

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004

10916 HOUSE LABOR & COMMERCE 200

1 Alaska Society of Professional Land Surveyors.

2 (b) For purposes of this section, "mortgage survey" means a drawing that is  
3 made and sealed by a land surveyor showing the location of improvements on a parcel  
4 of real property.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: \_\_\_\_\_  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Land Survey Standards RDU Occupational Licensing (117)  
 Component Occupational Licensing  
 Sponsor Representative Harris  
 Requester House Labor and Commerce Component No. 2360

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 Gr Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB148 instructs the Board of Registration for Architects, Engineers and Land Surveyors to adopt minimum technical standards relating to the practice of surveying. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone 9(07) 465.2144  
 Division: Occupational Licensing Date/Time 3/26/04 1:23 PM  
 Approved by: Edgar Blatchford Date 3/26/2004  
 Agency: Department of Community & Economic Development



**Division of Occupational Licensing**

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: License@dced.state.ak.us • Website: www.dced.state.ak.us/occ/

**Board of Registration for Architects, Engineers, and Land Surveyors**

January 8, 2003

Representative Norman Rokeberg  
State Capitol, Room 118  
Juneau, AK 99801-1182

Dear Rep. Rokeberg,

Last Legislature, Representative Harris introduced a bill, HB 227, in 2002, to address an issue that arose with respect to "as-built" mortgage surveys by establishing standards for land surveying. Currently we don't define land surveyor standards in our statutes (AS 08.48).

The AELS Board discussed the proposed legislation at its February 2002 meeting but wanted to hear from the professional society, the Alaska Society of Professional Land Surveyors (ASPLS) before making a determination if the suggested statutory change was necessary to ensure that the public health, safety and welfare was met.

The AELS Land Surveyor Board members discussed the matter with the ASPLS and reported back that some states have created standards for mortgage surveys that could be used as a model for a statutory change. The laws that differentiate mortgage and boundary surveys are found in different areas of the Alaska Statutes. Mortgage surveys are not defined but would be most appropriately covered in the Alaska Statutes in Title 38, not in Title 8.

The AELS Board discussed the matter at its November 15-16, 2002 meeting and supports a statute change that would address mortgage surveys but thought that the language in the bill (HB 227, 22nd Legislature) as currently drafted would not alleviate the problem. The Board suggests that the Legislature consider a solution by defining the requirements for mortgage surveys, perhaps in Title 38, and that the Board's investigator would investigate complaints against land surveyors with respect to any land surveying standards set by law.

I respectfully ask for your consideration of this matter in the upcoming Legislature.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Miller".

Robert Miller, P.E., Ph.D.  
Chair

**Subject: HB 148 SURVEYING STANDARDS**  
**Date: Sat, 29 Mar 2003 13:16:17 -0900**  
**From: Jim Colver <surveyor@pobox.alaska.net>**  
**To: representative\_tom\_anderson@legis.state.ak.us**  
**CC: josh\_applebee@legis.state.ak.us**

Dear Rep. Anderson-

Please HOLD THIS BILL!

The committee needs to hear from the surveying community before acting on this bill

I believe this is a rehash of a bill introduced last session by Rep. Harris in an attempt to regulate surveyors. There is an old saying-- if it is not broken don't fix it. If the Board of Architects, Engineers, and Land Surveyors felt there was a need to create regulations for land surveys-- they would implement regulations without statutory direction.

If the legislature is going to regulate professions, then you better apply it to Attorneys, Engineers, and Architects, not just single out surveyors.

There are already standards for surveys by the American Land Title Association, which have to be followed to get title insurance.

On behalf of Alaskan Surveyors-- please hold this bill.

Jim Colver  
Surveyor

# Valdez Realty

SENT BY FAX



## "The Dirt Merchant"

TO: Representative Tom Anderson  
State House of Representatives  
Juneau, Alaska

Date: March 25, 2003

FAX : 907-465-2418

PHONE :

FROM: Walter M. Wood  
VALDEZ REALTY  
P.O. Box 868  
Valdez, Alaska 99686

FAX : 907-835-5462

PHONE : 907-835-2408

E-MAIL ADDRESS: [vldzrlyt@alaska.net](mailto:vldzrlyt@alaska.net)

COVER PAGE PLUS - 1 -

MESSAGE: RE: House Bill 148

Dear Representative Tom Anderson,  
Wish to discuss House Bill 148 movement.

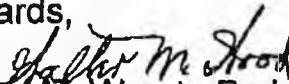
The intent of this bill is to refine & promote understanding between parties in the accuracy of a survey.

I'm enclosing sponsor statement for last year. It pretty well says all that needs to be said, in my opinion. I'd appreciate if you would set this bill to go ahead soon. It certainly is ground work for understanding for all parties concerned in the form of House Bill 148.

Thanks for listening & maybe you will have time to talk soon over the phone. I'm sorry I'm late getting this to you, but Rep. John Harris didn't tell me he was transferring the bill to your committee.

You can understand now why at least one Real Estate Broker would like to see more accuracy in surveys in Alaska.

Regards,

  
Walter M. Wood - Broker  
Valdez Realty



ALASKA STATE LEGISLATURE  
REPRESENTATIVE JOHN HARRIS  
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

## Sponsor Statement

### HB 227

#### Minimum standards for land surveys

House Bill 227 directs the Board of Architects, Engineers and Land Surveyors to adopt minimum technical standards for land surveys. Currently in Alaska there are no standards in state law, so it is left up to individual surveyors to include however much information on their surveys as they chose. This lack of minimum standards leads to undesired results. For example, information that a surveyor in Fairbanks would include in an as-built survey, a surveyor in Kenai might leave off.

The American Land Title Association/American Congress on Surveying and Mapping has adopted comprehensive minimum standards, but it is not the intention of HB 227 to place these in statute. The approach of this bill is to have the board adopt in regulations minimum standards, whether the ALTA/ACSM standards or those of another state that as already done so. In this regard, regulations of the State of Florida may be adequate.

It seems logical that a person who orders and pays for a survey of a piece of property should be able to expect the survey to provide certain pertinent information about the property's features. HB 227 will ensure the adoption of minimum standards so that every survey done in Alaska will include the same basic information.

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### Sectional Summary

#### HB 227

#### Minimum standards for land surveys

HB 227 has only one section, which adds a new section to Chapter 48, the Architects, Engineers, and Land Surveyors portion of Title 08 (Business and Professions), to require the board of architects, engineers and land surveyors to adopt minimal technical standards for surveying.

**HB**

**151**





# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## Sponsor Statement

### House Bill 151

**“An Act relating to claims and court actions for defects in the design, construction, and remodeling of certain dwellings; limiting when certain court actions may be brought; and amending Rules 79 and 82, Alaska Rules of Civil Procedure.”**

House Bill 151 will assist construction professionals and homeowners resolve construction defect issues quickly and effectively, before needless litigation ensues.

HB 151 establishes a formal process for a homeowner to notify a construction professional of construction defects prior to filing a lawsuit. HB 151 establishes a time frame for the construction professional to address the defect. The homeowner's right to sue remains intact if they're not satisfied with the construction professional's efforts to repair the defect or settle by payment of money.

There are several provisions in this legislation that pertain to the amount that homeowners can receive in construction defect suits. An unreasonable rejection of a construction professional's offer limits the damages that may be recovered by the homeowner. A collateral source provision has been added that prohibits homeowners from “double dipping” and receiving a large settlement from the construction professional that does not take into consideration money paid by the homeowners' insurance or warranty.

There are several consequences that homebuyers and homebuilders face without a timely process in place. Lengthy and expensive litigation significantly delays the repair of legitimate problems, decreases the value of homes stigmatized by litigation, and creates difficulties in refinancing or selling homes. New home prices rise due to the increased insurance premiums on homebuilders and contractors. Builders in nearly every state in the country are reporting enormous increases in general liability insurance premiums. In some cases, insurance isn't available at any price. And for states such as Alaska, liability insurance is a requirement, and this is detrimental to construction professionals statewide.

The bottom line is that lawsuits would be a last resort, not the only way to resolve a problem. HB 151 puts into place a very simple and logical process for homeowners and homebuilders to follow. Both parties' interests would be guarded to ensure that timely repair occurred and not frivolous lawsuits.

Last Updated: March 12, 2003

Email: [Representative\\_Kevin\\_Meyer@legis.state.ak.us](mailto:Representative_Kevin_Meyer@legis.state.ak.us) • Toll Free: (866) 465-4945  
Session: State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-4945 Fax: (907) 465-3476  
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0199 Fax: (907) 269-0197



# REPRESENTATIVE KEVIN MEYER

## HOUSE DISTRICT 30

### Sectional Analysis

#### House Bill 151

**“An Act relating to claims and court actions for defects in the design, construction, and remodeling of certain dwellings; limiting when certain court actions may be brought; and amending Rules 79 and 82, Alaska Rules of Civil Procedure.”**

**Section 1:** Provides that a person may only bring suit against a contractor after following the procedures set forth in the new sections AS 09.45.881-09.45.899.

**Section 2:** Provides a one-year statute of limitations for claims covered under AS 09.45.881-09.45.899, not to exceed ten years after the substantial completion of the dwelling.

**Section 3:** Provides the process that homeowners must follow prior to filing an action against a construction professional.

09.45.881: Written notice of claim served on a construction professional 90 days prior to filing the action.

09.45.882: Written response from the construction professional, providing for inspection, settlement, or dispute of claim, is due 21 days after the initial notice of claim is served to the professional.

09.45.883: Homeowner may bring an action against the construction professional if the construction professional disputes the claim in the notice.

09.45.884: If the homeowner rejects the construction professional's offers made under 09.45.882, it must be in writing.

09.45.885: If the offer to inspect is accepted by the homeowner, the homeowner must provide reasonable access to the dwelling.

09.45.886: Within 14 days of the inspection, the construction professional must serve, in writing, an offer to repair, an offer to settle by payment of money, or state that the construction professional will not repair.

09.45.887: Court action is allowed after the construction professional fails to repair or to settle within the 14 days after the inspection.

09.45.888: Court action is allowed if the homeowner rejects the construction professional's offer to repair.

09.45.889: If a homeowner unreasonably rejects the construction professional's offer or does not give the professional reasonable opportunity to repair, the homeowner

Last Updated: March 12, 2003

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Session: State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-4945 Fax: (907) 465-3476

Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0199 Fax: (907) 269-0197

may not recover more than the cost of the repairs or the amount of a reasonable settlement offered by the construction professional.

09.45.890: To accept the construction professional's offer to repair, the homeowner must submit a written notice to the professional within 30 days after receiving the offer.

