite 207
Wasilla, AK 99654
(907) 373-5296 Mobile 355-5296 Fax 376-0379

Thursday, February 01, 2001

Representative Murkowski
Representative Rokeberg
Members of the Labor and Commerce Committee

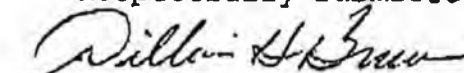
RE: CSHB27

Madam Chairman

Mr. John Bitney was absolutely correct in his testimony about the history of Alaska Housing Finance Corporation(AHFC) during the late 80's. I was involved in that I was employed by the Mortgage Guarantee Insurance Corporation(MGIC). MGIC indemnified AHFC against any lost due to the foreclosure of mortgages. MGIC paid in excess of 26 million dollars in claims on properties to renovate and repair them in such a way as to make the properties marketable. Many of these properties required repairs and renovations to bring them into compliance with building codes. As a result of much of this the Legislature did pass AS 18.56.300, which put in place covenants governing the ability of Alaska Housing to finance mortgages.

In my opinion CSHB 27 substitutes a board of inspectors for the legislature by first removing the requirement that an inspectors be certified by the International Conference of Building Officials(ICBO) as Certified Combination Dwelling Inspectors and then inserting the inspector "who is licensed or registered" under the proposed legislation and governed by the Board of Inspectors. **This appears to place Alaska Housing under the board of inspectors as to the type and certification of inspections conducted to allow financing by Alaska Housing and appears to usurp the power and intent of the legislature in AS 18.56.300.**

Respectfully Submitted


William H. Bruu

Feb 01 01 09:17p

p. 1

Thursday, February 01, 2001
399 Elderberry Court
Homer, Alaska 99603-7107

FEB 01 2001

To: Rep. Norm Rogberg
From: Carla and Wayne Stanley
Re: House Bill 27

Enclosed is a letter that I sent to AHFC Bill Pellman last month concerning construction and inspections of a house that we had built for us in Homer.

We believe that the ICBO Inspector Franco Venuti was not only negligent in his inspections, but appeared to be assisting the builder in getting away with shoddy construction. Curiously enough, we also believe that there was a conflict of interest, as the builder, Chris Newby, had also framed up Venuti's house. I should express, that Newby, himself didn't do the physical work. He is a paper pusher. He does not do anything to get dirty.

I understand that Mr. Venuti testified to the committee that there are no problems or complaints about inspectors in Homer. That obviously is not true. If he had done the job he was supposed to have done with our house, we would have bought it and not lost everything we did.

Carla Stanley



Feb 01 01 09:18p

p. 2

January 8, 2001
398 Elderberry Court
Homer, Alaska 99603 7107

FEB 01 2001

Bill Pellman
Alaska Housing
P.O. Box 101020
Anchorage, Alaska 99510-1020
Fax 907 338 6162

Dear Bill:

Between May and December of 1998, we were contracted with Chris Newby of Calm Enterprises to build us a house on Heidi Court in Homer, Alaska. We qualified for a loan with Alaska Housing through National Bank of Alaska. Mr. Newby contracted with Franco Venuti to do the I.C.B.O. inspections. (We were not given a choice of inspectors.)

As the house neared completion, we became aware of several troubling problems with the house. At the time the most obvious was severe icing on the roof and cracks running parallel with the center wall in the basement.

We were given early occupancy of the house since it was two months late with completion, but did not close on the loan because the contract said the house was to be free of faults at the time of closing, which we believed to not be the case. We continued to seek corrections by the builder for several months. During the two months that we lived in the house, the living room, which is supported by two 8 inch sono tubes jacked up from frost heaving, causing cracks to form near specific doors and windows, as did the side deck. The house would not get warm enough to be comfortable, maintaining only 62 degrees maximum in the main living area, and the ice on the roof eaves built up to about 12 inches thick. At that point water dripped out from under the eaves forming icicles. I asked Franco Venuti to come look at it and suggest what we should do. He suggested that we contact Mr. Newby about it. We had been in contact, but he refused to do anything unless we closed on the loan.

We hired an engineer to come look at the house and give us his opinion of what was wrong. After his investigation, he said, off the record, that he wouldn't buy the house. He said he didn't know what was under the concrete, but suspected that the center wall could be sinking and that the sono tubes were not deep enough or providing enough support, and that the insulation and roof construction was improperly and inadequately done. He said that in order to fix it correctly, the roof should be taken off, and possibly, the floor dug up.

Our only choice at this point was to go to "arbitration" to try to get out of the deal. Arbitration occurred in October of 1999. During the week of arbitration, Mr. Venuti testified for Calm Enterprises. Mr. Newby said that he put footings around the perimeter,

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p. 3

but not in the middle of the house, even though the blueprints clearly showed that a large footing was required with a post and beam support system on the ground floor. None of that existed. The blue prints also showed three 12" sono tubes were needed to support the living room cantilever (there were only two 8" sono tubes). Mr. Venuti, when asked about that said that he "didn't know what was under the slab". There were other inconsistencies that were shown in the blue prints which had not been followed also.

As for the lack of heat in the house, we had photographed the radiant floor heat tubes, which were about 18-24 inches apart. We found out later, that in living areas, the tubes should have been 6-9 inches apart. I don't know if inspectors are to approve that or not, but the house was very cold.

Unbelievably, we lost the arbitration. We lost our \$25,000.00 down payment and all of the items we had picked out and paid for, which were in the house; (tiles, hard wood floors, plumbing fixtures, doors, etc. With the attorney's fees and the labor that Mr. Newby had contracted with us to do, we lost approximately \$130,000. That was our entire life savings. On top of it all, we were required to pay an additional \$29,976.41 to Mr. Newby for his "inconvenience".

During the arbitration, we learned many things about inspections and requirements for construction. We learned that if a garage is below a bedroom, there is supposed to be two layers of special fire resistant sheet rock running opposite directions from each other, and that there are to be no penetrations of that sheetrock that are not sealed. In this house, there was only one layer that appeared to be 1/2 inch. There were two fairly large penetrations that you could easily see the subflooring for the bedroom above through the holes. The neighbor's house, that was also built by Newby and inspected by Venuti was similar. In questioning Mr. Venuti about the penetrations in the ceiling, he said he "suspects he made a mistake". I had pointed them out to him when he was doing the inspection. He signed off on it anyway.

We believe that not only did Mr. Newby build the house improperly and unethically, but that Mr. Venuti supported his inadequate construction through negligence or outright intentions.

Other homeowners that we spoke to in Homer with similar house problems include:

Howard Hedges, his roof started to buckle. He had an engineer come in who said the roof was substandard.

Dr. Rene Alvarez, a house similar to Hedges. His roof also buckled and Dr. Alvarez I believe had to pay over \$25,000. to have it fixed.

Bonnie Nesbick (spelling). I believe AHFC inspected that house as well as some of the others.

I thank you for your consideration of this problem.



F. Venuti, P.O. Box 3652, Homer, Alaska 99603
(907) 235-7480 or 399-1550

January 31, 2001

Representative Lisa Murkowski
House of Representatives
State Capital, Juneau, Ak. 99801-1182

Representative Murkowski:

In order to introduce myself, a statement of my qualifications is included with this letter.

I am writing to you in regard to House Bill 27.
Attached is a list of questions.
I really appreciate the opportunity to input on this process.

