

## **Chapter 08.18. CONSTRUCTION CONTRACTORS AND HOME INSPECTORS**

### **Article 01. REGISTRATION**

*Sec. 08.18.010. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

#### **Sec. 08.18.011. Registration required.**

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

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

(c) [Effective July 1, 2004]. Unless exempt under AS 08.18.156 or serving lawfully as an associate home inspector under (d) of this section, an individual may not perform a home inspection for a residence

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

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

(d) [Effective July 1, 2004]. Notwithstanding (c) of this section, an individual who is not registered as a home inspector under this chapter may perform a home inspection as an associate home inspector if the individual is

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

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

(e) [Effective July 1, 2004]. A registered home inspector who employs an associate home inspector under

(d) of this section is liable for the work done by the associate home inspector.

(f) [Effective July 1, 2004]. An individual who holds a joint registration for home inspection is considered to be registered as both a home inspector for new homes and a home inspector for existing homes.

#### **Sec. 08.18.013. Categories of contractors.**

The department may adopt regulations establishing categories of contractors and the registration or endorsement requirements for persons in those categories.

*Sec. 08.18.020. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.021. Application for registration.**

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

- (1) the applicant's social security number;
- (2) if applying to be a registered contractor, the type of contracting activity, whether a general or a specialty contractor and, if the latter, the type of specialty;
- (3) if applying to be a registered home inspector, whether the applicant is applying to inspect new homes or existing homes, or both;
- (4) if applying to be a registered contractor, the name and address of each partner if the applicant is a firm or partnership, or the name and address of the owner if the applicant is an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant is a corporation; and
- (5) if applying to be a registered home inspector, the name and address of the applicant.

(b) The information contained in the application shall be a matter of public record and open to public inspection.

**Sec. 08.18.022. Home inspectors; associate home inspectors.**

(a) The department shall issue a certificate of registration as a home inspector for new homes, existing homes, or both, as appropriate, to an individual who

- (1) passes the appropriate home inspection examination; for purposes of this paragraph, the appropriate home inspection examination for an individual who applies to be registered for inspection of
  - (A) existing homes is the examination offered by the American Society of Home Inspectors, American Home Inspectors Training Institute, or National Association of Home Inspectors;
  - (B) new homes or for a joint registration is the examination offered by the International Code Council;
- (2) meets the educational and experience requirements adopted by the department in regulations for the type of registration applied for;
- (3) submits a complete application for registration within one year after passing the examination required under (1) of this subsection;
- (4) within the seven years preceding the date of application, has not been under a sentence for an offense related to forgery, theft in the first or second degree, extortion, or defrauding creditors or for a felony involving dishonesty;
- (5) has not had the authority to perform home inspections revoked in this state or in another jurisdiction;
- (6) is not the subject of an unresolved criminal complaint or unresolved disciplinary action before a regulatory authority in this state or in another jurisdiction related to real estate or home inspection matters; and

(7) pays the appropriate fees.

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

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

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

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

**Sec. 08.18.023. Pre-inspection documents and inspection reports. [Effective July 1, 2004].**

(a) Before performing a home inspection, a registered home inspector or associate home inspector shall provide to the person on whose behalf a home is inspected a written document that includes the home inspector's registration number and that specifies

(1) the scope of intended inspection; the scope of the intended inspection may include systems and components that are not listed in AS 08.18.171(8); and

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

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

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

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

**Sec. 08.18.024. Specialty contractors.**

The department may authorize the limited use of specific construction techniques or materials that are defined by the department as part of one specialty trade by a specialty contractor licensed in a different specialty trade if those construction techniques or materials are a small but inseparable part of what is required to complete that specialty contractor's work.

**Sec. 08.18.025. Residential contractors.**

(a) A general contractor may not undertake the construction or alteration, or submit a bid to undertake the construction or alteration of a privately-owned residential structure of one to four units or advertise or publicly represent that the general contractor may undertake work of this type in the state without a residential contractor endorsement issued under this section. In this subsection, "alteration" means changes that have a value greater than 25 percent of the value of the structure being altered.