09.45.891: If a homeowner fails to accept an inspection, or fails to provide a written response to the professional, the failure establishes a rebuttable presumption that the damages could have been mitigated.

09.45.892: A construction professional may not assert that the homeowner did not comply with AS 09.45.881-09.45.899, if the professional failed to respond to the homeowner's written notices.

09.45.893: Construction professionals are required to include notification of this process when the professional enters into a contract with another person to design, construct, or remodel a dwelling.

09.45.894: Additional notice of claims and additional defects are to be handled separately from the initial notice of claim under AS 09.45.881.

09.45.895: The courts shall deduct the amount a homeowner receives from personal homeowner's insurance from the total settlement reached.

09.45.896: Exemptions.

09.45.899: Definitions.

**Section 4:** Indirect Court Rule Amendments, Rule 79 and Rule 82, Alaska Rules of Civil Procedure.

**Section 5:** Applicability.

**Section 6:** Conditional effect.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 11, 2003

**SUBJECT:** Court rule changes in HB 151 (Work Order No. 23-LS0499\H)

**TO:** Representative Kevin Meyer  
Attn: Suzanne

**FROM:** *TB*  
Theresa L. Bannister  
Legislative Counsel

You have asked for an explanation why HB 151 changes the court rules.

Bill provision. Proposed sec. 09.45.889(b) allows a court to deny a claimant attorney fees and costs and to award attorney fees and costs to the construction professional under certain circumstances. That subsection reads as follows:

(b) If a claimant unreasonably rejects a construction professional's offer made under AS 09.45.881 - 09.45.899 or does not give the construction professional a reasonable opportunity to repair the defect under an accepted offer of settlement, the court may deny the claimant an award of attorney fees and costs and may award attorney fees and costs to the construction professional.

Attorney fees. Rule 82, Alaska Rules of Civil Procedure awards the prevailing party attorney's fees calculated under the rule, "[e]xcept as otherwise provided by law or agreed to by the parties." The proposed bill subsection has the effect of changing this court rule because it allows the court to deny attorney fees to the claimant even if the claimant is the prevailing party.

The application of the exception "as otherwise provided by law" is not clear. It may be that whenever the legislature passes a law that changes the rule the new law would be considered to be "provided by law." However, "provided by law" may also mean that when passing a law the legislature has complied with the constitutional requirement of the 2/3 majority vote for the court rule change and with Rule 39(e), Uniform Rules of the Alaska State Legislature, that requires that the court rule change be described in the bill and noted in the bill title. To be safe, if a bill has the effect of changing Rule 82, we recommend including it in the title and body of the bill and obtaining the increased majority approval.

Representative Kevin Meyer

March 11, 2003

Page 2

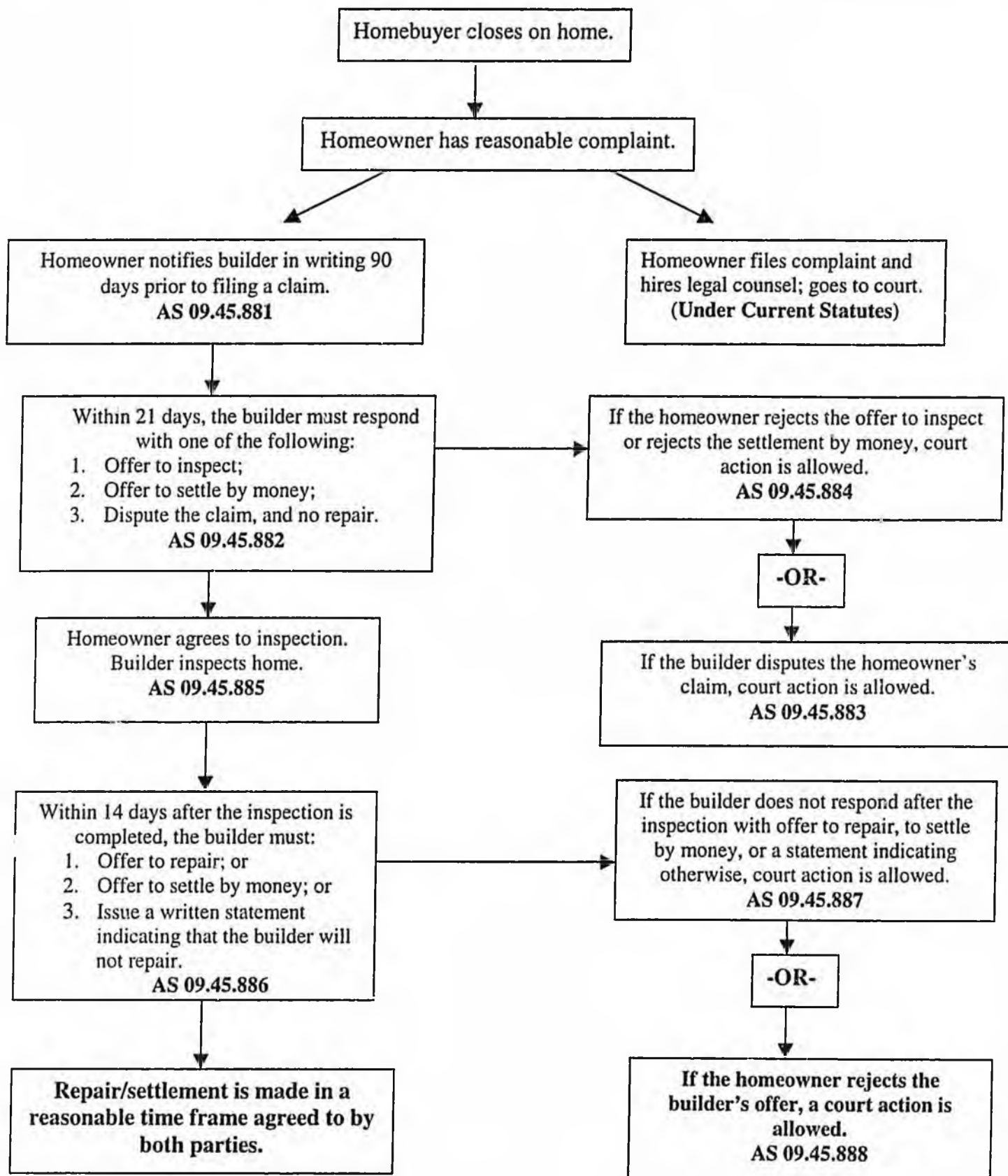
Costs. Rule 79, Alaska Rules of Civil Procedure, states that the prevailing party is entitled to recover costs allowable under its provisions unless the court directs otherwise. The proposed bill subsection has the effect of changing this court rule because it sets out a specific situation in which the court may decline to award costs to the claimant, even if the claimant is the prevailing party. Whether this change is a court rule change is not clear since the court rule allows the court to direct otherwise. However, since the bill's change to Rule 82 already triggers the increased majority vote and inclusion in the title and body of the bill, it seems to be worth including this change in order to be on the safe side.

If I may be of further assistance, please advise.

TLB:med

03-290.med

# HB 151 Dwelling Designs/Construction Claims Litigate or Communicate: Which Path to Justice?






# REPRESENTATIVE KEVIN MEYER

---

HOUSE DISTRICT 19

## MEMORANDUM

**DATE:** March 25, 2003  
**TO:** Representative Tom Anderson  
Chairman, House Labor and Commerce Committee  
**FROM:** Representative Kevin Meyer   
**RE:** HB 151 Dwelling Design/Construction Claims

---

Attached are additional letters of support for HB 151.

I have also included a general liability insurance background paper that was prepared by the Alaska Home Builders Association. The background paper identifies the major concerns in regards to construction professionals and attaining liability insurance. Also included is a description of how other states are addressing this problem.

Thank you for your time and consideration.



**a home renovation and building provisions company**

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

Re: House Bill 151, "Right to Repair"

Dear Rep. Meyers,

This letter is to express my support of HB-151.

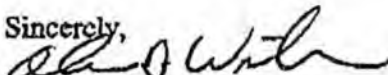
Homebuilders across Alaska are facing a liability insurance crisis. Home Builders have found their insurance premiums have doubled in cost. A greater fear is that insurance brokers and agents are telling us that there are only two companies in the state that are writing general liability insurance policies. With these types of increases many of the small companies are opting not to play by the rules, i.e.: no license, no workers compensation or general liability insurance.

This legislation is a common sense approach to resolving the majority of builder, homeowner disputes. Why is it common sense? Because many issues can be avoided when communication takes place. I believe that most builders want to do the right thing and fix any problems that arise with their products. This legislation forces the builder and the homeowner to communicate and as a last resort they can still go to court.

The cost of housing is always a concern. According to insurance industry professionals this type of legislation provides a level of certainty and stability in the construction industry. We live in a time when our clients would rather file law suits than have the problem fixed. When the cost of defending builders is reduced our premiums should reflect the reduced cost of providing coverage.

Thank you for sponsoring this bill. Your efforts on behalf of the home building industry are appreciated. I'm looking forward to testifying on this bill.

Sincerely,



Alan Wilson, President

Building satisfaction one room at a time.

907-780-3627      907-780-4327

5434 Shaun Dr. B-4 Juneau, Alaska 99801

**General Liability Insurance**  
**Background Paper – February 20, 2003**

Builders are confronting a liability insurance crisis. Due to adverse insurance market conditions, including significant increases in construction defect litigation, liability coverage for builders is less available, more expensive, and more restrictive in terms of the coverage afforded. In February 2002, the NAHB Senior Officers formed the General Liability Insurance Task Force to study the current insurance problem and its impact on the housing industry.

The GLI Task Force was charged with studying the insurance crisis and developing a report and recommendations for NAHB policy and actions. The Task Force sponsored a resolution that was adopted by the NAHB Board of Directors at its meeting in Washington, D.C., on June 9, 2002. One element of the resolution includes support for state legislation requiring consumers to give builders and trade contractors notice of alleged construction defects and the opportunity to cure prior to the initiation of litigation. Other elements include support for federal legislation providing secondary insurance coverage for acts of terrorism, and development of education programs for NAHB members on risk management and insurance. The GLI Task Force presented its final report to the NAHB Board of Directors at the 2002 Fall Board meeting in Anchorage, Alaska.

One of the charges under the insurance resolution was to move forward on developing an education program for NAHB members on insurance and risk management. The NAHB University of Housing is developing a joint venture course for NAHB state and local affiliates. The first national program was held on January 19<sup>th</sup> at the International Builders Show in Las Vegas. There were seven attendees at the Las Vegas program. The University of Housing is finalizing the risk management course and will make it available to state and local home builder associations during 2003.

