

Statutes and Regulations **Construction Contractors**

November 2007

(Centralized Statutes and Regulations not included)



DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS
AND PROFESSIONAL LICENSING***

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CHAPTER 18.
CONSTRUCTION CONTRACTORS.

Article

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ARTICLE 1.
REGISTRATION.

Section

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

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

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

(d) 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

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

(e) 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) 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. 08.18.021. 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 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 either

(A) within three years after passing the examination required under (1) of this subsection; or

(B) accompanied by documentation that the applicant has completed continuing education requirements established by the department;

(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. (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. (a) 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.

(b) Notwithstanding (a) of this section, a specialty contractor may perform work that

(1) requires the use of not more than three trades; or

(2) is exempt under AS 08.18.161(8).

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 Commerce, 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. 08.18.031. 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. 08.18.041. 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. 08.18.051. Identification requirements. (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 "house inspector" unless they are registered as a home inspector under this chapter.

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.

ARTICLE 2. BOND AND INSURANCE.

Section

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- 81. Claims against contractor
- 85. Legal actions against home inspector
- 91. Cancellation of bond
- 101. Insurance required
- 111. Advertising bond and insurance
- 115. Return of cash deposit

Sec. 08.18.071. Bond required. (a) Except as provided in (d) and (e) of this section, 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.

(d) A general contractor or specialty contractor who is in compliance with the surety bond or deposit requirements of (a) and (b) of this section is not required to file another surety bond or increase a deposit with the commissioner when the general contractor or specialty contractor applies to be a registered home inspector. However, if the general contractor or specialty contractor subsequently is neither a general contractor nor a specialty contractor and becomes only a registered home inspector, the home inspector shall provide a surety bond or deposit in lieu of the bond in the manner and amount required for registered home inspectors under this section.

(e) An applicant for, or holder of, a certificate of registration as a home inspector may, in lieu of filing with the commissioner a surety bond or deposit that meets the requirements of this section, file evidence satisfactory to the commissioner that the applicant is employed by a registered home inspector who is in compliance with the surety bond or deposit requirements of this section.

Sec. 08.18.081. Claims against contractor. (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. (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. 08.18.091. 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. 08.18.101. Insurance required. (a) 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.

(b) Proof of insurance coverage for an applicant under (a) of this section may be satisfied by providing evidence that the applicant is covered by a policy in effect for the applicant's employer at least to the extent required under (a) of this section.

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 3. ENFORCEMENT.

Section

116. Investigations

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Sec. 08.18.116. Investigations. Either the Department of Commerce, 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 Commerce, 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 Commerce, 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. Except as provided in AS 08.18.125, either the Department of Commerce, 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 Commerce, 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 shall 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 shall 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 Commerce, 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 Commerce, 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 the Administrative Procedure Act (AS 44.62).

(f) If the Department of Commerce, 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 Commerce, 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 Commerce, 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. 08.18.125. Administrative fine and procedure. (a) Notwithstanding any other remedy available under this chapter and except as provided in (e) of this section, the department may impose an administrative fine of not more than \$1,000 for the first violation and not more than \$1,500 for a second or subsequent violation of either AS 08.18.011 or 08.18.025.

(b) The department shall issue a written notice of an administrative fine imposed under (a) of this section, together with a statement of the reason for the fine, a copy of the applicable procedures, and notice of an opportunity to request a hearing, including the contact information for making the request, within 30 days after the date of the notice of the fine.

(c) If a person who is issued a notice of an administrative fine under (b) of this section fails to request a hearing within 30 days after the date of the notice, the right to a hearing is waived, and the administrative fine is not subject to judicial review. A hearing request must be in writing and must clearly state the issues to be raised at the hearing. The department shall schedule a hearing before a hearing officer not earlier than 10 days after receiving the request for a hearing.

(d) A decision of a hearing officer under this section is a final administrative decision subject to review by a superior court under AS 44.62 (Administrative Procedure Act).

(e) The department may not impose an administrative fine on a person who is acting as a contractor or home inspector in an area with a population of 1,000 or less that is not connected by road or rail to Anchorage or Fairbanks.

Sec. 08.18.131. Injunction; civil penalty. In an action instituted in the superior court by the Department of Commerce, 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 Commerce, 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 \$1,000 for each violation. Each day that an unlawful act continues constitutes a separate violation.

Sec. 08.18.141. Violations. (a) A contractor, a home inspector, or a person acting in the capacity of a contractor or home inspector is guilty of a class B misdemeanor if the person

- (1) knowingly violates AS 08.18.011 or 08.18.025; and
- (2) has been previously
 - (A) convicted of violating AS 08.18.011 or 08.18.025;
 - (B) found guilty of a violation under AS 08.18.117 if the violation involved AS 08.18.011 or 08.18.025; or
 - (C) fined under AS 08.18.125.