(b) The department shall issue a residential contractor endorsement to a person who

- (1) has a certificate of registration as a general contractor;
- (2) passes a residential contractor examination, which shall be offered by the department at least once each year in each judicial district; the examination, which may be written or practical, may test competence in relation to arctic structural and thermal construction techniques and other matters as determined by the department in consultation with representatives of the construction industry;
- (3) applies for an endorsement within 12 months after passing the examination required under (2) of this subsection;
- (4) within the two years preceding the date of application for the endorsement, has satisfactorily completed either the Alaska craftsman home program sponsored by the Department of Community and Economic Development, or its equivalent, or a postsecondary course in arctic engineering, or its equivalent;
- (5) within the seven years preceding the date of application, has not been under a sentence for an offense related to forgery, theft in the first or second degree, extortion, or conspiracy to defraud creditors or for a felony involving dishonesty; and
- (6) pays the appropriate fees.

(c) The department may not renew an endorsement issued under this section unless the applicant submits proof of continued competency relating to residential contracting that satisfies the department. A lapsed endorsement may be reinstated, within two years after the lapse, upon proof of continued competency, payment of a renewal fee for the intervening time period, and payment of any penalty fee established under [AS 08.01.100](#) (b). If the endorsement has been lapsed for more than two years, the department may not reinstate it until the person also passes the residential contractor examination described in (b) of this section.

**Sec. 08.18.026. Electrical contractors.**

- (a) The department may not issue a certificate of registration as an electrical contractor to an applicant unless the applicant is, or employs, a person currently licensed as an electrical administrator under [AS 08.40](#).
- (b) Each applicant for an electrical contractor's certificate of registration may employ more than one electrical administrator.
- (c) If the relationship of the only electrical administrator with a registered electrical contractor is terminated, the registration is void 30 days after the next regularly scheduled examination unless the electrical contractor has hired a licensed electrical administrator in the interim.

**Sec. 08.18.028. Mechanical contractors.**

- (a) The department may not issue a certificate of registration as a mechanical contractor to an applicant unless the applicant is, or employs, a person currently licensed as a mechanical administrator under [AS 08.40](#).
- (b) Each applicant for a mechanical contractor's certificate of registration may employ more than one mechanical administrator.
- (c) If the relationship of the only mechanical administrator with a registered mechanical contractor is terminated, the registration is void 30 days after the next regularly scheduled mechanical administrator's examination unless the mechanical contractor has hired a licensed mechanical administrator in the interim.

*Sec. 08.18.030. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.031. Certificate of registration.**

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

(b) The commissioner may not issue a certificate of registration or renew the registration of an applicant whose registration has been revoked or suspended or against whom a fine has been imposed under this chapter until the period of revocation or suspension has expired and any fine has been paid.

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

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

*Sec. 08.18.040. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.041. Fees.**

(a) The department shall set fees under AS 08.01.065 for

- (1) registration and renewal of registration for all categories of contractors;
- (2) registration and renewal of registration for a home inspector qualified to inspect new homes;
- (3) registration and renewal of registration for a home inspector qualified to inspect existing homes;
- (4) joint registration and renewal of joint registration for home inspectors;
- (5) registration and renewal of registration as an associate home inspector;
- (6) examinations for applicants for home inspector registration;
- (7) examination, issuance of initial endorsement, and renewal of active or inactive endorsements for residential contractors; and
- (8) departmental publications and seminars related to this chapter.

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

*Sec. 08.18.050. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.051. Identification requirements for contractors.**

(a) Except as provided otherwise by law, a person who has registered as a contractor under one name as required by this chapter may not act in the capacity of a contractor under any other name unless that name also is registered.

(b) All advertising, contracts, correspondence, cards, signs, posters, papers, and documents prepared by a contractor for the contracting business must show the contractor's name, mailing address, and address of the contractor's principal place of business. Advertising and contracts must also include the contractor's registration number.