A background paper discussing the feasibility of developing an industry standard defining what constitutes a construction defect has been prepared and submitted for review by the Senior Officers. NAHB has voluntary guidelines as reflected in Residential Construction Performance Guidelines, produced by the NAHB Remodelers Council and Single Family Small Volume Builders Committee. The proposed NAHB industry standard would cover items not typically covered by building codes and, in the event of a dispute between builders and homeowners over an alleged construction defect, the dispute would be governed by the recognized standards.

State "Notice & Opportunity to Repair" laws would reform the way in which construction defect claims are resolved. Currently, homeowners with construction conditions that they allege are defective often choose to resolve those claims using the costly and time consuming litigation process where they can expect sympathetic judges and juries. This has resulted in a system of exorbitant judgments that builders and their insurance companies are required to satisfy. As a result of these large awards, many providers of construction industry general liability insurance have chosen to stop providing

this insurance to builders. Where insurance is available at all, it is often at significantly higher premiums and reduced levels of coverage (i.e., higher deductibles and multiple exclusions). "Notice & Opportunity to Repair" laws would enact a system that would attempt to resolve construction defect disputes between home builders and consumers without having to resort to the costly and time-consuming litigation process. The laws would require that homeowners provide written notice to home builders of construction conditions that they allege are defective at least 90 days prior to commencing litigation against the home builder. During the 90-day period prior to litigation, the legislation would require that builders and homeowners attempt to resolve the defects that are the subject of the claim. If, after the 90-day period, the homeowner's claim has not been resolved to their satisfaction, they may proceed with litigation against the builder.

**State Consideration (as of 2/18/03):**

**State:** Colorado  
**Bill No.:** H.B. 1161  
**Status:** Passed by House, Senate Consideration (2/20/03)  
**Provisions:** Notice & Right to Cure process 90 days before a lawsuit is filed; alter defect list once to report defects that were not originally found; removes code/standard violations from items that are considered to be defects; insurance performance standards; damage definitions & limitations; removes ability for consumers to get damages under Consumer Protection Act; allows non-economic damages in claims with personal injury

**State:** Idaho  
**Bill No.:** H.B. 133  
**Status:** Passed by House (2/11/03)  
**Provisions:** "Notice & Opportunity to Repair Act"; Damage limitations; builder affirmative defenses – unforeseen acts of nature, homeowner failure to minimize damage, failure to maintain, etc

**State:** Indiana  
**Bill No.:** S.B. 451  
**Status:** Passed by Senate Committee  
**Provisions:** Notice & Right to Cure process; damage limitations when homeowner unreasonably rejects builder offer to repair

**State:** Kansas  
**Bill No.:** H.B. 2294  
**Status:** Introduced, hearing scheduled (2/20/03)  
**Provisions:** Notice & Right to Cure process; damage limitations; homeowner maintenance requirements; affirmative defenses; notice of subsequent defects; insurance performance requirements; subcontractor notification requirements; HOA vote requirements

**State:** Kentucky  
**Bill No.:** H.B. 289  
**Status:** Introduced, Hearing scheduled (2/19/03)  
**Provisions:** Notice & Right to Cure process; contract notification requirements

**State:** New Mexico  
**Bill No.:** S.B. 445/H.B. 706  
**Status:** Introduced, referred to committees  
**Provisions:** Notice & Right to Cure process; contract notification provisions

**State:** Oklahoma  
**Bill No.:** H.B. 1334/S.B. 487  
**Status:** Introduced, referred to committees  
**Provisions:** Construction Defect Remediation Act; notice & opportunity to repair procedure; method of contractor response; method of purchaser response; contractor inspection; certain items inadmissible as evidence; limitation of liability; certain limit on damages; recovery of certain fees; extension of time periods; declaring the Construction Defect Remediation Act procedures as an exclusive remedy

**State:** Oregon  
**Bill No.:** H.B. 2389  
**Status:** Introduced, hearing held (2/12/03)  
**Provisions:** Notice & Right to Cure process; Construction Contractors Board release of contractors or sub-contractors not related to litigation through state certified inspection program

**State:** Texas  
**Bill No.:** H.B. 730/S.B. 383  
**Status:** Introduced (2/6/03)  
**Provisions:** "Residential Construction Commission Act"; state sponsored inspection and dispute resolution process; statutory warranty and building standards; warranties and building standards; limit non-economic damages; amend Residential Construction Liability Act

**State:** Washington  
**Bill No.:** S.B. 5536  
**Status:** Introduced (1/31/03)  
**Provisions:** Resolve disputes using arbitration; "focus on defects that actually cause property damage and affect the habitability of the building"; protect associations from liability for failing to comply with time limits for commencing legal proceedings

**State:** West Virginia  
**Bill No.:** H.B. 2553/S.B. 440  
**Status:** Introduced (2/4/03)  
**Provisions:** Notice & Right to Repair process; HOA notification requirements; code violations are actionable defects; contract notification provisions; insurance performance requirements

As of February 18, 2003, the following nine states were also considering the introduction of "Notice & Opportunity to Repair" legislation during the 2003 session. This legislation could come in the form of "stand-alone" legislation or as the part of more general tort reform efforts: Alabama, Alaska, Florida, Illinois, Louisiana, Missouri, Montana, South Carolina, and Wisconsin. Builders in Texas & Wisconsin are supporting legislation aimed at reducing construction defect litigation through other legislative means.



March 17, 2003

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

In Re: House Bill 151, Right to Repair

Dear Rep. Meyer:

Thank you for sponsoring HB151, the right to repair legislation. This letter is to express my support for the bill.

Across the entire nation - and especially in Alaska right now - liability insurance rates are dramatically increasing. The cost to my business has increased, and in fact it is becoming even more difficult to find carriers who will provide coverage.

This legislation is a win-win situation. A conscientious builder who wants to do a good job will have the opportunity to repair any defects in a home. Also, the homeowner will have the defect repaired. A long and costly lawsuit only makes the problem worse for both sides.

In the event that the notification process in HB151 does not solve the issue - both sides will retain their right to pursue claims in court if absolutely necessary. The idea here is that lawsuits should be the last thing that should be done to fix a problem.

A home is indeed a person's castle, and in most cases is the single largest investment that a family will make. Legitimate defects in a home should be repaired before the problem becomes worse for both the homeowner and the builder. Letting a problem fester while disputes wind their way through the court system only creates more potential cost for the builder and a potentially unsafe living situation for the homeowner. HB151 tries to avoid this mess by simply saying "let the builder fix the problem".

Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,

**"Building Better Places to Live, Work and Play"**

**ANCHORAGE HOME BUILDERS ASSOCIATION, INC.**

8301 Schoon Street, Suite 200 • Anchorage, AK 99518 • (907) 522-3605 • Fax (907) 522-3757



**ISLAND TILE & MARBLE  
832 BUREN #99  
KETCHIKAN, AK 99901  
(907)225-5444**

March 18, 2003

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Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

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unsafe living situation for the homeowner. HB151 tries to avoid this mess by simply saying "let the builder fix the problem".

Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anne McKeem". The signature is written in dark ink on a white background.



January 8, 2003

Alaska State Home Builders Association

RE: Subcontractors Insurance Issues

Partusch Plumbing's workers comp insurance premium increased 46% this year. We were only able to get two quotes with the other quote being a 95% increase over 2001. Our losses for 2001 were 12,000 with a total premium paid of approximate 105,000. We managed our losses pretty well but to no avail.

Our General liability and auto insurance went up 13% for 2003. We don't even want to see what the company's health and dental insurance, which renews in April, might be. But they have been averaging approximately a 16% increase each year over the last three years.

The various insurances that we need are now the single biggest cause for price increases to our builders. It now rivals our yearly labor costs increases in total dollars. Our own associations mission statement is to be able to offer affordable housing. Our energies need to be focused on these insurance issues, so we can fulfill that statement.

Thanks for you time,

A handwritten signature in cursive script that reads "Larry Partusch".

Larry Partusch  
President



## **TILLY & COMPANY, Ltd.**

Tanana Builders

P.O. Box 72080

Fairbanks, AK 99707

Phone (907) 456-5565 Fax (907) 452-3175

Contractors License #AA24415 / Endorsement #178

Email: [tillyco@gci.net](mailto:tillyco@gci.net)

March 15, 2003

**The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801**

**Re: House Bill 151, Right to Repair legislation**

Dear Representative Meyer,

I wish to thank you for sponsoring HB151, the right to repair legislation. This letter serves as my expression of support for this bill.

All across the nation, as well as here in Alaska, liability insurance costs have increased dramatically. The costs to my firm have increased again this year and it is becoming more difficult to find insurance carriers to offer coverage for our industry. The increases in costs eventually are passed along in our final products so the consumer ultimately shares in this increase of expenses. The insurance dilemma will just make affordable housing that much harder to create here in Alaska.

HB151 is a good effort towards positive legislation. A good builder who works to maintain his reputation will have the opportunity to repair any defects in one of his products. Also, the homeowner can rest assured that any problems will be addressed. The involvement of legal action and costly lawsuits only make the problem worse for all parties involved.

As stated in the bill, in the event that the notification process does not solve the issue, both sides will retain the right to pursue claims within the judicial system if absolutely necessary. The whole premise here is that lawsuits should be the last thing that should be pursued to resolve a problem.

A home purchase is most likely the largest investment many families make. Legitimate defects in a home should be repaired prior to the defect becoming a larger problem for the homeowner or the construction contractor. Leaving a problem unresolved during a protracted legal action only creates more hard feelings, costly litigation for both parties as well as possibly a potentially unsafe living condition for the homeowner. HB151 is anticipated to relieve this situation by saying, give the builder the opportunity to correct the problem at hand.

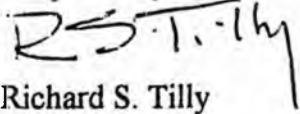
RECEIVED

MAR 19 2003

Page 2.

Again, I thank you for sponsoring this bill. Please feel free to contact me if there is anything I can do to help get this legislation passed during this session. As a professional contractor and builder, I welcome common sense legislation that is in the best interests of all parties involved. As a member of the Alaska State Homebuilding Association, the National Association of Homebuilders and as the current president of the Interior Alaska Homebuilding Association, I appreciate your involvement in issues of concern to the homebuilding industry.

Respectfully submitted,

A handwritten signature in black ink that reads "R.S. Tilly". The signature is written in a cursive style with a large, sweeping "R" and "T".

Richard S. Tilly

President

Tilly & Company, Ltd.

Cc: file, Interior Alaska Building Association, Alaska State Homebuilding Association

# NCP

DESIGN/BUILD, LTD.

March 17, 2003

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau Alaska 99801

In Re: House Bill 151, Right to Repair

Dear Rep. Meyer:

Thank you for supporting HB151, the right to repair legislation. This letter is to express my support for the bill HB151.