(b) A contractor, a home inspector, or a person acting in the capacity of a contractor or home inspector who violates a provision of this chapter, other than a violation under (a) of this section, is guilty of a violation punishable under AS 12.

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

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. 08.18.152. 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.

ARTICLE 4. GENERAL PROVISIONS.

Section

- 161. Exemptions**
- 171. Definitions**

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 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 commercial building every two years;

(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. 08.18.171. 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 Commerce, 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 Commerce, 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 are described in AS 08.18.024(b);
- (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.

**CHAPTER 21.
CONSTRUCTION CONTRACTORS.**

Article

1. **Registration (12 AAC 21.010 — 12 AAC 21.160)**
2. **Specialty Contractor Trades (12 AAC 21.200 — 12 AAC 21.570)**
3. **Mechanical Contractor (12 AAC 21.600)**
4. **Residential Contractor Endorsement (12 AAC 21.650 — 12 AAC 21.695)**
5. **General Provisions (12 AAC 21.990)**

**ARTICLE 1.
REGISTRATION.**

Section

10. **Joint venture agreement**
20. **Application for registration as a construction contractor**
30. **Registered name; address**
40. **Change of name and address**
43. **Dissolution or cessation of business activities**
45. **Changing sole proprietorships and partnerships**
50. **Incorporation**
60. **Effective date**
70. **Renewal; lapsed registration**
80. **Changing from specialty or mechanical contractor to general contractor**
85. **Changing from general contractor to specialty or mechanical contractor**
90. **Negotiable security in place of surety bond**
100. **(Repealed)**
110. **Prohibitions**
120. **Cash deposits instead of bond**
130. **Claims against cash deposits**
140. **Payment of claims against a cash deposit**
150. **Other judicial remedies**
160. **Violations of bonding or insurance requirements**

12 AAC 21.010. JOINT VENTURE AGREEMENT. A notarized copy of a joint venture agreement entered into for the purpose of AS 08.18.011 must be on file at the main business office in the state of each party to the joint venture. This copy must be available for presentation on demand as proof of the joint venture and proper registration in accordance with AS 08.18.011. Notice of a joint venture agreement need not be on file with the department unless specifically requested by the department.

Authority: AS 08.18.011 AS 44.33.020

12 AAC 21.020. APPLICATION FOR REGISTRATION AS A CONSTRUCTION CONTRACTOR. (a) The application for registration required by AS 08.18.021 must be completed in every respect and made under oath.

(b) When an incomplete application is received by the department, or application is made on an obsolete form, it will be returned with all supporting documents to the applicant.

(c) An application is incomplete under any of the following circumstances:

- (1) all required information is not provided, including appropriate signatures and verification;
- (2) the surety bond required by AS 08.18.071 is not provided, or is incomplete;
- (3) the evidence of insurance required by AS 08.18.101 is not provided, or is incomplete;
- (4) the surety has not filed with the department a power-of attorney designating its attorney-in-fact for the execution of the bond listed in (c)(2) of this section;
- (5) the bond listed in (c)(2) of this section is not written for the balance of the registration year;
- (6) the required fee has not been submitted.

Authority: AS 08.18.051 AS 44.33.020

12 AAC 21.030. REGISTERED NAME; ADDRESS. (a) The name under which a contractor is doing business must be separate and distinct from all other registered contractors' names.

(b) The department will refuse to register a contractor doing business under a name which is identical to the name under which a different contractor is registered, or is so similar to it as to create confusion or mislead a reasonable person.

(c) *Repealed 4/3/88.*

Authority: AS 08.18.051 AS 10.05.034 AS 44.33.020

12 AAC 21.040. CHANGE OF NAME AND ADDRESS. (a) If the name under which a contractor is registered requires change, the contractor shall return the certificate of registration under the old name to the department for cancellation and shall submit

- (1) an application for name change on a form provided by the department;
- (2) a properly executed rider to the bond and insurance on file with the department that shows the surety for the bond and insurance has extended coverage under the new name; and
- (3) the fee established in 12 AAC 02.180.

(b) If the address under which a contractor is registered requires change, the contractor shall notify the department in writing. A duplicate certificate of registration reflecting the new address will be provided upon request and payment of the duplicate license fee established by 12 AAC 02.105.

(c) A contractor shall continue to do business under the name which is registered until a certificate of registration issued in the new name has been received from the department.

(d) Failure to comply with this section may result in the contractor being considered in violation of AS 08.18.011 or AS 08.18.051 and subject to the penalties provided for in AS 08.18.141 and AS 08.18.151.