I would like to submit my name as a candidate to be a member of the Board of Home Inspectors.
I have a keen interest in this profession and am in the business of producing positive outcomes.

Respectfully,



Franco Venuti
Homer, Alaska
fcvenuti@xyz.net

Questions for the House Labor & Commerce Committee

from: Franco Venuti, fvenuti@xyz.net

I have read the draft. I would like to ask the following questions:

1. If this bill passes, it appears that the liability exposure of the inspector will be drastically changed from the existing statement regarding limitations of liability in AS 18.56.300 (c), which says that, "a person may not bring an action for damages against an ICBO inspector who inspected a residential unit unless the action is for damages caused by gross negligence or intentional misconduct of the inspector.". Will this bill repeal that law ?

Is not the intent of As 18.56.300 (c) to permit an inspector to make an impartial assessment of a condition or issue without fear of retribution ?

2. It would be interesting to see some statistics regarding complaints about Home Inspectors. In Homer's small market, these types of issues would be very loud and clear, yet I see very few scenarios that cannot be resolved.
3. I do not understand why the movement to regulate inspectors is not coming from the Home Inspection industry. If this bill applies to any projects encompassed by existing AHFC regulations, we already have a set of very clear standards to work with. From my viewpoint which is, in part , based on conversations I have had with other inspectors about this bill, the general consensus appears to be that the existing system is working fine.
The impetus for this bill seems to be coming from the Real Estate Industry.
As it stands now, the Real Estate Industry has a very clever way of dealing with less than competent inspectors.
They simply don't get any work.
4. Why not license all inspectors, why is there an associate inspector sub-class ?
If we all do the same work, we should all be held to the same standards.
5. Why not require an inspector license for municipal inspectors ?
If we all do the same work, we should all be held to the same standards.
6. Why are General Contractors exempt from this bill ?
Based on the wording of the bill, it appears that as long as a contractor does not call it an inspection, they can inspect a property without being regulated by the bill. This is inspecting. What's to prevent them from calling an inspection a "professional opinion" and charging for it ? Why not require the licensing of everybody involved.

Cannot this bill assure that all entities within the inspection process hold the same requirements to practice the same discipline. Why single out Home Inspectors ?

7. Exception (2) of Sec 08.57.920 which permits an individual to inspection a property in which he or she has a financial interest places that individual in a direct conflict of interest situation . This should not be allowed.
8. It is rare to find an engineer that has enough practical experience in the home construction industry who can make the same kind of common sense observations about a home's condition as those of us who have worked at length in this field.
Most successful engineers make their living working on commercial or civil projects.
You cannot hold the typical 70s era Neo-Alaska Bungalow to the same standards as a \$50 Million Dollar High School. It's really impractical to suggest that one could be a specialist in both fields.
If an Engineer is doing home inspections, he should be held to the same licensing and testing standards as a Home inspector.
9. Since this bill is directly aimed toward Home Inspectors, you might consider that during a typical existing home inspection, there is a reasonable limit of time that can be spent on site. Some issues may not be readily noticeable at the time of inspection.
(ex. a dry crawlspace in July but wet in September , concealed electrical wiring or hot (unventilated) roof assemblies that cannot be observed.
If the bill is about liability, it should address concealed defects.
10. Existing home inspections and new construction inspections are separate issues. They are handled differently in the field.
On new construction, an inspector is on site to insure that minimum code standards are met. and they must already be approved by AHFC.
Typically, there is never a written report
The pre-inspection document should not be required on new construction nor should a written report unless specifically requested by the homeowner.
Signing the AHFC Summary of inspections PUR 101 & 102 should be adequate.

Summary

- I support the effort to insure that all inspectors achieve the same minimum acceptable standards of expertise, however, the current AHFC regulations insure that now.
- The reality of the market place is that it governs itself. If you do a bad job, you don't get hired.
- I do not think that the bill should apply only to home inspectors.
- It should include any entity that offers an opinion on a property.
- Everyone involved should meet this same licensing standard.

Franco Venuti
P.O. Box # 3652
Homer, Alaska 99603
(907) 235-7480 or 399-1550

Qualification Statement

I have worked within the Alaskan construction industry as a licensed contractor, construction project manager, journeyman craftsman and building, fire/life safety inspector since 1978.

This experience has given me a realistic view of the management and budget processes involved in all types of construction, renovation and property maintenance/ facility repair projects.

I understand construction-funding procedures, job cost analysis, project crew management, fire and safety management (OSHA), commercial & residential code compliance as well as new and existing building inspection, evaluation and appraisal.

I am an certified ICBO Combination Dwelling Inspector (ICBO #865284-55).

In addition, I am a member of the FHA/HUD certified construction compliance panel (Insp.#3516) and also serve as the new and existing construction compliance inspector for the Veterans Administration on the Kenai Peninsula (Insp.#1004). My responsibilities in these positions involve performing plan reviews as well as on site inspections of new and existing residential and commercial properties on the lower and central Kenai Peninsula in order to assure compliance with the mandated parameters and minimum property standards of these Federal programs. I am also a member of the Alaska Housing Finance Corporation Approved ICBO inspector list. This certifies me to perform all necessary inspections required to meet the criteria of the AHFC standards of new construction projects underwritten by this state agency. I understand and use word processing, spreadsheet and data management programs as well as being Windows, Mac and Internet computer literate. I am very adept as CAD operator with the ability to draft detailed descriptive drawings as well as architectural and engineering plans in both two and three-dimensional planes. I am an excellent drafter and technical writer, am well organized and know how to communicate effectively with others.

Experience

For the past twenty-two years, I have worked in Alaska as a designer, contractor, renovator, and inspector. I had the opportunity to be involved in the design, management and construction of many residential, commercial and municipal projects. This would include: The Homer High School, The Bradley Lake Hydro-Electric Generating Facility and the South Peninsula Hospital. In 1980-81, our company built the Kachemak Community Center, including playground & picnic shelter. In 1983, I designed and built a three-store mall for the Anchor River Inn in Anchor Point. In 1984, I designed and built the Coal Point Monument. In 1985, I built the Port & Harbor offices addition. In 1991 & 1993, I completed two building renovation construction projects for the South Peninsula Mental Health Center.

In addition, during this period, I have been involved in numerous residential design, construction and renovation projects. An extensive list of clients could be provided if required.

I write a weekly column for the Homer News related to home maintenance, trade tips and code literacy.

I am a certified member of the International Conference of Building Officials (ICBO #865284-55), and am Handicap Access Literate with an understanding of the Americans with Disabilities Act of 1991.

I hold journeyman carpenter status with Carpenters Local 1281 and own a complete set of current codes.

Education

Boston Technical High School, Boston Mass. Graduate 1961
Northeastern University, Boston Mass. BBA Degree Program 1965-1969
Jordan Marsh Company, Boston Mass. Execulive Training Program Graduate 1965
Cape Cod Community College, Barnstable Mass. 1971-1972.
Banff School of Fine Arts, Banff, Alberta, Canada 1973.
State of Alaska, Emergency Trauma Technician Training, Homer, AK. 1986.
Alaska Craftsman Building Energy Efficiency Standards Workshop. 1987.
Kenai Peninsula College, 1987-present.
AHFC / ICBO Inspector Training Workshop, Anchorage, AK 1992.
Barrier Free Alaska Training Workshop (ADA Access) Homer, Ak. 1992.
FHA/HUD 203K Program Workshop, Anchorage, Ak. 1994.
AHFC- Residential Mechanical Ventilation Workshop, Anchorage, AK. 1999.
ICBO 1997 Uniform Building Code Workshop, Anchorage, AK. 1998.
ICBO Wood Inspection" Wood Framing" Workshop, Anchorage, Ak. 1999.
ICBO Load Path & Continuity in Engineered Wood Frame Buildings Workshop, Anchorage AK. 2001.
ICBO 2000 International Residential Code Workshop, Anchorage, AK. 2001.
Continuing self education and improvement through hands on training as well as trade journals, periodicals & associated product literature.