Across the entire nation - and especially in Alaska right now - liability insurance rates are dramatically increasing. The cost to my business has increased, and in fact it is becoming even more difficult to find carriers who will provide coverage.

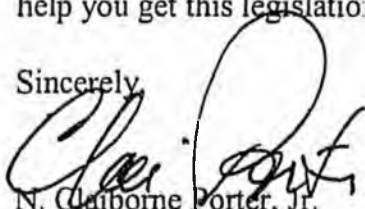
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A home is indeed a person's castle, and in most cases is the single largest investment that a family will make. Legitimate defects in a home should be repaired before the problem becomes worse for both the homeowner and the builder. Letting a problem fester while disputes wind their way through the court system only creates more potential cost for the builder and a potentially unsafe living situation for the homeowner. HB151 tries to avoid this mess by simply saying "let the builder fix the problem".

Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,



N. Claiborne Porter, Jr.  
NCP Design/Build Ltd.

RECEIVED

MAR 20 2003

**WHITE SPRUCE ENTERPRISES, INC.**

10208 Old Valdez Trail - Salcha, AK 99714

Telephone 907-488-9001

Fax 907-488-2551

[whitespruce@moegulfnet.com](mailto:whitespruce@moegulfnet.com)

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, AK 99801

Re: House Bill 151, Right to Repair

Dear Representative Meyer:

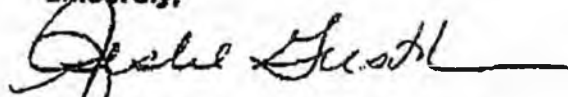
Thank you for sponsoring HB151, the right to repair legislation. This letter is to express my support for the bill.

Liability insurance rates are sharply increasing for contractors across the nation—as well as Alaska. Rates have increased significantly to my business this year. A company that I dealt with last year has pulled out of Alaska, and it is increasingly harder to find a company who has been in Alaska for a period of time or who will continue to cover liability coverage here in our state in the future.

The opportunity for the builder to be able to repair any defects in a home will provide a solution to the buyer and, hopefully, prevent costly lawsuits. Which in turn, raise the cost of insurance. If the repair does not solve the issue, both parties still retain their right to claims in court. Homeowners and builders do not want to pay costly legal fees and spend significant time in court before the repair is done.

HB151 is a way allowing the builder to fix the problem. Thank you for sponsoring this bill.

Sincerely,



Lathie Gustafson, Vice President  
White Spruce Enterprises, Inc.



03/17/03

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

In Re: House Bill 151, Right to Repair

Dear Rep. Meyer:

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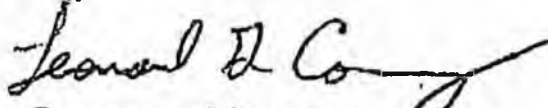
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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,

  
GENERAL MANAGER



*Kitchens & Baths*  
BY DESIGN

March 15, 2003

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

In Re: House Bill 151, Right to Repair

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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,  
  
Carolyn M. Foelsch, CKD, CBD



FROM :

MAR-18-03 11:17 AM AMERICAN ARCTIC COMPANY

PHONE NO. :

987 451 4356

Mar. 21 2003 03:15PM P2

## AURORA DRILLING

A DIVISION OF AMERICAN ARCTIC COMPANY  
P.O. BOX 61818 • FAIRBANKS, ALASKA 99708 • PHONE (907) 456-8712 • FAX (907) 451-4356

3/18/03

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

In Re: House Bill 151, Right to Repair

Dear Rep. Meyer:

Thank you for sponsoring HB151, the right to repair legislation. This letter is to express my support for the bill.

Across the entire nation - and especially in Alaska right now - liability insurance rates are dramatically increasing. The cost to my business has increased, and in fact it is becoming even more difficult to find carriers who will provide coverage.

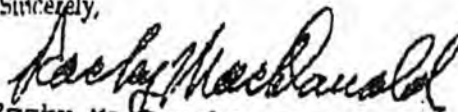
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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,

  
Rocky MacDonald, President

## ***Alaska Interior Construction, Inc.***

GENERAL CONTRACTOR #28088

March 17, 2003

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

In Re: House Bill 151, Right to Repair

Dear Rep. Meyer:

Thank you for sponsoring HB151, the right to repair legislation. This letter is to express my support for the bill.

Across the entire nation - and especially in Alaska right now - liability insurance rates are dramatically increasing. The cost to my business has increased, and in fact it is becoming even more difficult to find carriers who will provide coverage.

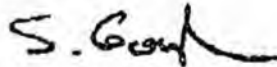
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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,



Stephen Gough, President

P.O. BOX 81191 FAIRBANKS, AK 99708-1191 PH. (907) 488-0208 FAX (907) 488-2077

FROM :

PHONE NO. :

Mar. 21 2003 03:21PM P11

03/20/03 THU 22:59 FAX 9074795526  
From: To: Larry Fogleson

LARRY FOGLESON  
Date: 3/17/2003 Time: 1:15:38 PM

001  
Page 2 of 2

LARRY J. FOGLESON  
DENALI CONSTRUCTORS  
2531 LINDA LANE  
FAIRBANK AK 99709  
479 6828

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 519  
Juneau, Alaska 99801

In Re: House Bill 151, Right to Repair

Dear Rep. Meyer:

Thank you for sponsoring HB151, the right to repair legislation. This letter is to express my support for the bill.

Across the entire nation - and especially in Alaska right now - liability insurance rates are dramatically increasing. The cost to my business has increased, and in fact it is becoming even more difficult to find carriers who will provide coverage.

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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,

MAR-14-2003 FRI 06:24 PM

P. 01

**BEE CONSTRUCTION, INC.**

Licensed &amp; Bonded

3/14/2003

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

In Re: House Bill 151, Right to Repair

Dear Rep. Meyer:

Thank you for sponsoring HB151, the right to repair legislation. This letter is to express my support for the bill.

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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,  
Stephen E. Bee, Pres.

2289 Richardson Hwy  
North Pole, AK 99705

.....

## Graham Builders, Inc.

March 17, 2003

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

Dear Rep. Meyer:

Thank you for sponsoring HB151, the right to repair legislation. This letter is to express my support for the bill.

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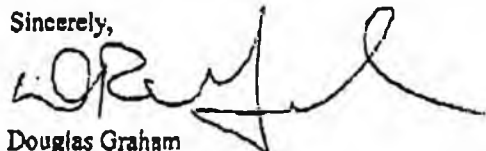
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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,



Douglas Graham  
Owner/President

Phone: 907-488-5235

Fax: 907-488-8532

.....

2289 Richardson Hwy  
North Pole, AK 99705

.....

# Alaska Painting Contractors, Inc.

March 17, 2003

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

Dear Rep. Meyer:

Thank you for sponsoring HB151, the right to repair legislation. This letter is to express my support for the bill.

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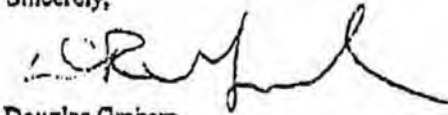
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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,



Douglas Graham  
Owner/President

Phone: 907-488-5235  
Fax: 907-488-8532

.....



Rick Kresobky & Connie Page,  
Owners

A FAMILY OWNED AND OPERATED BUSINESS  
**SUPERIOR HARDWOODS**  
*Specializing in Hardwood Lumber & Custom Millwork*

600 Old Steese Highway North, Fairbanks, AK 99712  
907/457-8351 or Fax 907/457-8352

SERVING THE INTERIOR FOR OVER 20 YEARS

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

In Re: House Bill 151, Right to Repair

Dear Rep. Meyer:

Thank you for sponsoring HB151, the right to repair legislation. This letter is to express my support for the bill.

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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,

*Connie Page*



## KING FIRE PROTECTION, Inc.

P.O. Box 74200

Fairbanks, Alaska 99707-4200

(907) 452-FIRE • Fax (907) 456-3817

~~3-17-03~~

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 519  
Juneau, Alaska 99801

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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,

*Rich King*

FROM :

MAR-17-2003 MON 03:04 PM EXCLUSIVE LANDSCAPING

PHONE NO. :

FAX NO. 19074888000

Mar. 21 2003 03:17PM P5

P. 01

From: To: Carol Himelbauch

Date: 3/17/2003 Time: 11:11:54 AM

Page 2 of 2

[Insert date]

The Honorable Kevin Meyer  
Alaska House of Representatives  
State Capitol Building, Suite 513  
Juneau, Alaska 99801

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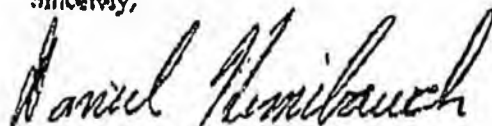
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Thank you again for sponsoring this bill and your efforts. Please let me know how I can help you get this legislation passed this session.

Sincerely,



HB

155

## Briefing Paper – HB 155

### Alaska Department of Labor of Workforce Development

This bill will alter the language Title 36 of Alaska Statutes so that contractors on public works projects are no longer required to submit weekly-certified payrolls (CPR) to the Department of Labor and Workforce Development (DOL).

In place of the CPR, all contractors or subcontractors on a project must file with the DOL a **Notice of Intent** to perform public work, along with a \$100.00 fee. The notice would be on a form provided by the department and include identifying information about the project and the contractor and a statement that the contractor fully understands his/her responsibilities to workers under Title 36 and will comply with its requirements. The **Notice of Intent** will inform the department that each contractor is aware of the proper prevailing rates of pay.

At the end of their portion of the project each contractor or subcontractor will file with DOL an **Affidavit of Compliance**, on a form provided by the department, along with a \$100.00 fee. The affidavit will state that the contractor has completed work on the project and have complied with the requirements of Title 36 with regard to payment of proper prevailing wages and residence preference. The Affidavit of Compliance will provide an instrument for closure on projects and a sworn attestation of compliance with the Act.

The advantage to contractors is that they will no longer have to file the CPR's weekly with the department. In most cases where federal money is involved, CPR's are already filed with the contracting agency. This will eliminate the duplication, yet the payrolls will be accessible for audit purposes in the event of a complaint or investigation. The contracting agency will not be required to audit the payrolls, although the Department of Transportation and Public Facilities (DOTPF) already performed certain tasks to satisfy federal grants on most of their projects.

Presently, many contracting agencies will not make final payment on a project until they have clearance from DOL. Under this plan the department will check its files for the final affidavits. This will make the process of issuing a clearance much quicker and the final payment to get to the contractor sooner.

This bill will enable the department to put its resources in the field where they are needed instead of tying them to an office filing CPR's.