Authority: AS 08.01.080 AS 08.18.051

12 AAC 21.043. DISSOLUTION OR CESSATION OF BUSINESS ACTIVITIES. (a) A registered contractor that dissolves or ceases to do business must file a written notice of the change with the department within 15 days of the dissolution or cessation of business activity. The written notice must be filed by the following:

- (1) if a sole proprietorship, the sole proprietor;
- (2) if a partnership, at least one of the former partners;
- (3) if a limited liability company, at least one of the former managing partners;
- (4) if a corporation, at least one of the former corporate officers.

(b) A notice filed under (a) of this section does not meet the requirement for a notarized statement under AS 08.18.115. However, a notarized statement filed under AS 08.18.115 will meet the requirement of (a) of this section.

Authority: AS 08.01.080 AS 08.18.021 AS 08.18.051

12 AAC 21.045. CHANGING SOLE PROPRIETORSHIP AND PARTNERSHIPS. (a) A registered contractor that is a sole proprietorship that forms a partnership for the purpose of engaging in the contracting business must apply for a new registration under this section. The partnership must submit

- (1) a complete application for a new registration, on a form provided by the department;
- (2) the applicable fees established in 12 AAC 02.180;
- (3) either a new surety bond or an endorsement to the surety bond on file with the department, as required by AS 08.18.071;
- (4) evidence of new public liability and property damage insurance, as required under AS 08.18.101;
- (5) if applicable, workers' compensation insurance as required under AS 08.18.101.

b) One or more partners of a dissolved partnership may continue to do business under the same business name as the dissolved partnership as a sole proprietorship, or with different partners as a new partnership, by submitting

- (1) a complete application for a new registration, on a form provided by the department;
- (2) the applicable fees established in 12 AAC 02.180;
- (3) either a new surety bond or an endorsement to the surety bond on file with the department, as required by AS 08.18.071;
- (4) evidence of new public liability and property damage insurance, as required under AS 08.18.101;
- (5) if applicable, workers' compensation insurance as required under AS 08.18.101.

Authority: AS 08.01.080 AS 08.18.051 AS 08.18.101
AS 08.18.021 AS 08.18.071 AS 44.33.020

12 AAC 21.050. INCORPORATION. A registered contractor that is a sole proprietorship or partnership that forms a corporation for the purpose of engaging in the contracting business must apply for a new registration under this section. The corporation must submit

- (1) a complete application for a new registration, on a form provided by the department;
- (2) the applicable fees established in 12 AAC 02.180;
- (3) either a new surety bond or an endorsement to the surety bond on file with the department, as required by AS 08.18.071;
- (4) evidence of new public liability and property damage insurance, as required under AS 08.18.101;
- (5) if applicable, workers' compensation insurance as required under AS 08.18.101.

Authority: AS 08.18.011 AS 08.18.101 AS 08.18.071

12 AAC 21.060. EFFECTIVE DATE. A new certificate of registration is effective on the date it is issued by the department. A registration may not be issued with an effective date prior to the time it is received by the department in complete and good order.

Authority: AS 08.18.031 AS 44.33.020

12 AAC 21.070. RENEWAL; LAPSED REGISTRATION. An application for renewal of a certificate of registration which is received by the department in complete and good order, accompanied by the required evidence of bond and insurance and the appropriate fee will be processed as

- (1) a renewal application if received on or before the expiration date of the existing certificate of registration, and the department will issue a registration to the applicant, effective for the full registration year; or
- (2) an application for reinstatement of the certificate of registration if received after the expiration date of the existing certificate, and the department will issue a certificate of registration to the applicant, effective on the date it is issued.

Authority: AS 08.18.031 AS 44.33.020

12 AAC 21.080. CHANGING FROM SPECIALTY OR MECHANICAL CONTRACTOR TO GENERAL CONTRACTOR. A registered specialty or mechanical contractor that is changing to a general contractor must apply for the change in registration under this section. The contractor must submit

- (1) a complete application, on a form provided by the department;
- (2) the applicable fees established in 12 AAC 02.180;
- (3) either a new surety bond or an endorsement to the surety bond on file with the department, as required by AS 08.18.071;
- (4) evidence of current public liability and property damage insurance, as required under AS 08.18.101;
- (5) if applicable, workers' compensation insurance as required under AS 08.18.101.