References

Drew Scalzi . Alaska House of Representatives, Juneau AK. 465-2689
Karen Berg-Forrester, Coastal Realty Company, Homer 235-7700
Gail Phillips , Homer, AK. 235-6748
Jon Faulkner, Lands End Acquisition Corp., Homer 235-0400
Angie Newby, Homer Real Estate Associates, Homer, Alaska 235-5294
Dr. William Marley, DDS, Bayview Avenue, Homer AK. 235-8909
Sam Beachy , Beachy Construction Inc. , Homer, Alaska 235-8876
Robert Clutts, Anchor River Inn, Anchor Point, AK. 235-8390
Richard Rodriguez, VA Chief, Construction & Valuation, Anchorage, AK. 257-4700

I served one term as a member of the Homer Public Library Advisory Board.
I currently serve as a member of the Boys & Girls Club of Homer Advisory Board.

FEB- 2-01 FRI 2:18 PM
2-02-2001 2:24PM

KOTZEBUE LIO
FROM NW INUPIAT HOUSING 907 442 3022 FAX NO. 9074423022

P. 2

P.O. Box 790
Kotzebue, Alaska 99752
February 2, 2001

Representative Norman Rokeberg
Alaska House of Representatives
State Capital Building
Juneau, Alaska 99801

IN RE: CSHB-27 "Licensing Home Inspectors"

Dear Rep. Rokeberg:

I learned of HB-27 late last week and had the opportunity to listen to your committee hearing Wednesday. I would like to offer the following comments on the draft legislation creating a Board of Home Inspectors and the licensing of home inspectors. I had hoped to sit in and testify at your hearing this afternoon but schedule conflicts prevent me at this time.

My name is Sandy Huss. I have spent over 35 years working part or full time in the construction field. For the last 17 years all of my time has been spent in construction inspection and/or construction project management. I hold 60 separate inspector certifications from ICBO, BOCA and SBCCI [the three major code bodies in the U.S]. I am also registered as a construction inspector with the American Construction Inspectors Association (ACIA) in six separate inspection categories.

I am one of only a few Alaskans that hold both Mechanical Administrator and Electrical Administrator licenses as well as that of journeyman plumber and electrician. Finally, my immediate interest in this legislation comes from my work as an AHFC/ICBO Inspector since 1993 and home inspector since 1978.

I have a number of concerns about the details of the legislation and the make-up of the proposed Board of Home Inspectors and its functions. I lack sufficient information right now to be able to comment in detail on all of these though I certainly hope to have the chance to do this some time in the very near future. What I want to address today is a single element that I think is so serious as to threaten to defeat the intent, as I understand it, and the success of this proposed legislation.

According to the legislative web page "Bill History/Action Display", as of last evening there was the notation "No Fiscal Notes Available" for HB-27. I believe that at such time as "fiscal notes" become available, this bill will be much too expensive for these fiscally challenging times in State government. Let me explain.

I have held Mechanical and Electrical Administrators licenses since their inception in the 1960's. The original structure of these two licensing programs was quite similar to that proposed in CSHB-27. There would be a Board for each made up of practitioners, experts, State agencies and the public. The assumption was that the stampede of applications to get these licenses would justify the expense of forming the boards, holding meetings, drafting regulations, etc.

To make a long story short, within a few years the actual number of license holders divided into the cost of maintaining the Boards of Electrical and Mechanical Administrators was cost prohibitive without a large general fund subsidy. Both boards were allowed to die by sunset around 1993. Since that time the MA and EA regulations have been promulgated by the Department of Community and Economic Development.

It is very important to point out that these licenses were required of all electrical and mechanical specialty contractors and so there was a vested interest by existing business to obtain them. Yet even with 500-700 licenses in each category being issued, the funding could not support both the license program and the cost of the Boards.

This has serious implications in attempting to license home inspectors. My guess is that right now there are no more than 100-150 people in the State who would call themselves home inspectors or dabble in home inspections. Of that number the vast majority do lots of other things and home inspections are a relatively small portion of their total income. Assuming that you have 100 initial applicants (and that is being very generous unless you include the active ICBO inspectors who have been plying their trade for years without paying any kind of licensing fee), the cost of funding this bill for the first couple of years of operation might require a license fee of as much as \$500-

\$1000 or more per year unless the State subsidizes the program.

Even if the home inspector's license fee were as little as \$250 per year, the comment on Tuesday that the average inspection fee is only \$350 (my inspections average \$350-\$500) suggests that an inspector would have to do at least seven inspections just to pay the fee. Add to this the cost of the required insurance and the outlook is even bleaker.

It doesn't take a rocket scientist to figure out that the first response will be to raise the inspection fee. And as the inspection fee goes up in proportion to the cost of HB-27's mandated licensing and insurance, the number of homebuyers and sellers who want or can afford the inspection will drop. This will cause some inspectors for whom home inspections are a small portion of their business to bail out. This creates a continuum until the cost of an inspection becomes prohibitive for all but those who really want it and have the deep pockets to afford it. We will have succeeded in making home inspections a relic of the past. And while AHFC/ICBO mandated inspections of new construction will continue we will also have succeeded in raising the cost of this program as well.

It is difficult under this scenario to see how the goal of this legislation, consumer protection, will be served. We certainly will have reduced the number of fly-by-night and incompetent home inspectors. But we also will have raised the price of the good home inspections so that the average consumer cannot afford one. We must not lose sight of the fact that more than a few home inspections are optional and not a requirement of the sale. Even where it is common practice at present to require a home inspection, I suspect both lenders and buyers will reconsider this requirement if the fee is so steep that it threatens qualifying for a loan or justifying the expense.

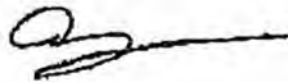
My fear is that within a couple of years of passage of this bill we will be forced to conclude sadly that the operation was almost a total success except that the patient died. There are certainly a small number of problems with incompetent home inspectors. There are likely also a small number of problems even with trained and certified AHFC/ICBO inspectors and their inspections. However, this needs to be put into perspective. There are probably an

equal or greater number of problems with existing houses that never get inspected and new construction that lacks AHFC/ICBO inspections. And this legislation does not attempt to deal with those problems.

The influence of the real estate industry in drafting this bill is apparent. In general, I don't object to that because they have made a valuable contribution of time and energy attempting to correct what they see as a problem. The difficulty I have is that by structuring this bill similar to real estate and appraiser licensing programs, they have assumed that the same economies of scale apply. This is a faulty assumption. There simply are not enough inspectors and home inspections to justify the infrastructure envisioned by this legislation.

Thank you for considering my input. I would appreciate being informed if and when you have another Committee meeting to consider CSHB-27 and I will endeavor to attend and participate.