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: HB 155  
 (H) Publish Date: 3/5/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
 Title: An Act relating to the submission of payroll BRU: Labor Standards and Safety  
Information by contractors and subcontractors Component: Wage and Hour  
 Sponsor: \_\_\_\_\_  
 Requester: Governor Component Number: 345

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

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

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

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (Gen Fund 1004 )</b>	<b>1,150.0</b>	<b>1,150.0</b>	<b>1,150.0</b>	<b>1,150.0</b>	<b>1,150.0</b>	<b>1,150.0</b>
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: None

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would amend AS 36.05.040 to require weekly submission of certified payrolls to the contracting agency rather than to DLWD, and we propose the addition of a new section under AS 36.05.045 to institute a reporting requirement to DLWD at the beginning and end of a project only. In addition, DLWD proposes to institute two new fees. This proposal is modeled after a similar plan in the State of Washington.

(Continued on second page.)

Prepared by: Hali Denton, Acting Director Phone: 465-4855  
 Division: Labor Standards & Safety Date/Time: 3/5/03 10:17 AM  
 Approved by: Greg O'Claray, Commissioner Date: 03/05/03  
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE #1

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. HB 155

ANALYSIS: (continued)

Instead of the weekly submission of certified payrolls to the department, contractors will submit an affidavit of compliance at the beginning and at the end of a project certifying compliance with prevailing wage laws. Submission of each of these affidavits will include the payment of a \$100.00 fee. The contractor will continue the current practice of submitting payrolls to the contracting agency.

This will eliminate the duplicate volume of paper that is currently processed through the DLWD certified payroll program and also provided to the contracting agency. It will also allow the elimination of the Wage and Hour technician position that currently files the payrolls. In the event of a prevailing wage complaint, the department will obtain the certified payrolls from the contracting agency for audit purposes. It is anticipated that enforcement activity levels will remain the same.

Based on our estimate of 2,300 projects with an average of 5 contractors per project, revenue is projected to be about \$1,150,000. Our proposal is to begin collecting the fees July 1, 2003.

FROM  
DEPT. OF LABOR

Wage and Hour Statistics on Public Works Projects

FY	Total project actions (openings and closures)	Average # of contractors per project	Total contractors paying \$100 fees	Fee of \$100	Total potential revenue
02	2,892	5	14,460	100	\$ 1,446,000
01	2,500	5	12,500	100	\$ 1,250,000
00	1,813	5	9,065	100	\$ 906,500
99	2,221	5	11,105	100	\$ 1,110,500
98	2,159	5	10,795	100	\$ 1,079,500
<b>5 year average</b>					
	2,317	5	11,585	100	\$ 1,158,500

**Subject: HB 155**

**Date:** Fri, 14 Mar 2003 12:44:47 -0900

**From:** David W Richards <dwrichar@ptialaska.net>

**To:** "Rep. Tom Anderson" <Representative\_Tom\_Anderson@legis.state.ak.us>

There are already stringent methods for filing certified payroll. This bill is one more bullet at private business, especially small contractors. Paying a tax in order to have the privilege of providing already detailed, time consuming payroll forms is an insult to people struggling to stay in business. Unless the idea is to make public projects more expensive and keeping them only for the largest construction firms, please don't pass.

David W. Richards  
General Contractor



# TAM CONSTRUCTION, INC.

General Contractor

10200 Nigh Road

P.O. Box 111186  
Anchorage, AK 99511-1186

Phone (907) 344-4581  
FAX (907) 349-4731

Thursday, March 13, 2003

Representative Tom Anderson  
Room 432  
State Capitol  
Juneau AK 99801-1182

RE: HB155  
Dispatching: Faxed to 907-465-2418

Dear Representative Anderson,

I oppose HB155.

- DOL states they will save money by eliminating the technician position but the cost to the taxpayers is increased many times over by requiring each contracting agency to establish a program and then hire a technician. Furthermore, who will then process the filed notices and provide the verifications to the Contracting Agencies?
- The fees are especially harsh on small specialty contractors who spend only a few days at each jobsite. The result must be a sharp increase in price for their work or they will soon be out of business. This increase will be passed back to the State as part of the construction contract price. Where is the savings in that?
- RE: Sec. 2. (c) You can not reasonably withhold funds from the Contractor and all subcontractors because one company is not in compliance. It is not justice when all must pay for the crime of one.

In the DOL Analysis it is stated that "This will eliminate the duplicate volume of paper that is currently processed". If they want to save money why don't they just eliminate the requirements that create the "duplicate volume of paper".

Please oppose HB155.

Sincerely,

*K. A. Eaton, Sec Treas*

Kathleen A. Eaton,  
Sec.-Treas.

CC: Labor & Commerce Committee Members

Bill Walker, President  
"Specializing in underground construction and earth work."

*Alpine General Contractors, Inc.*

P.O. Box 200985  
Anchorage, Alaska 99520

(907) 522-2100  
FAX 522-2111

March 13, 2003

Representative Tom Anderson  
Fax 465-2418

Re: Opposition to House Bill #155

Mr. Anderson,

We object strongly to HB155 for several reasons.

#1 - The additional \$200.00 fees are going to be charged back to the owners of the projects - who are all public entities subsidized by our taxes, making those projects cost more. Actually most companies will probably charge back more than \$200 because of the extra paperwork & time involved in filing.

#2 - The fees are to be charged regardless of the size of the contract or subcontract - We are frequently on multi million jobs where we do under \$2,000.00 or even under \$1,000.00 worth of work.

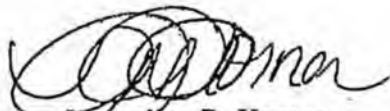
#3 - Each of the contracting agencies are going to be forced to hire more personnel to maintain the certified payroll records, now the costs have risen again for the project.

#4 - Payment for completed work is going to be delayed further while DOL makes sure we've complied, this is not required by the present system as they have the records.

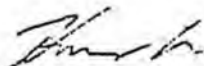
#5 - The additional \$200.00 fees - According to the DOL analysis you will be eliminating a Wage & Hour Technician - however now you'll have to have someone call & verify to the contracting agencies that the contractors have complied - you haven't really incurred new costs nor have you cut personnel.

Please do not support this bill.

Sincerely,



Jacqueline D. Horner  
Secretary/Treasurer



Harold L. Horner  
President

CC: Labor & Commerce Committee Members  
Thyes Shaub, NFIB Ak State Director

**KC**  
CORPORATION  
GENERAL CONTRACTORS

2964 Commercial Drive  
Anchorage, AK 99501

(907) 258-2425 Fax: (907) 278-8018

March 13, 2003

Representative Tom Anderson  
State Capital  
Juneau, AK

Fax 907-465-2428

Re: Opposition to House Bill # 155

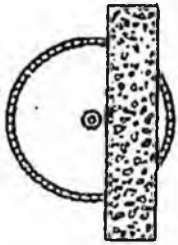
Mr. Anderson:

As a small contractor who is already scrambling to keep up with costs I find it incredible that the state is considering adding a \$200.00 per contractor fee for the submission of payroll information to DOL. The average construction project probably has four to five subcontractors plus the general contractor. You are asking us to add \$1200.00 to the cost of each public contract awarded plus whatever additional cost we might incur, conservatively \$50.00 per contractor involved, for a total of \$1500.00. A very large contract with many tiers of subcontractors could run ten times that amount. To add this cost and drive up the cost of public contracts at a time when the State is looking everywhere for ways to save money makes no sense. This plus the huge administrative burden you place on the small contractor is not right.

I strongly object to any consideration of HB 155!

Sincerely  
K-C CORPORATION

Byron D. Kohfield  
President



**ALASKA  
CONCRETE  
SAWING, INC.**

6831 DeBarr Road  
Anchorage, AK 99504  
Phone: (907) 338-3300  
FAX: (907) 338-7162

FAX TRANSMITTAL

DATE: 3/14/03 TO: TOM ANDERSON

ATTN: \_\_\_\_\_ REC'V FAX # 465-2418

RE: HB # 155

PAGE 1 OF 1

MESSAGE \_\_\_\_\_

WE ARE FREQUENTLY ON THESE JOBS  
FOR LESS THAN 4 HRS!  
THESE FEES WILL BE CHARGED REGARDLESS  
OF PROJECT SIZE

DEFEAT HB155



March 13, 2003

**CONSOLIDATED ENTERPRISES, INC.**633 E. 81ST AVENUE • ANCHORAGE, ALASKA 99518-3145  
TELEPHONE (907) 344-4567 • FAX (907) 349-8390

Re: House Bill No. 155

Dear Representative Anderson:

This letter is to inform you of our objection of House Bill No. 155.

It is in our opinion that AS 36.05.040, in its amended verbage is not feasible or reasonable to the general contractor, subcontractor, or contracting agency for the following reasons:

1. Each specific contracting agency will not be uniform and consistent in their knowledge or application of the certified payroll requirements. What is acceptable procedure to one agency may not be to another.
2. Each specific contracting agency is not equipped to handle this paperwork burden. At this time, there are contracting agencies that do not even require the certified payroll form be sent to them, as they can get an accurate clearance from the Department of Labor.
3. Eliminating one Wage and Hour technician that is filing the certified payrolls is a mute point. The Department of Labor will surely need help in filing affidavits and collecting fees from the proposed AS 36.05.045.
4. Each contracting agency will need to hire additional help to handle the additional paperwork burden. This cost will surely be passed down to the taxpayer.

This house bill puts too much authority and power in the hands of the contracting agency. Will each contracting agency then have the power to fine contractors and subcontractors for not filing timely certified payroll forms? Where will the fine line of the contracting agencies power to collect the certified forms and their power to enforce their quality be drawn?

The proposed AS 36.05.045 is outrageous! Requiring that a contractor pay \$100.00 for their *intent* to comply with legal statutes is not acceptable. Where will this stop? Shall we then have to pay for our *intent* to contribute fringe benefits to the appropriate trust, as required in AAC 30.025?

If that is not enough, AS 36.05.045, as proposed, will then require contractors to pay for an affidavit stating they *did* comply with the law, and pay yet another \$100.00. Only then, will we be able to collect our final payment on a project.

It is our belief that there are problems with the Department of Labor's paperwork burden. We do not believe that this House Bill is conducive to solving that problem.

We respectfully request that you do not support this bill.

Sincerely,

CONSOLIDATED ENTERPRISES, INC.