Authority: AS 08.01.080 AS 08.18.051 AS 08.18.101
AS 08.18.021 AS 08.18.071 AS 44.33.020

12 AAC 21.085. CHANGING FROM GENERAL CONTRACTOR TO SPECIALTY OR MECHANICAL CONTRACTOR. A registered general contractor that is changing to a specialty or mechanical contractor must apply for the change in registration under this section. The contractor must submit

- (1) a complete application, on a form provided by the department;
- (2) the applicable fees established in 12 AAC 02.180;
- (3) either a new surety bond or an endorsement to the surety bond on file with the department, as required by AS 08.18.071;
- (4) evidence of current public liability and property damage insurance, as required under AS 08.18.101;
- (5) if applicable, workers' compensation insurance as required under AS 08.18.101.

Authority: AS 08.18.080 AS 08.18.051 AS 08.18.101
AS 08.18.021 AS 08.18.071 AS 44.33.020

12 AAC 21.090. NEGOTIABLE SECURITY IN PLACE OF SURETY BOND. (a) When a negotiable security is filed with the commissioner in place of the bond as provided in AS 08.18.071(b), the owner of the security shall execute an assignment of the security to the state which is attached to and becomes a part of the security.

(b) The following negotiable securities are acceptable for the purposes of AS 08.18.071(b):

- (1) for a specialty contractor, a time certificate of deposit in the face amount of \$5,000 issued by a bank or trust company authorized to do business in Alaska, and meeting the requirements of 12 AAC 21.120; and
- (2) for a general contractor, a time certificate of deposit in the face amount of \$10,000 issued by a bank or trust company authorized to do business in Alaska, and meeting the requirements of 12 AAC 21.120.

(c) Negotiable securities other than those listed in this section, filed for the purposes of AS 08.18.071(b), will be considered on a case-by-case basis.

(d) The assignment required under (a) of this section must be on a form provided by the department.

(e) When either cash or a negotiable security filed in accordance with this section and AS 08.18.071(b) is accepted by the commissioner in the place of the surety bond required by AS 08.18.071, it shall remain filed with and pledged to the state for the purposes of AS 08.18.071 for a period of three years after

- (1) the effective date of a surety bond in like amount written in compliance with AS 08.18.071;
- (2) the lapse without reinstatement of the certificate of registration; or
- (3) the suspension or revocation without reinstatement of the certificate of registration.

Authority: AS 08.01.080 AS 08.18.071

12 AAC 21.100. SPECIAL FEES. *Repealed 4/3/88.*

12 AAC 21.110. PROHIBITIONS. A person registered as a specialty contractor may not undertake or offer to perform or claim to have the capacity to perform or submit a bid for a project which requires the use of a trade for which he is not registered.

Authority: AS 08.18.011 AS 08.18.171(2) AS 44.33.020
AS 08.18.031

12 AAC 21.120. CASH DEPOSITS INSTEAD OF BOND. (a) A certificate of deposit or other negotiable instrument filed with the commissioner instead of bond must

(1) show the commissioner as payee and must bear on its face the words "State of Alaska in trust for" or similar words that allow only the commissioner to negotiate the instrument;

(2) be accompanied by an Assignment of Negotiable Instrument signed by the contractor and a bank representative acknowledging transfer to the department;

(3) be issued for a period of at least three years before maturity, or if purchased for a shorter period, be automatically renewable; and

(4) remain pledged to the state in accordance with 12 AAC 21.090(e).

(b) At the time the certificate of deposit filed with the commissioner matures, the department must receive a letter from the bank or the contractor requesting the commissioner to release the certificate to the bank for reissue. This letter must include the complete mailing address of the bank.

Authority: AS 08.01.080 AS 08.18.071 AS 44.33.020

12 AAC 21.130. CLAIMS AGAINST CASH DEPOSITS. (a) If a contractor files a cash deposit instead of a surety bond under AS 08.18.071(b), a person having a claim against the contractor for any of the items referred to in AS 08.18.071 may file a claim against the cash deposit by mailing a copy of the complaint against the contractor to the commissioner by registered or certified mail at the time suit is filed. The commissioner will maintain a record, available for public inspection, of all complaints received.

(b) To assure adequate notice to the commissioner and other claimants, the complaint must specify for which of the items referred to in AS 08.18.071 the claim arises and when the claim arose.

(c) To assure adequate notice to the claimants, the court, and the commissioner, the complaint must specify the business name of the contractor, the contractor's license number, and the number of, or receipt number for, the cash deposit from which a final judgment is sought.

(d) It is not necessary to name the commissioner as a party to the action, nor is it deemed appropriate.

(e) A complaint filed with the commissioner which meets the requirements of (b) and (c) of this section is a pending claim under this section from the time it is received by the commissioner.

(f) If a complaint filed with the commissioner does not specify the information required in (b) and (c) of this section, it is not a pending claim for purposes of establishing priority unless the claimant also files an affidavit with the commissioner containing the required information.