Sincerely,



Charles M. "Sandy" Huss, RCI

Cc: Kotzebue LIO
Rep. Lisa Murkowski, L & C Chairperson
Rep. Reggie Joule
Sen. Donny Olson
File

LESSMEIER & WINTERS

LAWYERS - LLC

MICHAEL L. LESSMEIER
GREGORY W. LESSMEIER
SHELDON E. WINTERS
COLBY J. SMITH

431 NORTH FRANKLIN STREET
SUITE 400
JUNEAU, ALASKA 99801-1186

TELEPHONE: (907) 586-5912
FACSIMILE: (907) 463-3020
E-MAIL: l-w@gcl.net

February 2, 2001

Representative Norman Rokeberg
State Capitol
Juneau, Alaska 99801-1182

FEB 02 2001

Re: CSHB 27

Dear Representative Rokeberg:

I am writing to you on behalf of State Farm Insurance Companies. State Farm insures roughly 75,000 homes in Alaska. Creating a board of home inspectors and requiring licensure, registration and oversight of home inspectors will in a variety of ways only benefit home owners, prospective home purchasers, qualified home inspectors and the public in general. State Farm supports CSHB 27 and encourages its passage.

Sincerely,

LESSMEIER & WINTERS

By: 
Sheldon E. Winters



Alaska Professional Design Council
P.O. Box 103115, Anchorage, AK 99510-3115

February 2, 2001

Representative Norman Rokeberg
Alaska State Legislature
Capitol Room 118
Juneau, AK 99801

Re: CSHB 27 - Home Inspector Licensure

Dear Representative Rokeberg,

APDC represents 5,000 registered design professionals, and with our newsletter and legislative outreach, we bring design issues to the forefront of the legislative process.

We support CSHB 27, an act relating to licensure and registration of individuals who perform home inspections, which you have sponsored provided the exemptions for civil engineers and architects, as currently specified in your legislation, are maintained. It is critically that you maintain the ability of those design professionals who are operating within their specific areas of expertise and already practicing in related fields to continue performing home inspections. This issue is critically important to our membership and the basis of our support.

Your interest is appreciated.

Sincerely,

Jeffery Wilson
President

Sam Kito III
Chair
Legislative Liaison Committee

Jeffery Wilson
President
Alaska Professional Design Council

Member Societies

American Congress of Surveying and Mapping (ACSM) - American Society of Civil Engineers (ASCE)
Alaska Society of Professional Engineers (ASPE) - Alaska Society of Professional Land Surveyors (ASPLS)
American Institute of Architects (AIA) Alaska Chapter - Structural Engineers Association of Alaska (SEAA)
Architecture/Engineering Marketing Association of Alaska (A/EMAA) - Consulting Engineers Council of Alaska (CECA)
American Society of Landscape Architects (ASLA) Alaska Chapter - Professional Engineers in Private Practice (PEPP) Alaska Chapter

P.O. Box 790
Kotzebue, Alaska 99752
February 2, 2001

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Alaska House of Representatives
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Juneau, Alaska 99801

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FEB- 2-01 FRI 2:16 PM KOTZEBUE LIO

FAX NO. 9074423022

2-02-2001 2:26PM

FROM NW INLPIAT HOUSING 907 442 3486

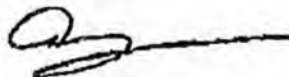
P. 5
P.S

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Charles M. "Sandy" Huss, RCI

Cc: Kotzebue LIO
Rep. Lisa Murkowski, L & C Chairperson
Rep. Reggie Joule
Sen. Donny Olson
File

2,2,01

To: Labor and Commerce Comm.

From: Robert Pankratz, Box 1856, Homer 99603

Re: House Bill #27

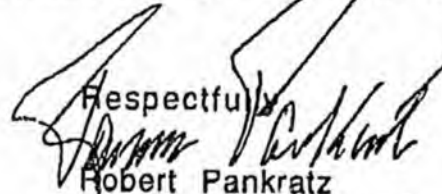
I am opposed to this bill as written for the following reasons:

1. The main support for the bill seems to be from the real estate community and not from the ICBO inspectors. I am concerned that they are trying to shift liability to another group.
2. The main problem seems to be home inspections of existing homes in the major metro areas but the bill creates new requirements and expenses for ICBO Inspectors in areas like Homer.
3. Exemptions to the bill are granted to anyone employed by the federal or state government, a political subdivision of the state, or a municipality, or a registered engineer or architect, etc., etc., but not to existing ICBO Inspectors. In other words the problem seems to be inspections of existing homes and yet ICBO Inspectors of new construction are being thrown into this bill - solve the problem, ^{but} don't create additional paperwork and expenses where there doesn't seem to be a problem.
4. It seems to me that one consequence of this bill, if it passes, will simply be increased cost to the consumer. An inspection to an existing home, it seems to me, is a snapshot in time and primarily a visual look at existing systems in the house. For the most part you will only find the obvious. If I were inspecting existing homes, which I am not, under your bill I would make sure that any possible flaw that I found would also include a recommendation to hire an engineer, plumber, electrician, etc. to check it out in more detail. If an inspection is done during the summer some winter problems may not be obvious - an example would be ice dams at the eaves. To put the inspectors liability 180 days out is only going to

create more disclaimers in the report.

In summary I feel the bill is flawed. Narrow the scope to solve the problem between the realtors and the inspectors of existing homes and leave the ICBO inspectors of new construction out of it. Our system seems to be working.

Respectfully



Robert Pankratz

Box 1856
Homer, AK 99603



Howard, Kathy, & Michael Hedges
4032 Beluga Circle
Homer, Alaska 99603-7712
(907)-235-2701
e-mail: hhedges@capaccess.org.

ATTN: REPRESENTATIVE LISA MURKOWSKI

Representative Norman Rokeberg
Alaska State Legislature, Room 118
State Capital, Juneau AK 99801

PLEASE SUBMIT THIS TO THE HOUSE LABOR & COMMERCE COMMITTEE.

RE: House Bill 27/ Letter from Carla Stanley

Dear Sir,

We recently became aware of a letter of complaint written to you by Carla and Wayne Stanley of 398 Elderberry Court, Homer, Ak regarding a house that Chris Newby of Calm Enterprises built and Franco Venuti inspected. In this letter, the Stanleys cited us as also having problems with our roof in a house built and inspected by the same people. AT NO TIME did we give permission for the Stanleys to use our name nor were we aware of them having done so until now.

We were appalled that our name was included in a letter complaining about Franco Venuti. He has always been extremely honest and forthright with us. In fact, it is because of advice he gave us regarding building a new home versus remodeling our old one that we even have a new home. He gave us this advice at financial loss to himself.

We did have difficulty with our roof in the winter of 1998-99 when the snow was so heavy and many roofs were collapsing. We immediately contacted Chris Newby and he resolved the problem.

The Stanleys called everyone that had had a house built by Chris Newby within the last few years trying to enlist support for their complaint. We listened and decided to consult with an engineer to assure ourselves that our house was indeed sound. The engineer advised us that we needed to put supports in our basement under an upstairs wall because of some cracking we were seeing. That fixed the problem. We did not hold Chris Newby responsible and definately not Franco Venuti because the basement room was not in the plans for the house and only was added as a bonus for having to dig deeper into the hillside than expected.