Jody Embly  
Treasurer

Fred Lind  
President

**Key Bookkeeping**

Charity A. Seslar  
8800 Glacier Hwy, Ste 224  
Juneau, AK 99801  
Ph: (907)789-0899  
Fx: (907)789-1208  
E-mail: [keybook@aol.com](mailto:keybook@aol.com)

Representative Anderson  
State Capitol  
Juneau, AK

RE: House Bill #155

March 13, 2003

Dear Mr. Anderson,

The whole theory behind certified payroll reporting needs a good hard look, and in my opinion should be eliminated entirely. The mere fact that the reporting is required to begin with puts undue burden upon the employer. I can't IMAGINE attaching fees along with it.

Currently, I have only one certified payroll client. This client has on average, at any given time has at least 6 certified jobs active at the same time. Although generally, he and his one employee may work on only one or two jobs per week, we are STILL obligated to file weekly ZERO reports for the jobs with NO activity. I have one job that I've been filing zero reports now for months. Some jobs are short term, perhaps a month, from start to completion, barely leaving time to even GATHER the DOL job number from the state. Whether my client has activity on a job, or not, he is paying for my time to file these reports.

If I were convinced that any of this busy work-paper shuffling even made a difference in the lives of the laborers that it is intended to protect, I might have a different attitude on the subject. But, to my knowledge, these reports are not even being reviewed in a timely matter (if at all), by DOL.

The irony to all of this is that if an employer were being dishonest and chose to break the wage and hours laws, there is no other reconciliation in place to cross check with any other payroll records that the company maintains. I wonder if the \$200.00 fee could even begin to cover the costs of clearing up the

current reporting backlog, let alone improving upon it. The whole thing is entirely meaningless.

I would also imagine that if an employee was not being paid the correct prevailing wage under AK State law, the DOL would be the FIRST to hear about it, DIRECT FROM THE EMPLOYEE. The laborers out there are far smarter that they're being given credit for.

I've worked closely with the DOL (mainly the unemployment tax division) for seven years, and have found them to be the most helpful department of ALL of the government agencies. Let them focus on other issues that truly matter, and eliminate the busy work that serves absolutely no one.

Thank you for your time.

Sincerely,



Charity A Seslar  
Owner, Key Bookkeeping

ALASKA STATE LEGISLATURE  
House of Representatives

COMMITTEE ASSIGNMENTS:

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

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



INTERIM:  
716 WEST 4TH AVENUE, SUITE 300  
ANCHORAGE, AK 99501  
PHONE: (907) 269-0117  
FAX: (907) 269-0119

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

Representative Norman Rokeberg

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

MEMORANDUM

To: House Labor & Commerce Committee  
From: Representative Norman Rokeberg  
Date: April 4, 2003  
Re: Amendment to HB 155

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

*Not  
Adopted*

Having spent some 30 years in the commercial real estate business, specializing in office space leasing and development, I believe the current statutory provision requiring prevailing wage rates on state leasehold interest is counter productive and extremely costly.

Many landlords engage union shops in the initial core and shell construction phases. However, during tenant fit-up (building the actual interior office space), it is a customary practice to use a mix of union and non-union shops or non-union shops. This is due to 1) lowering the cost of the job and 2) many union shops don't want the work because it is too small and piecemeal.

Bottom line is that this artificial requirement unnecessarily drives up state occupancy costs.

23-GH1119D  
Craver  
4/3/03

**CS FOR HOUSE BILL NO. 155(L&C)**

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

**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY THE HOUSE LABOR AND COMMERCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the submission of payroll information by contractors and  
2 subcontractors performing work on a public construction contract; requiring a notice  
3 and affidavit regarding the payment of prevailing wages by employers on public  
4 construction contracts; providing for the withholding of final payment for public  
5 construction contracts; and providing for an effective date."

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

7 \* **Section 1.** AS 36.05.040 is amended to read:

8       **Sec. 36.05.040. Filing schedule of employees, wages paid, and other**  
9 **information.** All contractors or subcontractors who perform work on a public  
10 construction contract for the state or for a political subdivision of the state shall, before  
11 the Friday of every second [EACH] week, file with the Department of Labor and  
12 Workforce Development a sworn affidavit for the previous two weeks [WEEK],  
13 setting out in detail the number of persons employed, wages paid, job classification of

1 each employee, hours worked each day and week, and other information on a form  
2 provided by [THAT] the Department of Labor and Workforce Development  
3 [REQUIRES].

4 \* Sec. 2. AS 36.05 is amended by adding a new section to read:

5 **Sec. 36.05.045. Affidavit of compliance; withholding of payment. (a)**

6 Before commencing work on a public construction contract with a total contract price  
7 of \$5,000 or more, the person entering into the contract with a contracting agency  
8 shall designate a primary contractor for purposes of this section. The primary  
9 contractor shall file a notice of intent to pay prevailing wages with the Department of  
10 Labor and Workforce Development. The notice of intent must list all work to be  
11 performed under the public construction contract by each employer who will perform  
12 any portion of work on the contract and the contract price being paid to each  
13 employer. The primary contractor shall pay all filing fees for each employer  
14 performing work on the contract, including a filing fee based on the contract price  
15 being paid for work performed by the primary contractor's employees. The filing fee  
16 shall be the sum of all employer fees calculated according to the following schedule,  
17 but may not exceed a total filing fee of \$5,000 payable by the primary contractor  
18 under this subsection. The fee for an employer shall be

19 (1) \$100 for each employer performing contract work for \$5,000 or  
20 more and less than \$10,000;

21 (2) \$150 for each employer performing contract work for \$10,000 or  
22 more and less than \$50,000;

23 (3) \$200 for each employer performing contract work for \$50,000 or  
24 more and less than \$500,000;

25 (4) \$250 for each employer performing contract work for \$500,000 or  
26 more and less than \$1,000,000; and

27 (5) \$300 for each employer performing contract work for \$1,000,000  
28 or more.

29 (b) Upon completion of all work on the public construction contract, the  
30 primary contractor shall file an affidavit of wages paid with the Department of Labor  
31 and Workforce Development. The primary contractor and all subcontractors shall sign

1 the affidavit on a form provided by the Department of Labor and Workforce  
2 Development.

3 (c) A contracting agency may not release final payment on a public  
4 construction contract until the agency has received verification from the Department  
5 of Labor and Workforce Development that

6 (1) the primary contractor has complied with (a) and (b) of this section  
7 and that all subcontractors have signed the affidavit;

8 (2) the Department of Labor and Workforce Development is not  
9 conducting an investigation under AS 36.05.030; and

10 (3) the Department of Labor and Workforce Development has not  
11 issued a notice of a violation of this chapter to the contractor or a subcontractor.

12 (d) A false statement made on a notice or affidavit required by this section is  
13 punishable under AS 11.56.210.

14 \* **Sec. 3.** AS 36.05 is amended by adding a new section to read:

15 **Sec. 36.05.900. Definition.** In this chapter, "contracting agency" means the  
16 state or a political subdivision of the state that has entered into a public construction  
17 contract with a contractor.

18 \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

20 **CURRENT PUBLIC CONSTRUCTION CONTRACTS.** Notwithstanding  
21 AS 36.05.045, added by sec. 2 of this Act, a contractor or subcontractor that began work on a  
22 public construction contract before July 1, 2003, but has not completed the work before  
23 July 1, 2003, shall file a notice of intent to pay prevailing wages on a form provided by the  
24 Department of Labor and Workforce Development. The contractor or subcontractor shall file  
25 the notice not later than 30 days after the Department of Labor and Workforce Development  
26 provides the contractor or subcontractor with a copy of the notice form. The contractor or  
27 subcontractor is not required to pay a fee for filing.

28 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 **ONLINE PAYROLL REPORTING.** Not later than July 1, 2004, the Department of  
31 Labor and Workforce Development shall provide for filing of payroll reports as required in

1 AS 36.05.040, amended by sec. 1 of this Act, by secure online electronic filing.

2 \* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to  
3 read:

4 TRANSITIONAL PROVISIONS: REGULATIONS. Notwithstanding sec. 8 of this  
5 Act, the Department of Labor and Workforce Development may proceed to adopt regulations  
6 necessary to implement the changes made by this Act. The regulations take effect under  
7 AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant  
8 statutory change.

9 \* Sec. 7. Sections 4 and 6 of this Act take effect immediately under AS 01.10.070(c).

10 \* Sec. 8. Except as provided in sec. 7 of this Act, this Act takes effect July 1, 2003.

AMENDMENT #3

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

<sup>CS</sup>  
TO: HB 155(L+C)

23-GH1119\D

1 Page 1, line 1, following "relating to":

2 Insert "the definition of 'public construction' for purposes of paying prevailing  
3 wages, and to"

4

5 Page 3, lines 16 - 17:

6 Delete all material and insert:

7 "Sec. 36.05.900. Definitions. In this chapter,

8 (1) "contracting agency" means the state or a political subdivision of  
9 the state that has entered into a public construction contact with a contractor;

10 (2) "public construction" does not include rehabilitation, alteration,  
11 extension, or repair, structural or otherwise, undertaken by tenants of a building owned  
12 or controlled by the state for government or public use after the initial construction or  
13 acquisition of the building by the state, notwithstanding AS 36.95.010."

**HB**

**159**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 5, 2003

FURTHER REFERRALS: Finance

Date of Committee Action: March 14, 2003

The LABOR AND COMMERCE Committee considered:

HB 159

HOUSE BILL NO. 159

FINANCIAL INSTITUTION EXAMINATIONS/CFAB

"An Act relating to the frequency of examinations of certain persons licensed to engage in the business of making loans of money, credit, goods, or things in action; repealing the requirement for a state examination and evaluation of the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date."

Recommends it be replaced with  HCS or  CS for \_\_\_\_\_ (\_\_\_\_\_)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LEG  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>CED</u>		✓		

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

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	LYNN	X			
	GUTTENBERG			X	
	DAHLSTROM	X			
Chair:	ANDERSON	X			
Chair:					

Frank H. Murkowski, Governor



**Office of the Commissioner**

P.O. Box 110800, Juneau, AK 99811-0800

Telephone: (907) 465-2500 • Fax: (907) 465-5442 • Text Telephone: (907) 465-5437

Email: [questions@dced.state.ak.us](mailto:questions@dced.state.ak.us) • Website: [www.dced.state.ak.us/](http://www.dced.state.ak.us/)

06 March 2003

The Honorable Tom Anderson  
House of Representatives  
State Capitol, Room 432  
Juneau, AK 99801-1182

RE: Request for Hearing on HB159

Dear Representative Anderson:

On March 5, 2003, HB159 was introduced by the Governor through the House Rules committee and referred to your committee. This legislation changes the frequency of examinations of people licensed under the Alaska Small Loans Act (AS 06.20), and repeals the requirement for a state examination and evaluation of the Alaska Commercial Fishing and Agricultural Bank (CFAB).