(g) "Cash deposit" includes negotiable securities filed with the commissioner under AS 08.18.071(b).

Authority: AS 08.18.071 AS 08.18.081 AS 44.33.020

12 AAC 21.140. PAYMENT OF CLAIMS AGAINST A CASH DEPOSIT. (a) A claimant who obtains final judgment against a contractor may tender to the commissioner a certified copy of the final judgment with the request that payment be made upon the judgment from the proceeds of the cash deposit.

(b) To be paid from the cash deposit, a final judgment must be a judgment against the cash deposit. A judgment will be considered to be one against the cash deposit under AS 08.18.081(b) if it is rendered on a claim for one of the items specified in AS 08.18.071, and either the complaint or the final judgment identifies the cash deposit as the source of payment of the claim.

(c) To be paid from the cash deposit, the judgment must show for which item or items referred to in AS 08.18.071 judgment is entered and when the claim arose.

(d) If at the time the commissioner receives the first final judgment on a pending claim against a contractor other claims are pending, the commissioner will immediately disburse the proceeds of the cash deposit to satisfy that judgment only if

(1) the total amount of all claims pending on the date the first judgment is received is less than the amount of the cash deposit; or

(2) all claims pending on the date the first judgment is received are of lower priority than the claim reduced to judgment.

(e) If, at the time the commissioner receives the first final judgment on a pending claim against a contractor, the total amount of other pending claims exceeds the amount of the cash deposit or the judgment is rendered on a claim

having lower priority than other pending claims, the commissioner will not disburse the proceeds of the cash deposit to satisfy any judgment until all pending claims are reduced to judgment or withdrawn from the commissioner's file. In this circumstance, claims received by the commissioner after receipt of the first final judgment will not be considered for payment until all previously pending claims have been satisfied or withdrawn. The later received claims will then be considered for payment from the remaining proceeds of the cash deposit, if any, in the same manner as if the previously pending claims had not existed.

(f) If a person making a claim which has lower priority than other pending claims submits a final judgment and the other pending claims of higher priority are not resolved by judgment or settlement or by being withdrawn, the person who has reduced his or her claim to judgment may establish a presumption of failure to prosecute the other claims. That presumption may be established by filing with the commissioner

(1) a written request to establish the presumption; and

(2) proof that he or she has mailed a copy of the request by certified mail to the last known address of the claimant (or attorney when the claimant is represented) with higher priority.

(g) The commissioner will place a copy of a request submitted under (f) of this section in the file open for public inspection. If the claimant named in the request as presumed not to be prosecuting his or her claim does not notify the commissioner within 60 days after the request is placed in the file that he or she is still pursuing his or her claim against the contractor, the commissioner will, in his discretion, disburse the proceeds of the cash deposit according to the procedures set out in this section.

(h) When multiple pending claims which exceed the total amount of the cash deposit are to be satisfied, those claims will be satisfied in the order of priority established under AS 08.18.081(a). Claims having equal priority under the statute will be satisfied according to the proportion that each judgment bears to the sum of all the judgments of that class of priority.

(i) If a final judgment is tendered by a claimant who has not complied with the provisions of 12 AAC 21.130, or if a final judgment upon confession of judgment without action is tendered, the commissioner will place a copy of the judgment in the record, available for public inspection, of all suits commenced. The judgment will not be considered properly tendered for payment from the proceeds of the cash deposit until 30 days after the date of receipt by the commissioner, and other claims filed with the commissioner within the 30 days will be considered pending as of the effective date of the tender of judgment.

Authority: AS 08.18.071 AS 08.18.081 AS 44.33.020

12 AAC 21.150. OTHER JUDICIAL REMEDIES. Nothing in this chapter prevents intervention, consolidation, or interpleader of claims as a means of resolving pending claims and determining to which claim or claimants the proceeds of a cash deposit will be disbursed, consistent with 12 AAC 21.130—12 AAC 21.140.

Authority: AS 44.33.020

12 AAC 21.160. VIOLATION OF BONDING OR INSURANCE REQUIREMENTS. (a) If a contractor's bonding or insurance has been cancelled, reduced by judgment, or is no longer in effect for any reason, and it is not reinstated within 20 days after the department gives the contractor a written warning, the department will, in its discretion, give the contractor written notice under AS 08.18.121(f) prohibiting further action as a contractor until submission of evidence acceptable to the department showing that the violation of the bonding or insurance requirements AS 08.18.071 or AS 08.18.101 has been corrected. Both the written demand and the deactivation notice will be sent to the contractor's current address under 12 AAC 02.900. Upon delivery or a documented attempt to deliver a deactivation notice under AS 08.18.121(f) and this subsection to the current address of a contractor, the contractor shall immediately stop all work as a contractor. The possible consequences of failure to stop all work include citation under AS 08.18.117, injunction and civil penalty under AS 08.18.131, and criminal prosecution under AS 08.18.141.