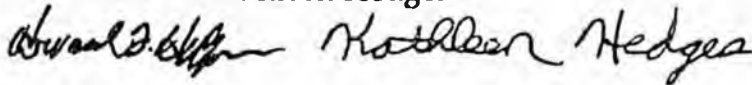
After talking to the engineer, we decided we wanted no part of the Stanleys' complaint and never called them back nor returned any paperwork they had sent.

I understand that the Stanleys are angry, but I hope that their anger won't be allowed to impinge on the reputation of Franco Venuti who is well respected in Homer for his knowledge, honesty and integrity in the building industry.

Please feel free to call us with any questions.

Sincerely,

Howard and Kathleen Hedges



cc: Bill Peilman (Alaska Housing)
Franco Venuti

From Rep Crawford, KMY

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January 29, 2001

Single-Page Format

Problems Seen for Teenagers Who Hold Jobs

By STEVEN GREENHOUSE

Some weekdays, Alicia Gunther, 17, works past midnight as a waitress at a New Jersey mall, and she readily admits that her work often hurts her grades and causes her to sleep through first period.

Jason Ferry, a high school junior, loves working 30 hours a week as a cashier at a Connecticut supermarket, but he acknowledges that when he gets home from work at 9:30 p.m. he usually does not have enough time to study for big tests.

For decades, the conventional wisdom has been that it is great for teenagers like these to hold after-school jobs because they teach responsibility, provide pocket money and keep the teenagers out of trouble.

But in a nation where more than five million teenagers under 18 work, a growing body of research is challenging the conventional wisdom and concluding that working long hours often undermines



Thomas McDonald for The New York Times
Rebecca Gohsler, 16, works part time at a dry cleaning shop in West Hartford, Conn., and concedes the job can undercut her schoolwork.



Don Standing for The New York Times

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teenagers' education and overall development.

Jon Hawkins, 16, a high school junior, cut back on work at a gas station in Berkeley Heights, N.J., when his grades suffered.

In the most important study, two arms of the National Academy of Sciences — the National Research Council and the Institute of Medicine — found that when teenagers work more than 20 hours a week, the work often leads to lower grades, higher alcohol use and too little time with their parents and families.

Influenced by such studies, lawmakers in Connecticut, Massachusetts, Alabama and other states have pushed in recent years to tighten laws regulating how many hours teenagers can work and how late they can work. In Massachusetts, several lawmakers are seeking to limit the maximum amount of time 16-year-olds and 17-year-olds can work during school weeks to 30 hours, down from the current maximum of 48 hours.

In 1998, Connecticut lawmakers reduced the maximum number of hours 16-year-olds and 17-year-olds can work during school weeks to 32 hours, down from 48, and last year they debated imposing fines on employers who violate those limits. In New York, students that age are allowed to work up to 28 hours during school weeks, while in New Jersey the maximum is 40 hours.

The impetus to tighten restrictions grows largely out of concerns about education, especially fears that American students are falling short on tougher standards and are lagging behind foreign students in comparative tests. While there are myriad reasons for poor school performance, legislators seeking tougher restrictions say American students would certainly do better if they placed more emphasis on work inside school and less emphasis on working outside school.

"We have 16- and 17-year-olds working 40 hours a week on top of 30 hours in the classroom," said Peter J. Larkin, the Massachusetts state representative sponsoring the bill to reduce the number of hours teenagers can work. "Something has to give, and academics seems to be taking a back seat. Sure there is pressure against the bill from employers who need teenage workers to help in a full-employment economy, but many other employers are complaining that the graduates of our high schools are not up to par."

With the national jobless rate at 4 percent, near its lowest point in three decades, many employers are eager to hire teenagers and say it would be bad for the economy and for their businesses to limit the number of hours teenagers can work.

In many states, those pushing for tougher restrictions include

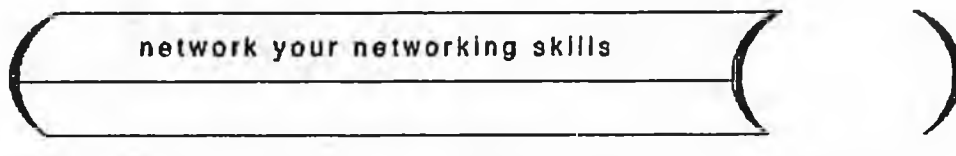
pediatricians' groups, P.T.A.'s, women's clubs, teachers' unions and the National Consumer League. Those opposing tighter restrictions usually include business groups and the many parents who see benefits in teenagers' working, and who have warm memories of their own first jobs as soda jerks or supermarket clerks.

Continued
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HB

50

Journal Text



01-10-2001

House Journal

0051

HB 50

HOUSE BILL NO. 50 by the House Rules Committee by request of the Governor, entitled:

"An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors to June 30, 2005; relating to the temporary member of that board; and providing for an effective date."

was read the first time and referred to the Labor & Commerce and Finance Committees.

The following fiscal note(s) apply:

1. Fiscal, Dept. of Community & Economic Development

The Governor's transmittal letter dated January 10, 2001, appears below:

"Dear Speaker Porter:

In keeping with Alaska's tradition of appropriate regulation of our occupations and professions, I am transmitting this bill extending the "sunset" of the State Board of Registration for Architects, Engineers, and Land Surveyors to June 30, 2005. The bill also creates a permanent landscape architect board member position.

In 1998, I signed into law a bill adding a landscape architect to this state board as a temporary, non-voting position. Since that time, it has become clear the participation of a landscape architect on the board is important to effective professional licensing and oversight and the board has recommended its transition to a permanent seat.

01-10-2001

House Journal

0052

As a result of this bill, the board will have 11 members: five engineers, two architects, two land surveyors, one landscape architect and one member of the public. The temporary landscape architect board position is due to expire June 30, 2001 and that person would be eligible for reappointment if certain criteria are met.

I urge your prompt and favorable action on this bill.

Sincerely,
/s/
Tony Knowles
Governor"

Bill Root: Display Bill Root

BASIS HAS BEEN RE-PROGRAMMED THIS YEAR
TO REPORT PROBLEMS WITH BASIS INQUIRY

[Return to Basis Main Menu \(22nd Legislature\)](#)
[Return to Legislature Home Page](#)

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 10, 2001

FURTHER REFERRALS: Finance

Date of Committee Action: 2/2/01

The LABOR AND COMMERCE Committee considered:

HB 50

HOUSE BILL NO. 50

EXTEND BD OF ARCHITECTS, ENGINEERS, ETC.

"An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors to June 30, 2005; relating to the temporary member of that board; and providing for an effective date."