(c) Individual contractors and partners, associates, agents, salesmen, solicitors, officers, and employees of contractors shall use their true names and addresses and the true name of the contractor firm at all times while acting in the capacity of a contractor or performing related activities.

**Sec. 08.18.053. Identification requirements for home inspectors.**

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

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

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

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

*Sec. 08.18.060. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.061. Requirements of political subdivision.**

A contractor or home inspector who is registered with the state under this chapter may not be required to give bond in applying for or holding a license issued by a political subdivision for a similar occupation.

*Sec. 08.18.070. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Article 02. BOND AND INSURANCE**

**Sec. 08.18.071. Bond required.**

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

- (1) taxes and contributions due the state and political subdivisions;
- (2) persons furnishing labor or material or renting or supplying equipment to the applicant; and
- (3) amounts that may be adjudged against the applicant by reason of negligent or improper work or breach of contract in the conduct of the contracting business or home inspection activity, as applicable, or by reason of damage to public facilities occurring in the course of a construction project.

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

(c) The bond required by this section remains in effect until cancelled by action of the surety, the principal, or the commissioner. An action may not be commenced upon the bond later than three years after its cancellation.

**Sec. 08.18.080.** *[Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.081. Claims against contractor or home inspector.**

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

- (1) labor, including employee benefits;
- (2) taxes and contributions due the state, city, and borough, in that order;
- (3) material and equipment;
- (4) claims for breach of contract;
- (5) repair of public facilities.

(b) If a judgment is entered against the cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit, in accordance with the priorities set out in (a) of this section.

(c) If the claim for which a person may bring suit under (a) of this section is subject to AS 09.45.881 - 09.45.899, the person may not bring suit unless the person complies with AS 09.45.881 - 09.45.899.

**Sec. 08.18.085. Legal actions against home inspector. [Effective July 1, 2004].**

(a) Notwithstanding contrary provisions of AS 08.18.081 or AS 09.10, a person may not bring an action against an individual registered under this chapter based on a home inspection report unless the action is commenced within one year.

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

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

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

(2) received the home inspection report with the written consent of the party for whom the home inspection was originally performed; or

(3) acquired the property for which the home inspection report was conducted by inheritance or bequest from a person who could have brought an action under (1) or (2) of this subsection.

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

*Sec. 08.18.090. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.091. Cancellation of bond.**

This chapter does not impair the right of a bonding company to cancel its bond of a contractor for lawful reasons.

*Sec. 08.18.100. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.101. Insurance required.**

Each applicant, at the time of applying for registration or upon renewal of registration, shall file with the commissioner satisfactory evidence that the applicant has in effect

(1) to the extent required under AS 23.30, workers' compensation insurance that is purchased from a private insurer who is admitted to do business in the state and that shows coverage in this state, appropriate employee classifications, and rates applicable in this state, or a valid workers' compensation self-insurance certificate issued by the Alaska Workers' Compensation Board; and

(2) public liability and property damage insurance covering the applicant's contracting operations in this state in the sum of not less than \$20,000 for damage to property, \$50,000 for injury, including death, to any one person, and \$100,000 for injury, including death, to more than one person.

*Sec. 08.18.110. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.111. Advertising bond and insurance.**

Contractors and home inspectors may not advertise that they are bonded and insured simply because they have complied with the bond and insurance requirements of this chapter.

Sec. 08.18.115. Return of cash deposit.

(a) A contractor or home inspector who has filed a cash deposit and who ceases doing business as a contractor or home inspector may request the return of as much of that cash deposit as is held by the commissioner by

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

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

(A) requests return of the cash deposit;

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

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

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

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

(2) no action has been commenced upon the cash deposit that has not been dismissed or reduced to a final judgment that has been satisfied.