(b) In addition to a deactivation notice under AS 08.18.121(f) and (a) of this section, the department will, in its discretion, under AS 08.18.121(a)—(e), institute proceedings to revoke or suspend the registration of a contractor whose bonding or insurance required by AS 08.18.071 and AS 08.18.101 is no longer in effect. The department will also, in its discretion, deny the renewal of the contractor's registration. Revocation, suspension, and denial of renewal of contractor's registration are covered by Administrative Procedure Act (AS 44.62). The department will also, in its discretion, issue a cease and desist order under AS 08.01.087(b)(1), issue a citation under AS 08.18.117, institute an action for an injunction under AS 08.18.131, seek criminal prosecution under AS 08.18.141, deny renewal of registration, or any combination of these actions.

Authority: AS 08.01.080 AS 08.18.071 AS 08.18.121

**ARTICLE 2.
SPECIALTY CONTRACTOR TRADES.**

Section

- 200. Specialty contractor trades**
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- 550. Water system contractor**
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- 570. Other specialty contractors**

12 AAC 21.200. SPECIALTY CONTRACTOR TRADES. “Specialty contractor” is defined in AS 08.18.171. The following specialty contractor trades are the trades recognized by the department for the purposes of specialty contractor registration under AS 08.18.021, and are the trade designations that will appear on a specialty contractor certificate of registration issued by the department:

- (1) Access Flooring Contractor (12 AAC 21.210);
- (2) Acoustical and Insulation Contractor (12 AAC 21.220);
- (3) Asbestos Abatement Contractor (12 AAC 21.230);
- (4) Carpentry Contractor, Finish (12 AAC 21.240);
- (5) Carpentry Contractor, Rough (12 AAC 21.250);
- (6) Communications Contractor (12 AAC 21.260);
- (7) Concrete and Paving Contractor (12 AAC 21.270);
- (8) Demolition Contractor (12 AAC 21.280);
- (9) Drilling Contractor (12 AAC 21.290);
- (10) Drywall Contractor (12 AAC 21.300);
- (11) Electrical Contractor (12 AAC 21.310);
- (12) Elevator and Conveying System Contractor (12 AAC 21.320);
- (13) Excavation Contractor (12 AAC 21.330);
- (14) Fence & Guardrail Contractor (12 AAC 21.340);
- (15) Floor Covering Contractor (12 AAC 21.350);
- (16) Glazing Contractor (12 AAC 21.360);
- (17) Landscaping Contractor (12 AAC 21.370);

- (18) Liquid or Gas Storage Tank Contractor (12 AAC 21.380);
- (19) Low Voltage Alarm or Signaling Device Contractor (12 AAC 21.390);
- (20) Marine Contractor (12 AAC 21.400);
- (21) Masonry Contractor (12 AAC 21.410);
- (22) Mechanical Contractor, Exempt (12 AAC 21.420);
- (23) Painting Contractor (12 AAC 21.430);
- (24) Plaster Contractor (12 AAC 21.440);
- (25) Road Construction Contractor (12 AAC 21.450);
- (26) Roofing Contractor (12 AAC 21.460);
- (27) Security Systems Contractor (12 AAC 21.470);
- (28) Sheet Metal Contractor (12 AAC 21.480);
- (29) Sign Contractor (12 AAC 21.490);
- (30) Solid Fuel Appliance Contractor (12 AAC 21.500);
- (31) Steel Erection Contractor (12 AAC 21.510);
- (32) Tile and Terrazzo Contractor (12 AAC 21.520);
- (33) Wallcovering Contractor (12 AAC 21.530);
- (34) Water and Sewer Contractor (12 AAC 21.540);
- (35) Water System Contractor (12 AAC 21.550);
- (36) Welding Contractor (12 AAC 21.560);
- (37) Other Specialty Contractors (12 AAC 21.570).

Authority: AS 08.01.080 AS 08.18.171 AS 44.33.020
AS 08.18.021

12 AAC 21.210. ACCESS FLOORING CONTRACTOR. (a) An access flooring contractor installs elevated floor panels used in computer facilities, including access flooring that contains air conditioning ducts, electrical conduit, communication conduit, or similar material.