Recommends it be replaced with CS HB 50 (LTC) [] Same Title [X] New Title
 For Senate Bills with new title: [] Technical Title [] New Title: HCR _____

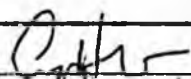
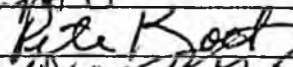
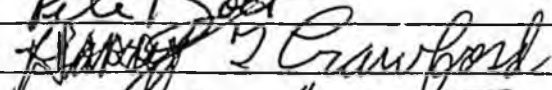
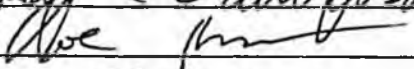
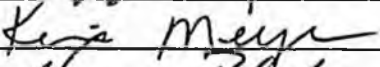
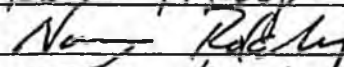
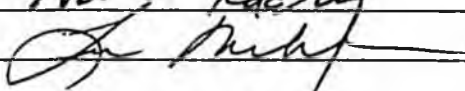
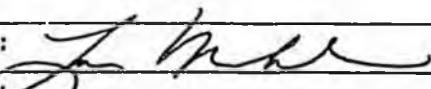

- [] attach amendments
- [] add new referral to _____ Committee
- [] Letter of Intent _____ Committee

List of
Abbrev.
For
Depts.:

- ADN
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LAA
- LAW
- LWF
- NVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
FN#	List by Dept(s):	Fiscal	Indet.	Zero
	50			

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN #	Fiscal	Indet.	Zero
ced	1	✓		

<u>Signing with recommendations</u>	Printed Name	DP	DNP	NR	AM
	HALCRO			✓	
	KOTT			✓	
	CRAWFORD			✓	
	HUGHES			✓	
	MEYER			✓	
				✓	
		✓			
Chair: 					
Chair: 					



Alaska Professional Design Council
P.O. Box 103115, Anchorage, AK 99510-3115

January 30, 2001

Representative Lisa Murkowski
Chair, House Labor & Commerce Committee
Capitol Room 406
Juneau, AK 99801

Re: HB 50 – Extending the sunset of the AELS board

Dear Representative Murkowski,

APDC represents 5,000 registered design professionals, and with our newsletter and legislative outreach, we bring design issues to the forefront of the legislative process.

Thank you for hearing HB 50, an act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors. We support this legislation.

At this time, APDC does not support inclusion of the Legislative Audit recommendations for changes to AS 08. While the audit brought forward important issues, these issues are currently under review among our member groups, and we have not reached consensus.

The extension of the AELS is important for our profession and your interest is appreciated by our membership.

Please let us know if there are any questions we can answer regarding HB 50.

Sincerely,

Sam Kito III
Chair
Legislative Liaison Committee

Jeffery Wilson
President
Alaska Professional Design Council

Member Societies

American Congress of Surveying and Mapping (ACSM) - American Society of Civil Engineers (ASCE)
Alaska Society of Professional Engineers (ASPE) - Alaska Society of Professional Land Surveyors (ASPLS)
American Institute of Architects (AIA) Alaska Chapter - Structural Engineers Association of Alaska (SEAA)
Architecture/Engineering Marketing Association of Alaska (A/EMAA) - Consulting Engineers Council of Alaska (CECA)
American Society of Landscape Architects (ASLA) Alaska Chapter - Professional Engineers in Private Practice (PEPP) Alaska Chapter

AIA Alaska

A Chapter of the American Institute of Architects



TO: State of Alaska
Division of Legislative Audit

From: James Bibb, Architect AIA
President AIA Alaska - 2001
(907) 586-1070 Fax (907) 586-3959
james@iensenyorbaltott.com

Re: House Bill No. 50 EXTEND BD OF ARCHITECTS, ENGINEERS,
ETC. Amendment of AS 08.48.191 (a) addressing **Recommendation #3**, amendment of the board's statutes related to licensure of architects by comity, Department of Economic Development Sunset Review, October 20, 2000.

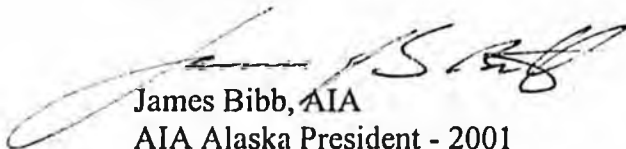
DATE: 2-3-2001

In response to Alaska State Legislatures Audit Committee **Recommendation #3**, AIA Alaska recommends that any amended language addressing clarity of the statute semantics to be put aside in order to insure the Sunset Bill to move forward.

AIA Alaska represents roughly 75% of licensed architects practicing in state. Of this group we do not have consensus recommending language that would both accept the requirements for NCARB certification as well as take into account acceptable alternatives.

Our concern is that any modification to the language that effects how architects are licensed could limit the opportunity for an architect to become professionally licensed in Alaska.

Our national affiliation clearly recommends against restricting the route to licensure to a single process. This would result in limiting the opportunity of persons who may be fully qualified and unfairly restrict their access to the practice of architecture.


James Bibb, AIA
AIA Alaska President - 2001

P.O. Box 103563
Anchorage, Alaska 99510-3563
907-276-2834

Audit Report



DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
STATE BOARD OF REGISTRATION FOR
ARCHITECTS, ENGINEERS AND LAND SURVEYORS
SUNSET REVIEW

October 20, 2000

Audit Control Number:

08-20001-00

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
Internet e-mail address:
legaudit@legis.state.ak.us

October 20, 2000

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
STATE BOARD OF REGISTRATION FOR
ARCHITECTS, ENGINEERS AND LAND SURVEYORS
SUNSET REVIEW

October 20, 2000

Audit Control Number
08-20001-00

This audit was conducted under the requirements of Alaska Statutes 44.66.050 and the authority of AS 24.20.271(1). In the report, we assess the operations and performance of the State Board of Registration for Architects, Engineers and Land Surveyors utilizing the criteria set out in AS 44.66.050(c). This statutory criteria is intended to be used to assess whether the activities of a given board, commission, council, agency, or program is effectively meeting a demonstrated public need.

Currently, under AS 08.03.010 (c)(3) the board is scheduled for termination on June 30, 2001. The board would be allowed one year from this date in which to conclude its affairs, if not extended by legislative action. We recommend that the legislature extend the board until June 30, 2005.

The audit was conducted in accordance with generally accepted government auditing standards using the criteria set out in AS 44.66.050(c). Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

Handwritten signature of Pat Davidson in cursive.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the State Board of Registration for Architects, Engineers, and Land Surveyors. As required by AS 44.66.050(a), the committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(3) states that the board will terminate on June 30, 2001, and will have one year from that date to conclude its affairs.

Objectives

The objectives of our review were:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest. The assessment of the operations and performance of the board, was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Another auditor at our direction and supervision conducted a majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the State Board of Registration for Architects, Engineers, and Land Surveyors for the period of FY 98 through FY 00. During the course of our examination, we reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Compliance with statutes and regulations related to the licensing of architects, engineers, land surveyors, and landscape architects.
3. Minutes of meetings of the board.
4. Licensing and investigation files.
5. Complaints filed with the Division of Occupational Licensing and the Department of Law.
6. Office of the Ombudsman on-line closed case files.
7. Reading files maintained at the Division of Occupational Licensing.

8. Other documents deemed pertinent.

We also conducted interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.

ORGANIZATION AND FUNCTION

The State Board of Registration for Architects, Engineers and Land Surveyors is a regulatory board consisting of 11 members appointed by the governor. The board consists of two civil engineers, two land surveyors, one mining engineer, one electrical or mechanical engineer, one engineer from another branch of the profession of engineering, two architects, one landscape architect,¹ and one public member.

Alaska Statute requires each board member to have been a resident in the State for three consecutive years immediately preceding an appointment.

Additionally, except for the public member and the non-voting landscape architect position, board members must be registered and have a minimum of five years of professional practice in their field.