### **Article 03. ENFORCEMENT**

#### **Sec. 08.18.116. Investigations.**

Either the Department of Community and Economic Development or the Department of Labor and Workforce Development may investigate alleged or apparent violations of this chapter relating to contractors. The Department of Community and Economic Development may investigate alleged or apparent violations of this chapter relating to home inspection activities. These departments, upon showing proper credentials, may enter, during regular hours of work, a construction site where it appears that contracting work is being done. The departments may make inquiries about the identity of the contractor or the person acting in the capacity of a contractor. The Department of Community and Economic Development may make inquiries about the identity of a home inspector or a person acting in the capacity of a home inspector. Upon demand, a contractor or home inspector or person acting in the capacity of a contractor or home inspector, or that person's representative, shall produce evidence of current endorsement, if applicable, and registration.

#### **Sec. 08.18.117. Issuance of citations.**

Either the Department of Community and Economic Development or the Department of Labor and Workforce Development may issue a citation for a violation if there is probable cause to believe a person has violated this chapter with respect to contractor activities. The Department of Community and Economic Development may issue a citation for a violation if there is probable cause to believe a person has violated this chapter with respect to home inspection activities. Each day a violation continues after a citation for the violation has been issued constitutes a separate violation.

#### **Sec. 08.18.118. Procedure and form of citation issuance and procedure.**

(a) A citation issued under this chapter must be in writing. A person receiving the citation is not required to sign a notice to appear in court.

(b) The time specified in the notice to appear on a citation issued under this chapter must be at least five days, not including weekends and holidays, after the issuance of the citation, unless the person cited requests an earlier hearing.

(c) The Department of Community and Economic Development and the Department of Labor and Workforce Development are responsible for the issuance of books containing appropriate citations, and each shall

maintain a record of each book issued and each citation contained in it. Each department shall require and retain a receipt for every book issued to an employee of that department.

(d) The department that issues a citation under this chapter shall deposit the original or a copy of the citation with a court having jurisdiction over the alleged offense. Upon its deposit with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The department that issued the citation may not dispose of it or copies of it or of the record of its issuance except as required under this subsection and (e) of this section.

(e) The Department of Community and Economic Development and the Department of Labor and Workforce Development shall require the return of a copy of every citation issued by the respective department under this chapter and of all copies of every citation that has been spoiled or upon which an entry has been made and not issued to an alleged violator. The departments shall also maintain, in connection with every citation issued by the respective department, a record of the disposition of the charge by the court where the original or copy of the citation was deposited.

(f) If the form of citation issued under this chapter includes the essential facts constituting the offense charged, and if the citation is sworn to as required under the laws of this state for a complaint charging commission of the offense alleged in the citation, then the citation when filed with a court having jurisdiction is considered to be a lawful complaint for the purpose of prosecution.

**Sec. 08.18.119. Failure to obey citation.**

Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, a person who without lawful justification or excuse fails to appear in court to answer a citation issued under this chapter, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor.

**Sec. 08.18.121. Suspension and revocation of registration.**

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

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

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

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

(e) Proceedings to suspend or revoke a registration issued under this chapter are governed by AS 44.62 (Administrative Procedure Act).

(f) If the Department of Community and Economic Development or the Department of Labor and Workforce Development determines that a contractor or person acting in the capacity of a contractor is in violation of this chapter, that department may give written notice to the person prohibiting further action by the person as a contractor. If the Department of Community and Economic Development determines that a home inspector or a person acting in the capacity of a home inspector is in violation of this chapter, the department may give written notice to the person prohibiting further action by the person as a home inspector. The prohibition in a

notice given under this subsection continues until the person has submitted evidence acceptable to the appropriate department showing that the violation has been corrected.

(g) A person affected by an order issued under this chapter may seek equitable relief preventing the Department of Community and Economic Development or the Department of Labor and Workforce Development from enforcing the order.

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

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

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

(1) the application is fraudulent or misleading;

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

(3) the endorsement holder or registrant is incompetent or has engaged in fraudulent practices.