- (b) An access flooring contractor may not install
 - (1) subflooring;
 - (2) flexible, sheet, or woven-back floor-covering material;
 - (3) duct work, conduit, electrical lines, cable, or wiring, regardless of voltage carried, that is independent of the access flooring; or
 - (4) construct or make alterations to an existing structure or the structure that houses the access flooring.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.220. ACOUSTICAL AND INSULATION CONTRACTOR. (a) An acoustical and insulation contractor installs

- (1) all types of insulation media to walls, roofs, decks, perimeter of foundations, and under concrete slabs, including vapor retarders;
- (2) special coatings and materials to provide fire resistance and fireproofing to building components;
- (3) acoustical tiles and panels, sound absorbing wall and ceiling units, acoustical wall systems, and sound barrier boards and blankets;
- (4) ceiling suspension systems;
- (5) insulation of mechanical heating and cooling systems to pipes, such as hot water, cold water, heating, refrigeration, and roof drains; or
- (6) insulation of sheet metal ducts, including heating and cooling supply ducts, fresh air intake ducts, exhaust air ducts, kitchen grease ducts, and combustion air ducts.
- (b) This specialty does not include asbestos abatement, removal, or encapsulation.

Authority: AS 08.01.080 AS 08.18.021 AS 08.18.171
AS 08.18.013 AS 08.18.024 AS 44.33.020

12 AAC 21.230. ASBESTOS ABATEMENT CONTRACTOR. An asbestos abatement contractor requires additional certification by the Department of Labor and Workforce Development under 8 AAC 61.600.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.240. CARPENTRY CONTRACTOR, FINISH. (a) A finish carpenter is a specialty contractor who works on anything made of wood, or wood-like material, attached to the interior of a structure and which is visible, including

- (1) interior wooden trim;

- (2) cabinets;
- (3) built-in shelving;
- (4) interior stairs and banisters;
- (5) cornices;
- (6) laminated countertops;
- (7) doors, door hardware, locks, and latches;
- (8) windows and sills;
- (9) wooden or plastic laminated wall paneling;
- (10) moldings;
- (11) chalkboards and tackboards;
- (12) motorized window louvers, blinds, shades, or drapery hardware;
- (13) hardwood flooring and floor refinishing; or
- (14) installation of tubing for air systems, pneumatic conveyor systems, and central vacuum systems for conveying material and vacuum cleaning in residential, commercial, and industrial structures.

(b) Finish carpentry is either performed by the contractor or subcontracted to another similarly registered contractor.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.250. CARPENTRY CONTRACTOR, ROUGH. (a) A rough carpenter is a specialty contractor who provides services in the following areas:

- (1) framing and lay-up work;
- (2) concrete form work;
- (3) trusses, beams, and columns;
- (4) structural work, (e.g., wood placed for purposes of structural integrity);
- (5) partition studs of metal or wood;
- (6) siding;
- (7) roof shingles;
- (8) exterior wall sheathing;
- (9) roof sheathing;
- (10) subflooring;
- (11) wooden walkways, rails, treads, and risers;
- (12) decks;
- (13) docks, dock planking, and bull rails;
- (14) pilings driven for purposes of foundation for dwellings, warehouses, or similar fixed structures (not pilings for piers, docks, or floats);
- (15) heavy timber;
- (16) wooden fencing;
- (17) metal doors and frames;
- (18) metal joists and structural metal framing;
- (19) metal or plastic windows;
- (20) operable partitions;
- (21) overhead door installation; or
- (22) scaffold erection.

(b) Rough carpentry is either performed by the contractor or subcontracted to another similarly registered contractor.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.260. COMMUNICATIONS CONTRACTOR. (a) A communications contractor installs

- (1) telephone wiring and equipment;
- (2) radio communications devices and equipment;
- (3) audiovisual equipment; or
- (4) navigation equipment.

(b) Unless specifically exempted under AS 08.40.190, all communications contractor work is done under the supervision of an electrical administrator.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.270. CONCRETE AND PAVING CONTRACTOR. A concrete and paving contractor performs work in the following areas:

- (1) cast-in-place concrete;
- (2) concrete form work;
- (3) concrete pumping;
- (4) concrete restoration and cleaning;
- (5) curbs and sidewalks;
- (6) asphalt paving, surfacing, and repair;
- (7) concrete finishing, except painting;
- (8) aggregate coatings;
- (9) pavement markings, including tactile warning lines and striping on roads, parking lots, and curbs; or
- (10) asphalt- and concrete-mounted safety reflectors and speed bumps.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.280. DEMOLITION CONTRACTOR. (a) A demolition contractor performs work in the following areas:

- (1) demolition of fixed structures and parts of structures;
- (2) removal and capping of existing utilities; or
- (3) removal and abatement of hazardous materials, except for asbestos.