Alaska Statutes 08.48.101 and 08.48.111 establish the powers of the board. They include:

1. Adopting regulations.
2. Describing the contents, conducting and establishing a minimum score for passing examinations.
3. Suspending, revoking, or refusing to issue or renew a license.
4. Issuing licenses to practice to architects, engineers, and land surveyors who meet standards of education and training determined to be necessary by the board.

Department of Community and Economic Development, Division of Occupational Licensing

¹In a non-statutory clause included in 1998 legislation providing for the licensing of landscape architects, the membership of the board was expanded, although the following provisions were attached. Section 31 of Chapter 47 of the 1998 session laws provided the following:

TEMPORARY BOARD MEMBER. After considering recommendations made by the Alaska chapter of the American Society of Landscape Architects, the governor shall appoint a landscape architect to the Board of Registration for Architects, Engineers, and Land Surveyors. The person appointed under this section:

- (1) must have been a resident in the state for three consecutive years immediately preceding appointment;*
- (2) serves in an advisory, nonvoting capacity on the board;*
- (3) is not entitled to receive state money for per diem or travel expenses for work as a board member;*
- (4) serves a term that expires June 30, 2001; and*
- (5) must be registered as a landscape architect[.]..*

STATE BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

as of October 1, 2000

Professional Members

Daphne E. Brown, Chair, Architect
Patricia Piersol, Architect
Linda Cyra-Korsgaard, Landscape Architect
Kathleen L. Gardner, Mechanical Engineer
Donald J. Iverson, Electrical Engineer
D. Lance Mearig, Civil Engineer
Robert E. Miller, Civil Engineer
Ernie Siemoneit, Mining Engineer
Patrick H. Kalen, PLS – Land Surveyor
Scott McLane, PLS – Land Surveyor

Public Member

Marcia R. Davis, Esq. Public Member

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the State Board of Registration for Architects, Engineers, and Land Surveyors. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the department, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of fees for applications, examinations, licenses, registration, permits, investigations, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to conduct an investigation on its own initiative or in response to a complaint.

REPORT CONCLUSIONS

In our opinion, the State Board of Registration for Architects, Engineers, and Land Surveyors is operating in an efficient and effective manner and should continue to regulate architects, engineers, land surveyors and landscape architects. We believe the board is safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as registered architects, engineers, land surveyors, and landscape architects.

The State Board of Registration for Architects, Engineers, and Land Surveyors has been found to serve a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner. The board continues to propose changes to regulations to improve the effectiveness of the regulatory oversight provided for registered architects, engineers, land surveyors and landscape architects licensed in the State of Alaska. Existence of the board provides more assurance that the various professionals it oversees are competent, and promotes maintenance of the integrity of the professions involved.

Alaska Statute 08.03.010(c)(3) requires the State Board of Registration for Architects, Engineers, and Land Surveyors be terminated on June 30, 2001. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2005.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider revising statutes requiring continuing education for architects, engineers, and land surveyors.

Architects, engineers, and land surveyors overseen by the board currently are not required to obtain continuing education when renewing their licenses. This is contrast to most other licensed professionals in Alaska, who are required to demonstrate they are receiving continuing education in their field in order to maintain an awareness of the changes taking place in their profession.

Continuing professional education requirements do not provide absolute assurance of the competency of licensed professionals. Such requirements, however, provide reasonable assurance that the professional is at least keeping abreast with new developments and maintains an awareness of the changes taking place in their profession.

It is our understanding that the current board supports voluntary continuing professional education, but opposes making such instruction mandatory. The reasons behind the board's reluctance to mandate continuing education are twofold. A majority of the board favors fewer regulations for professional engineers, architects, and land surveyors as a matter of general principle. Other board members have expressed concerns that any requirements the State may adopt for continuing education may conflict with similar requirements of national organizations or other licensing jurisdictions. Such conflict may make it difficult for professionals to maintain membership in national organizations or relocate to other jurisdictions.

Many national organizations maintain continuing education requirements as a requirement for membership; however, there is no mandate that requires that licensees in the State of Alaska to maintain current affiliation with a national organization. As a result, there is no requirement in place that professional architects, engineers, and land surveyors keep abreast of current developments and maintain a minimum level of competency in their professional field.

Review of the continuing education requirements of other state boards and licensing jurisdictions indicates that the national trend is towards implementing and requiring continuing education. Sixteen states currently have minimum continuing education requirements for professional architects prior to renewal of their licenses, and another 12 states have recently considered or are considering legislation addressing continuing education requirements. Twenty-four states have mandatory continuing education requirements for professional engineers, and land surveyors for renewing their licenses.

The National Council of Examiners for Engineers and Surveyors (NCEES), has established guidelines for continuing education statutes and regulations for possible use by various state legislatures and licensing boards. Similarly, the American Institute of Architects (AIA) has established minimum guidelines for aiding licensing jurisdictions in their efforts to establish minimum continuing education requirements. Use of such guidelines in developing state requirements would promote consistency with other jurisdictions and not necessarily create an undue burden on professionals that choose to relocate from one jurisdiction to another.

We recommend that the legislature consider adopting appropriate statutes and the board regulations requiring that some level of continuing education be mandated.

Recommendation No. 2

The legislature should consider revising the structure of the State Board of Registration for Architects, Engineers, and Land Surveyors.

Mining engineers account for less than one percent (0.76%) of the board's total registrants. However, AS 08.48.011(b)² requires that the board's membership consists of 10 professionals, one of which must be a mining engineer. The board has supported legislation to alter the composition and eliminate the requirement for the mining engineer. The board has indicated on many occasions that it is often difficult to find a qualified mining engineer who is willing to fill the designated seat. This is due to the relatively few licensed mining engineers in the State.

We recommend that the legislature consider revising AS 08.48.011(b) to eliminate the specific requirement that a mining engineer be a member of the board. Such a change would not preclude a mining engineer from sitting on the board, since the statute currently allows for an engineer from any branch of the profession. The legislature may also want to consider the advisability of designating a board seat for a representative from the landscape architect profession. This profession, which came under the purview of the board in 1998 is currently represented by a non-voting, "temporary" board member.³

² The board consists of two civil engineers, two land surveyors, one mining engineer, one electrical or mechanical engineer, one engineer from another branch of the profession of engineering, two architects, and one public member.

³The legislation establishing landscape architects under the board, did provide for a temporary board seat to represent the profession. The landscape architect representative served in an advisory, nonvoting capacity, was not entitle to state funding for per diem or travel costs for board work, and had a term expiring June 30, 2001.

Recommendation No. 3

In order to improve statutory clarity, the legislature should consider amending the board's statutes related to licensure of architects by comity.

The current statutory requirement, AS 08.48.191(a), for licensure by comity or endorsement for architects is unclear and subject to challenge.

The statute reads as follows (with annotation added):

A person holding a certificate of registration authorizing the person to practice architecture in a state, territory, or possession of the United States, the District of Columbia, or a foreign country, or holding a certificate of qualification issued by the National Council of Architectural Registration Board, that, in the opinion of the board, meets the requirements of this chapter, based on verified evidence, may, upon application, be registered in accordance with the regulations of the board. [Emphasis added.]

The way the statute is currently worded is, in the view of the board, semantically unclear. Currently, the board requires National Council of Architectural Registration Board (NCARB) "blue book" certification, a nationally recognized standard for indicating that an applicant has met minimum technical knowledge qualifications for licensure. As a result of this interpretation, it is not currently possible for an architect registered out of state to be licensed in Alaska without NCARB certification. However, the board has been advised if an architect is registered in another jurisdiction but does not currently have the NCARB certification, they likely could be licensed if the board was ever challenged on its interpretation of this statute.