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

*Sec. 08.18.130. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.131. Injunction; civil penalty.**

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

*Sec. 08.18.140. [Repealed, Sec. 1 ch 100 SLA 1968].*

Repealed or Renumbered

**Sec. 08.18.141. Violations.**

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

(b) Criminal prosecution for a violation of this chapter does not preclude the Department of Community and Economic Development or the Department of Labor and Workforce Development from seeking available civil remedies.

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

Repealed or Renumbered

**Sec. 08.18.151. Legal actions by contractor or home inspector.**

A person acting in the capacity of a contractor or home inspector may not bring an action in a court of this state for the collection of compensation for the performance of work or for breach of a contract for which registration is required under this chapter without alleging and proving that the contractor or home inspector was a registered contractor or registered home inspector, as applicable, at the time of contracting for the performance of the work.

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

Repealed or Renumbered

**Article 04. GENERAL PROVISIONS**

**Sec. 08.18.152. Prohibited acts for home inspectors.**

An individual registered under this chapter as a home inspector or associate home inspector may not

- (1) perform or offer to perform, for an additional fee, repairs to a subject property on which the home inspector or the home inspector's company has prepared a home inspection report in the past 12 months;
- (2) inspect for a fee any property in which the home inspector or the home inspector's company has a financial interest or an interest in the transfer of the property;
- (3) offer or deliver compensation, an inducement, or a reward to the owner of the inspected property, the broker, or the agent, for the referral of business to the home inspector or the home inspector's company;
- (4) without the written consent of the home inspection client or the client's legal representative, disclose information from a home inspection report prepared by the home inspector or the home inspector's company unless the disclosure is made
  - (A) to a subsequent client who requests a home inspection of the same premises; or
  - (B) by the home inspector in an administrative or judicial proceeding in which disclosure of the home inspection report is relevant to resolution of the legal issues in the proceeding;
- (5) without the written consent of all interested parties, accept compensation from more than one interested party for the same home inspection services;
- (6) accept from a person who has other dealings with a home inspection client a commission or allowance, directly or indirectly, for work for which the home inspector or the home inspector's company is responsible;
- (7) accept an engagement to make an inspection or to prepare a report in which the employment itself or the fee payable for the inspection is contingent upon the conclusions in the report, preestablished findings, or the close of escrow.

**Sec. 08.18.154. Limitation on home inspector's activities.**

A registration issued under AS 08.18.022 does not authorize the holder to perform an activity for which a license is required under provisions of this title that are outside of this chapter.

**Sec. 08.18.156. Exemptions related to home inspections.**

(a) Notwithstanding other provisions of this chapter, an individual who inspects a home is not required to be registered under this chapter as a home inspector or associate home inspector if the individual is

(1) employed by the federal or state government, a political subdivision of the state, a regional housing authority created under AS 18.55.996(b), or a municipality or unincorporated community and the employee is performing only duties that are within the employee's official duties;

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

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

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

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

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

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

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

(b) Notwithstanding the definition of "home inspection" in AS 08.18.171(8), an individual is not considered to be doing a home inspection for purposes of this chapter if the individual

(1) is in the business of repairing, maintaining, or installing any of the systems or components listed in AS 08.18.171 (8); and

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

#### **Sec. 08.18.161. Exemptions.**

To the extent that this chapter governs contractors, this chapter does not apply to