We respectfully request you to schedule HB159 for a hearing in your committee and we urge favorable action on this bill. Attached is the related fiscal note. We will be happy to meet with you and other members of the committee to provide any other information you may require. Thank you for considering our request.

Sincerely,

A handwritten signature in black ink that reads "Edgar Blatchford".

Edgar Blatchford  
Commissioner

Attachment: HB159 Fiscal Note

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 159  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title Financial Institutions/Examinations/CFAB  
 Sponsor Rules by Request of the Governor  
 Requester House Labor & Commerce

Dept. Affected: DCED  
 BRU Banking, Securities & Corporations (115)  
 Component Banking, Securities & Corporations  
 Component No. 1233

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	(75.0)					
Travel	(3.0)					
Contractual	(48.0)					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>(126.0)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**CAPITAL EXPENDITURES**

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<b>CHANGE IN REVENUES (51137)</b>	<b>(25.0)</b>					
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>(126.0)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 126.0

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

**POSITIONS**

Full-time	-1					
Part-time						
Temporary						

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

This legislation changes the frequency of examinations of people licensed under the Alaska Small Loans Act (AS 06.20), and repeals the requirement for a state examination and evaluation of the Alaska Commercial Fishing and Agriculture Bank (CFAB).

**CHANGE IN REVENUE:** We anticipate a loss of \$25.0 in revenue as a result of examination fees no longer collected.

Prepared by: Mark Davis, Director  
 Division Banking, Securities & Corporations  
 Approved by: Edgar Blatchford, Commissioner  
 Agency Department of Community & Economic Development

Phone 907-269-8452  
 Date/Time 3/6/03 3:41 PM  
 Date 3/6/2003

*Alpine General Contractors, Inc.*

P.O. Box 200985  
Anchorage, Alaska 99520

(907) 522-2100  
FAX 522-2111

March 13, 2003

Representative Tom Anderson  
Fax 465-2418

Re: Opposition to House Bill #155

Mr. Anderson,

We object strongly to HB155 for several reasons.

#1 - The additional \$200.00 fees are going to be charged back to the owners of the projects - who are all public entities subsidized by our taxes, making those projects cost more. Actually most companies will probably charge back more than \$200 because of the extra paperwork & time involved in filing.

#2 - The fees are to be charged regardless of the size of the contract or subcontract - We are frequently on multi million jobs where we do under \$2,000.00 or even under \$1,000.00 worth of work.

#3 - Each of the contracting agencies are going to be forced to hire more personnel to maintain the certified payroll records, now the costs have risen again for the project.

#4 - Payment for completed work is going to be delayed further while DOL makes sure we've complied, this is not required by the present system as they have the records.

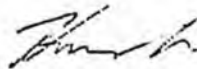
#5 - The additional \$200.00 fees - According to the DOL analysis you will be eliminating a Wage & Hour Technician - however now you'll have to have someone call & verify to the contracting agencies that the contractors have complied - you haven't really incurred new costs nor have you cut personnel.

Please do not support this bill.

Sincerely,



Jacqueline D. Horner  
Secretary/Treasurer



Harold L. Horner  
President

CC: Labor & Commerce Committee Members  
Thyes Shaub, NFIB Ak State Director



2964 Commercial Drive  
Anchorage, AK 99501

(907) 258-2425 Fax: (907) 278-8018

March 13, 2003

Representative Tom Anderson  
State Capital  
Juneau, AK

Fax 907-465-2428

Re: Opposition to House Bill # 155

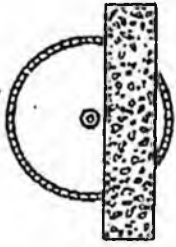
Mr. Anderson:

As a small contractor who is already scrambling to keep up with costs I find it incredible that the state is considering adding a \$200.00 per contractor fee for the submission of payroll information to DOL. The average construction project probably has four to five subcontractors plus the general contractor. You are asking us to add \$1200.00 to the cost of each public contract awarded plus whatever additional cost we might incur, conservatively \$50.00 per contractor involved, for a total of \$1500.00. A very large contract with many tiers of subcontractors could run ten times that amount. To add this cost and drive up the cost of public contracts at a time when the State is looking everywhere for ways to save money makes no sense. This plus the huge administrative burden you place on the small contractor is not right.

I strongly object to any consideration of HB 155!

Sincerely  
K-C CORPORATION

Byrc. D. Kohfield  
President



# ALASKA CONCRETE SAWING, INC.

6831 DeBarr Road  
Anchorage, AK 99504  
Phone: (907) 338-3300  
FAX: (907) 338-7162

FAX TRANSMITTAL

DATE: 3/14/03 TO: TOM ANDERSON

ATTN: \_\_\_\_\_ REC'V FAX # 465-2418

RE: HB # 155

PAGE 1 OF 1

MESSAGE \_\_\_\_\_

WE ARE FREQUENTLY ON THESE JOBS  
FOR LESS THAN 4 HRS!  
THESE FEES WILL BE CHARGED REGARDLESS  
OF PROJECT SIZE

DEFEAT HB 155



March 13, 2003

**CONSOLIDATED ENTERPRISES, INC.**633 E. 81ST AVENUE • ANCHORAGE, ALASKA 99518-3145  
TELEPHONE (907) 344-4567 • FAX (907) 349-8390

Re: House Bill No. 155

Dear Representative Anderson:

This letter is to inform you of our objection of House Bill No. 155.

It is in our opinion that AS 36.05.040, in its amended verbage is not feasible or reasonable to the general contractor, subcontractor, or contracting agency for the following reasons:

1. Each specific contracting agency will not be uniform and consistent in their knowledge or application of the certified payroll requirements. What is acceptable procedure to one agency may not be to another.
2. Each specific contracting agency is not equipped to handle this paperwork burden. At this time, there are contracting agencies that do not even require the certified payroll form be sent to them, as they can get an accurate clearance from the Department of Labor.
3. Eliminating one Wage and Hour technician that is filing the certified payrolls is a mute point. The Department of Labor will surely need help in filing affidavits and collecting fees from the proposed AS 36.05.045.
4. Each contracting agency will need to hire additional help to handle the additional paperwork burden. This cost will surely be passed down to the taxpayer.

This house bill puts too much authority and power in the hands of the contracting agency. Will each contracting agency then have the power to fine contractors and subcontractors for not filing timely certified payroll forms? Where will the fine line of the contracting agencies power to collect the certified forms and their power to enforce their quality be drawn?

The proposed AS 35.05.045 is outrageous! Requiring that a contractor pay \$100.00 for their *intent* to comply with legal statutes is not acceptable. Where will this stop? Shall we then have to pay for our *intent* to contribute fringe benefits to the appropriate trust, as required in AAC 30.025?

If that is not enough, AS 36.05.045, as proposed, will then require contractors to pay for an affidavit stating they *did* comply with the law, and pay yet another \$100.00. Only then, will we be able to collect our final payment on a project.

It is our belief that there are problems with the Department of Labor's paperwork burden. We do not believe that this House Bill is conducive to solving that problem.

We respectfully request that you do not support this bill.

Sincerely,

**CONSOLIDATED ENTERPRISES, INC.**

Jody Embly  
Treasurer

Fred Lind  
President

**Key Bookkeeping**

Charity A. Seslar  
8800 Glacier Hwy, Ste 224  
Juneau, AK 99801  
Ph: (907)789-0899  
Fx: (907)789-1208  
E-mail: [keybook@aol.com](mailto:keybook@aol.com)

Representative Anderson  
State Capitol  
Juneau, AK

RE: House Bill #155

March 13, 2003

Dear Mr. Anderson,

The whole theory behind certified payroll reporting needs a good hard look, and in my opinion should be eliminated entirely. The mere fact that the reporting is required to begin with puts undue burden upon the employer. I can't IMAGINE attaching fees along with it.

Currently, I have only one certified payroll client. This client has on average, at any given time has at least 6 certified jobs active at the same time. Although generally, he and his one employee may work on only one or two jobs per week, we are STILL obligated to file weekly ZERO reports for the jobs with NO activity. I have one job that I've been filing zero reports now for months. Some jobs are short term, perhaps a month, from start to completion, barely leaving time to even GATHER the DOL job number from the state. Whether my client has activity on a job, or not, he is paying for my time to file these reports.

If I were convinced that any of this busy work-paper shuffling even made a difference in the lives of the laborers that it is intended to protect, I might have a different attitude on the subject. But, to my knowledge, these reports are not even being reviewed in a timely matter (if at all), by DOL.

The irony to all of this is that if an employer were being dishonest and chose to break the wage and hours laws, there is no other reconciliation in place to cross check with any other payroll records that the company maintains. I wonder if the \$200.00 fee could even begin to cover the costs of clearing up the

current reporting backlog, let alone improving upon it. The whole thing is entirely meaningless.

I would also imagine that if an employee was not being paid the correct prevailing wage under AK State law, the DOL would be the FIRST to hear about it, DIRECT FROM THE EMPLOYEE. The laborers out there are far smarter than they're being given credit for.

I've worked closely with the DOL (mainly the unemployment tax division) for seven years, and have found them to be the most helpful department of ALL of the government agencies. Let them focus on other issues that truly matter, and eliminate the busy work that serves absolutely no one.

Thank you for your time.

Sincerely,



Charity A Seslar  
Owner, Key Bookkeeping



# TAM CONSTRUCTION, INC.

General Contractor

10200 Nigh Road

P.O. Box 111186  
Anchorage, AK 99511-1186

Phone (907) 344-4581  
FAX (907) 349-4731

Thursday, March 13, 2003

Representative Tom Anderson  
Room 432  
State Capitol  
Juneau AK 99801-1182

RE: HB155  
Dispatching: Faxed to 907-465-2418

Dear Representative Anderson,

I oppose HB155.

- DOL states they will save money by eliminating the technician position but the cost to the taxpayers is increased many times over by requiring each contracting agency to establish a program and then hire a technician. Furthermore, who will then process the filed notices and provide the verifications to the Contracting Agencies?
- The fees are especially harsh on small specialty contractors who spend only a few days at each jobsite. The result must be a sharp increase in price for their work or they will soon be out of business. This increase will be passed back to the State as part of the construction contract price. Where is the savings in that?
- RE: Sec. 2. (c) You can not reasonably withhold funds from the Contractor and all subcontractors because one company is not in compliance. It is not justice when all must pay for the crime of one.

In the DOL Analysis it is stated that "This will eliminate the duplicate volume of paper that is currently processed". If they want to save money why don't they just eliminate the requirements that create the "duplicate volume of paper".

Please oppose HB155.