The board's current interpretation of the statute is not unreasonable. However, it is advisable to restructure the semantics of the statute in order to foreclose any future possible challenge. It does appear that the statute, as currently worded, could be successfully challenged.

We recommend that the legislature revise the wording of this statute to clarify the board's authority of requiring NCARB certification for licensure, and the extent to which the board shall be required to provide licensure to individuals without NCARB "blue book" certification. Deleting the current phrase from AS 08.48.191(a), "*holding a certificate of registration authorizing the person to practice architecture in a state, territory, or possession of the United States, the District of Columbia, or a foreign country, or . . .*" may avoid further confusion in this area.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

The following analysis of board activities relate to the "public need factors" set out in the "sunset" review law, AS 44.66.050. The italicized, shaded, and bold face phrases are taken from AS 44.66.050 (c) (1) – (9). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commissions, or program has operated in the public interest.

The board through its administration of the licensure of architects, engineers, land surveyors, and landscape architects, has endeavored to present competent professionals to the public. There is a public need for this board because of the professional expertise required to practice the various professions within its purview. The licensing of applicants who meet necessary qualifications is necessary to protect the public's safety, health, and welfare.

The board is responsible for adopting regulations to ensure only persons with the proper qualifications are admitted into the profession. The public needs the board to discipline, suspend, or revoke licenses of practitioners who have committed acts listed at AS 08.48.291 and AS 08.48.295. Licensees are required to stamp final drawings, specifications, surveys, plats, plates, reports, or similar documents with a seal bearing the registrant's name, registration number and the profession for which they are registered. By affixing this seal and signing the documents, the registrant certifies that these documents were prepared by or under the registrant's direct supervision, and that the registrant has met the minimum standards set to protect public safety, health, and welfare.

The board has established regulations governing its duties and licensure requirements, enforced the laws for issuing licenses in a uniform and consistent manner, held meetings, and administered examinations in accordance with statutory requirements.

Determine the extent to which the operations of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices, which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

Over the last three complete fiscal years of operation (FY 98 – FY 00) the board met the statutory requirement that it meet at least four times during the year. Teleconferences were held to address board concerns between regularly scheduled quarterly meetings.

As discussed in the Findings and Recommendations section of this report, we have the following concerns about operations of the board:

1. Assurance of professional competency could be enhanced through the implementation of continuing education requirement for registrants. (See Recommendation No. 1.)

2. Consideration should be given to changing the composition of the board. (See Recommendation No. 2.)
3. Consider clarification of semantics of the statute related to licensure by comity and endorsement for architects. (See Recommendation No. 3.)

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

A variety of changes have been made to the board's statutes and regulations over the past three years. The most significant changes have been:

1. Additional educational and experience requirements for engineers applying for licensure.
2. Verification of work experience for land surveyors.
3. Adoption of eligibility requirements for applicants to sit for the Fundamentals of Engineering examination.
4. The landscape architect profession became a profession within the purview of the board. The board has adopted regulations and has offered its first exam under the new regulations. The regulations are consistent with the current statutes for architects, engineers, and land surveyors and allows the board to regulate the profession with the same consistency and in the same manner in which it currently oversees the other license-holders under its purview.

Determine the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of services, economy of service, and availability of services that it has provided.

The location, date, and time of upcoming board meetings and notices of proposed changes in regulations are published in the *Anchorage Daily News*, the *Fairbanks Daily News-Miner* and the *Juneau Empire*. The board's meeting agenda sets aside adequate time for the board to take public comment. Minutes from the meetings of the board reflect public participation throughout the meeting. Proposed regulations are often circulated to those affected by the proposed regulations through professional trade journals, public notice advertisement, or direct mail correspondence from the Division of Occupational Licensing.

Determine the extent to which the board has encouraged public participation in the making of its regulations and decisions.

Public notice of proposed regulations are published in major newspapers. Meetings are adequately advertised, and time is set aside for public testimony. The board reviews all public correspondence at its meetings.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

During the past three fiscal years (FY 98 – FY 00) the Division of Occupational Licensing has received 97 complaints concerning persons licensed by the board. The division completed 68 investigations of the 97 complaints, and resolved 52 without board action. The resolutions involved 15 warning letters, 11 instances of voluntary compliance, 22 determinations of no violation, and four other administrative closures. The division also completed an additional 24 investigations from complaints received prior to FY 98.

For the 16 complaint investigations brought to the board, 9 involved final denial of a license to an aggrieved applicant; 6 board orders (referred to as “cease and desist” orders) to licensees to stop various activities; and, the revocation of 1 license.

Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.

Listed below is a summary of new licenses and permits issued by the board for the period under review.

New Licenses and Permits Issued (Exclusive of Renewals)	FY 98	FY 99	FY 00	Total	Current as of June 30, 2000
Professional Engineers	194	147	231	572	3,933
Professional Architects	12	8	16	36	519
Professional Land Surveyors	6	12	-	18	630
Professional Landscape Architects	-	-	6	6	6
Corporate Authorizations	21	24	48	93	335

The board is statutorily responsible for the issuance of all licenses. A person may apply for licensure by examination or by using past performance records. Licensure using past performance records is more commonly referred to as licensure by comity. The application process for licensing appears reasonable and appropriate.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board to its own activities and the area of activity or interest.

The Office of the Ombudsman received no complaints regarding the Division of Occupational Licensing. We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

Determine the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the board to better serve the interest of the public and to comply with the factors enumerated in this subsection.

Please refer to the Findings and Recommendations section of this report.

Alaska

Department of Community
and Economic Development

Division of Occupational Licensing

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November 22, 2000

Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

Dear Ms. Davidson,

Thank you for this opportunity to comment on the Preliminary Audit Report (#08-20001-00). We concur that the Board of Registration for Architects, Engineers and Land Surveyors should be continued through June 30, 2005. Our comments regarding the audit recommendations follow.

Recommendation No. 1. The legislature should consider revising statutes requiring continuing education for architects, engineers, and land surveyors.

The board discussed this recommendation at length during its November 16-17 meeting. The board supports continuing education requirements. The board and the division recommend amending the statutes so the board may, by regulation, require continuing education for license renewal. This amendment would allow the board to develop continuing education requirements that best serve the public. Flexible statutory authority would permit the board to adjust continuing education regulations when experience with the system demonstrated a need for change.


Recommendation No. 2. The legislature should consider revising the structure of the state Board of Registration for Architects, Engineers and Land Surveyors (BRAELS).

The percentage of Alaska engineers who are mining engineers is low. The board does not believe the relatively small number of mining engineers has made it difficult to fill the designated board seat. Several years ago the legislature considered removing the requirement that one of the five engineers on the board be a mining engineer, and the legislature decided not to make the change. The designation of board seats does not have to correlate to the percentage of licensees. The importance of competent mining engineering to sound state development may warrant a designated board seat.

Recommendation No. 3. In order to improve statutory clarity, the legislature should consider amending the board's statutes related to licensure of architects by comity.

The board has adopted regulations that address this issue. However, a statutory change may help clarify the law and reduce the potential for litigation.

Sincerely,


Catherine Reardon
Director