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

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

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

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

- (5) the sale or installation of finished products, materials, or articles of merchandise that are not actually fabricated into and do not become a permanent, fixed part of a structure;
- (6) construction, alteration, or repair of personal property;
- (7) a person who only furnished materials, supplies, or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;
- (8) work on one project under one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than \$10,000; this exemption does not apply when the work is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or when the work is divided into contracts of amounts less than \$10,000 for the purpose of evasion of this chapter or otherwise; this exemption does not apply to a person who advertises or puts out a sign or card or other device that might indicate to the public that the person is a contractor, or that the person is qualified to engage in the contracting business; a contractor who performs work priced at \$2,500 or more, under this exemption, shall nevertheless keep in force public liability and property damage insurance with coverage in at least the amounts set out in AS 08.18.101 ;
- (9) an owner who contracts for a project with a registered contractor;
- (10) a person working on that person's own property, whether occupied by the person or not, and a person working on that person's own residence, whether owned by the person or not;
- (11) an owner or tenant of commercial property who uses the owner's or tenant's own employees to do maintenance, repair, and alteration work upon that property;
- (12) an owner who acts as the owner's own contractor and in doing so hires workers on an hourly basis, hires subcontractors, purchases materials and, as such, sees to the paying for all labor, subcontractors, and materials; in this case, the owner shall be limited to construction of one home, duplex, triplex, four-plex, or one commercial building a year;
- (13) a person performing construction work incidental to farming, dairying, agriculture, horticulture, stock or poultry raising, mining, logging, fishing, clearing, or other work upon the land in rural districts for fire prevention purposes, or access road building, unless the person is a licensee.

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

Repealed or Renumbered

**Sec. 08.18.171. Definitions.**

In this chapter,

- (1) "builder" means general contractor;
- (2) "cash deposit" means a cash deposit or other negotiable security filed with the commissioner in lieu of a surety bond under AS 08.18.071(b);
- (3) "commissioner," unless the text reads otherwise, means the commissioner of the Department of Community and Economic Development;
- (4) "contractor" means a person who, in the pursuit of an independent business, undertakes or offers to perform, or claims to have the capacity to perform, or submits a bid for a project to construct, alter, repair, move, or demolish a building, highway, road, railroad, or any type of fixed structure, including excavation and site development and erection of scaffolding; "contractor" includes a general contractor, builder, mechanical contractor, specialty contractor, and subcontractor;

(5) "department" means the Department of Community and Economic Development, unless the context indicates otherwise;

(6) "existing home" means a residence previously occupied as a residence;

(7) "general contractor" means a contractor whose business operations require the use of more than three trades or the use of mechanical or specialty contractors and subcontractors who are under the supervision of the contractor;

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

(A) heating and air-conditioning systems;

(B) plumbing and electrical systems;

(C) built-in appliances;

(D) roof, attic, and visible insulation;

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

(F) foundation and basement;

(G) visible interior and exterior structures;

(H) drainage to and from the residence;

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

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

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

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

(12) "mechanical contractor" means a contractor whose business operations involve plumbing, pipe fitting, sheet metal, heating, air conditioning, ventilating, or sprinkler and dry chemical fire protection trades in order to install or modify mechanical piping and systems, devices, fixtures, and equipment or other mechanical materials subject to the following codes as published by the International Association of Plumbing and Mechanical Officials or the International Conference of Building Officials:

(A) Uniform Plumbing Code;

(B) Uniform Swimming Pool, Spa, and Hot Tub Code;

(C) Uniform Solar Energy Code; and

(D) Uniform Mechanical Code;

- (13) "new home" means a residence not previously occupied as a residence;
- (14) "residence" means
- (A) a single-family home other than a mobile home;
  - (B) a duplex, triplex, or four-plex; or
  - (C) a residential townhouse or residential condominium unit;
- (15) "residential contractor" means a general contractor whose business and operation involve undertaking the construction or alteration of a privately-owned residential structure of one to four units that is used or intended to be used as a human dwelling;
- (16) "specialty contractor" means a contractor, other than a mechanical contractor, whose business operations require the use of not more than three trades;
- (17) "trade" means a skill used in the field of construction, as defined by regulation by the department;
- (18) "visual examination" means an examination performed in person at the physical location of the residence except that, if a method other than personal physical inspection has been approved by the Alaska Housing Finance Corporation under AS 18.56.300 (b), use of the other approved method constitutes a visual examination under this chapter.

***Sec. 08.18.180. - 08.18.350 [Repealed, Sec. 1 ch 100 SLA 1968].***

Repealed or Renumbered