Sincerely,

*K. A. Eaton, Sec Treas*

Kathleen A. Eaton,  
Sec.-Treas.

CC: Labor & Commerce Committee Members

Bill Mackey, President  
"Specializing in underground construction and earth work."

**HB**

**160**

#1 - GOVERNOR'S BILL: At \$200 per year for 0 - 4; 21,966 dropouts (50% sole proprietors)

No. of Employees (DOL Qtr 3)	Dept of Labor Statistics (# of Firms)	No. of BL's 65773	Proposed Fee (annual)	ANNUAL REVENUE	# of BL's x \$25 Annual Fee (Current Revenue)	Annual Rev. less Current Rev. NEW REVENUE
0 to 4	9,012	37,142	\$200.00	\$7,428,400.00	\$1,477,700.00	\$5,950,700.00
5 to 19	5,104	5,104	200.00	\$1,020,800.00	\$127,600.00	\$893,200.00
20+	1,561	1,561	200.00	\$312,200.00	\$39,025.00	\$273,175.00
TOTAL Annual Revenue:				\$8,761,400.00	\$1,644,325.00	\$7,117,075.00

#2 - At \$50 per year for 0 - 4; with NO dropouts HB 162 as currently amended

No. of Employees (DOL Qtr 3)	Dept of Labor Statistics (# of Firms)	No. of BL's 65773	Proposed Fee (annual)	ANNUAL REVENUE	# of BL's x \$25 Annual Fee (Current Revenue)	Annual Rev. less Current Rev. NEW REVENUE
0 to 4	9,012	59,108	\$50.00	\$2,955,400.00	\$1,477,700.00	\$1,477,700.00
5 to 19	5,104	5,104	100.00	\$510,400.00	\$127,600.00	\$382,800.00
20+	1,561	1,561	200.00	\$312,200.00	\$39,025.00	\$273,175.00
TOTAL Annual Revenue:				\$3,778,000.00	\$1,644,325.00	\$2,133,675.00

#3 - At \$75 per year for 0 - 4; 5,492 dropouts (12.5% sole proprietors)

No. of Employees (DCL Qtr 3)	Dept of Labor Statistics (# of Firms)	No. of BL's 65773	Proposed Fee (annual)	ANNUAL REVENUE	# of BL's x \$25 Annual Fee (Current Revenue)	Annual Rev. less Current Rev. NEW REVENUE
0 to 4	9,012	53,616	\$75.00	\$4,021,200.00	\$1,477,700.00	\$2,543,500.00
5 to 19	5,104	5,104	200.00	\$1,020,800.00	\$127,600.00	\$893,200.00
20+	1,561	1,561	300.00	\$468,300.00	\$39,025.00	\$429,275.00
TOTAL Annual Revenue:				\$5,510,300.00	\$1,644,325.00	\$3,865,975.00

#4 - At \$100 per year for 0 - 4; 10,984 dropouts (25% sole proprietors)

No. of Employees (DOL Qtr 3)	Dept of Labor Statistics (# of Firms)	No. of BL's 65773	Proposed Fee (annual)	ANNUAL REVENUE	# of BL's x \$25 Annual Fee (Current Revenue)	Annual Rev. less Current Rev. NEW REVENUE
0 to 4	9,012	48,124	\$100.00	\$4,812,400.00	\$1,477,700.00	\$3,334,700.00
5 to 19	5,104	5,104	200.00	\$1,020,800.00	\$127,600.00	\$893,200.00
20+	1,561	1,561	300.00	\$468,300.00	\$39,025.00	\$429,275.00
TOTAL Annual Revenue:				\$6,301,500.00	\$1,644,325.00	\$4,657,175.00

**Subject: Business License Fee Increase, HB 162**

**Date: Fri, 4 Apr 2003 11:39:56 -0900**

**From: Bob Deitrick <deitrick@ptialaska.net>**

**To: Representative\_Tom\_Anderson@legis.state.ak.us**

Dear Representative Anderson,

My name is Robert (Bob) Deitrick and I am a self-employed contractor providing special education mediation and consultation services for Alaskan school districts and parents of disabled children. I have been providing this service for three years, since my retirement as a teacher in the Juneau School District. The name of my business is Special Education Mediation and Educational Services.

As a self-employed contractor I need to maintain a business license in order to continue providing this service in Alaska. I also need to maintain my self-employed status in order to deduct operating/office expenses while providing this service. I am a home-based business and provide my services on site, as needed, anywhere in Alaska.

My operating expenses amount to 35% to 50% of my gross income, depending on the amount of travel required and location of the school district. I pay about 50% of that balance for federal income tax and self-employment tax. For the 2002 tax year, my net income for providing this service was \$4,300. As you can surmise, I am not getting rich from this job, but I am supplementing my pens. on while providing a needed service to school districts and parents.

If the license fee is increased to \$200 per year as proposed in HB 162, that will amount to 4.7% of my net income going toward paying these fees in order to stay in business and provide this service.

I am not opposed to paying a business license fee and I do recognize the need to generate additional revenue for Alaska. The \$100 head tax for workers in Alaska is also being discussed as an additional revenue source, and that will also affect me as a self-employed service provider.

I do urge you to consider the impact the proposed fee increase will have on small-business operators such as myself. I am not on the same level as million and billion dollar businesses operating in Alaska, but I have been paying the same fee for a business license. Maybe it is time to initiate a tiered fee based on the level of income generated and the type of business operated.

I appreciate you and your committee taking the time to consider my comments and I hope a reasonable license fee will be established for small, home-based businesses such as the one I operate.

Respectfully,  
Bob Deitrick  
4421 Teel Court  
Juneau, Alaska 99801  
(907) 789-0951

## Talking Points on HB 162

Last heard in Committee March 12, 2003.

Amended to tier the fee costs as follows:

<u># employees</u>	<u>\$ cost of fee (annual)</u>
0 – 5	\$50
6 – 25	\$100
26+	\$200

See spreadsheet that was handed out – groups are close at 0-4, 5-19, 20+.

Rick Urion, Director of Occupational Licensing is here to discuss these numbers.

Josh has these numbers in the computer and can make adjustments as the committee discusses so we can see the changes in the end revenue number.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 7, 2003

**SUBJECT:** CSHB 162(L&C) (Work Order No. 23-GH1102D)

**TO:** Representative Tom Anderson  
Chair of the House Labor and Commerce Committee  
Attn: Josh

**FROM:** *TLB*  
Theresa L. Bannister  
Legislative Counsel

This memo accompanies a draft of the bill described above.

Additional consideration. It has just been noticed that there is a potential problem with the new language of the bill. Under AS 43.70.020(a), a business obtaining a license is directed to pay the fee established by AS 43.70.030. However, the new language for AS 43.70.030(a) in the committee substitute does not cover a business that was not in business at any time during the preceding calendar year. It is not possible under the new language to determine which fee amount category the business is in, and the business could argue that it is not required to pay the fee until the next year.

Since this bill has passed out of your committee, you may wish to pass this matter along to the next committee of referral for its review.

If I may be of further assistance, please advise.

TLB:med  
03-368.med

Enclosure



A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE ANDERSON

TO: HB 162

1 Page 1, lines 4 - 5:

2 Delete all material and insert:

3 **"\* Section. 1.** AS 43.70.030(a) is amended to read:

4 (a) The license fee for each business [IS \$25] per year is

5 (1) \$50 if the business had not more than five employees at any  
6 time during the preceding calendar year;

7 (2) \$100 if the business had at least six but not more than 25  
8 employees at any time during the preceding calendar year;

9 (3) \$200 if the business had more than 25 employees at any time  
10 during the preceding calendar year."

Frank H. Murkowski, Governor

**Department of Community  
and Economic Development**

**Office of the Commissioner**

P.O. Box 110800, Juneau, AK 99811-0800

Telephone: (907) 465-2500 • Fax: (907) 465-5442 • Text Telephone: (907) 465-5437

Email: [questions@dced.state.ak.us](mailto:questions@dced.state.ak.us) • Website: [www.dced.state.ak.us/](http://www.dced.state.ak.us/)

06 March 2003

The Honorable Tom Anderson  
House of Representatives  
State Capitol, Room 432  
Juneau, AK 99801-1182

RE: Request for Hearing on HB162

Dear Representative Anderson:

On March 5, 2003, HB162 was introduced by the Governor through the House Rules committee and referred to your committee. The legislation increases the business license fee from \$25 per year to \$200 per year. The current fee amount was set in 1949 and hasn't since been changed.

The increased revenue under this legislation is estimated at \$6.9 million. This increase will help cover programs and other infrastructure the state provides that enable individuals to conduct business in the state. There are currently approximately 70,000 business licenses in the state and some fall-off is expected as a result of the increased fee.

We respectfully request you to schedule HB162 for hearing in your committee and we urge favorable action on this bill. Attached is the related fiscal note. We will be happy to meet with you and other members of the committee to provide any other information you may require. Thank you for considering our request.

Sincerely,

Edgar Blatchford,  
Commissioner

Attachment: HB162 Fiscal Note

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 162  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Increase Business License Fees BRU Occupational Licensing (117)  
 Component Occupational Licensing  
 Sponsor Rules by Request of the Governor  
 Requester House Labor & Commerce Component No. 2360

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

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

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

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

<b>CHANGE IN REVENUES - 1175</b>	<b>6,935.0</b>	<b>6,935.0</b>	<b>6,935.0</b>	<b>6,935.0</b>	<b>6,935.0</b>	<b>6,935.0</b>
----------------------------------	----------------	----------------	----------------	----------------	----------------	----------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1175 - BusLic Recelpts	6,935.0	6,935.0	6,935.0	6,935.0	6,935.0	6,935.0
<b>TOTAL.</b>	<b>6,935.0</b>	<b>6,935.0</b>	<b>6,935.0</b>	<b>6,935.0</b>	<b>6,935.0</b>	<b>6,935.0</b>

Estimate of any current year (FY2003) cost: 0.0

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

**POSITIONS**

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

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

The bill increases the business license fee from \$25.00 per year to \$200.00 per year. Business Licensing regulation 12 AAC 12.010(a) specifies that business licenses are issued on a biennial cycle, and therefore licensees will be expected to pay \$400.00 license fees upon issuance of new or renewed licenses.

**REVENUE:**

The revenue increase identified above is based on licensees that would be eligible to renew, assuming that 40% of the 73,000 licensees would not renew due to the fee increase.

Prepared by: Tom Lawson, Director  
 Division Administrative Services  
 Approved by: Edgar Blatchford, Commissioner  
 Agency Department of Community & Economic Development

Phone (907) 465-2144  
 Date/Time 3/6/03 3:47 PM  
 Date 3/6/2003

**HB**

**164**