(b) A demolition contractor might use explosives and heavy equipment to effect demolition. Explosive users might be required to obtain a certificate of fitness from the Department of Labor and Workforce Development, under 8 AAC 62.030, to engage in that activity.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.290. DRILLING CONTRACTOR. A drilling contractor performs work in the following areas:

- (1) exploratory core drilling and boring, for the purpose of gathering geotechnical data and ground water monitoring;
- (2) water well drilling, including the installation of well casings; or
- (3) horizontal drilling and tunneling for the purpose of soil stabilization, grouting, dewatering and drainage, mining, and the installation of underground cables and piping.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.300. DRYWALL CONTRACTOR. A drywall contractor performs work in the following areas:

- (1) installation of gypsum board or other drywall materials;
- (2) taping; or
- (3) joint preparation.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.310. ELECTRICAL CONTRACTOR. An electrical contractor, unless specifically exempted in AS 08.40.190, must be registered as, or employ, an electrical administrator licensed under AS 08.40, and may only submit bids for, or work on, projects for which it has a licensed electrical administrator. A worker doing work covered by the National Electrical Code or the National Electrical Safety Code established in AS 18.60.580 is subject to certificate of fitness requirements of the Department of Labor and Workforce Development under 8 AAC 90.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.320. ELEVATOR AND CONVEYING SYSTEM CONTRACTOR. (a) An elevator and conveying system contractor installs and maintains manual, electric, and hydraulic conveying systems, including all related machinery, hardware, accessories, safety equipment, and controls. Conveying systems include

- (1) dumbwaiters;
- (2) passenger and freight elevators of all types, including cars, entrances, and hoistway equipment;
- (3) escalators, moving walks, ramps, and other passenger conveying systems composed of moving belts or treads installed in horizontal and inclined positions;
- (4) people, platform, stage and orchestra, sidewalk, wheelchair, and vehicle lifts;
- (5) material handling systems, including freight handling equipment, prefabricated chutes, conveyors, gravity rollers, powered rollers, powered belts, and other devices for transfer of bulk and packaged materials; and

(6) structural turntables, including movable areas for restaurants, stages, exhibits, displays, and turntables for vehicular and industrial uses.

(b) The elevator safety standards adopted in AS 18.60.800 apply to work described in this section.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.330. EXCAVATION CONTRACTOR. An excavation contractor performs work in the following areas:

- (1) haul and spread sand, gravel, topsoil, fill, or other construction materials;
- (2) dig and back-fill trenches, holes, and ditches;
- (3) drilling;
- (4) blasting;
- (5) land clearing, ground leveling, grading, filling, and shaping;
- (6) staking;
- (7) culverts;
- (8) railroad track grade and fill; or
- (9) tunneling.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.340. FENCE AND GUARDRAIL CONTRACTOR. (a) A fence and guardrail contractor erects and installs

- (1) metal or wood fences including gates, posts, and hardware;
 - (2) metal or wood guardrails; or
 - (3) prefabricated concrete, metal, or wood barricades or parking barriers, including bull rails.
- (b) This section does not apply to silt fencing constructed for a temporary period using stakes.

Authority: AS 08.01.080 AS 08.18.021 AS 08.18.171
AS 08.18.013 AS 08.18.024 AS 44.33.020

12 AAC 21.350. FLOOR COVERING CONTRACTOR. A floor covering contractor installs

- (1) carpet;
- (2) flexible or resilient tile; or
- (3) flexible or resilient sheet flooring.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.360. GLAZING CONTRACTOR. A glazing contractor installs

- (1) windows, frames, and sashes of metal or wood;
- (2) glass doors, frames, and hardware; or
- (3) stained glass windows, doors, and ceiling panels, but does not cut openings for skylights or install roof bubbles.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.370. LANDSCAPING CONTRACTOR. (a) A landscape contractor

- (1) grades, fills, and levels ground;
- (2) hauls fill, gravel, topsoil, sand, and similar construction materials;
- (3) constructs water drainage systems, dewatering, and ponds;
- (4) performs hydro-seeding; or
- (5) installs grass, shrubbery, trees, or other ornamental or decorative plants.

(b) A landscaping contractor does not prepare land for construction of a building or structure.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.380. LIQUID OR GAS STORAGE TANK CONTRACTOR. A liquid or gas storage tank contractor connects or installs non-Uniform Plumbing Code plumbing incidental to installation of storage tanks, but does not

- (1) perform any work covered by the Uniform Plumbing Code adopted under AS 18.60.705;

(2) construct or alter the pad, base, footings, or structure housing the installed tank.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.390. LOW VOLTAGE ALARM OR SIGNALING DEVICE CONTRACTOR. (a) A low voltage alarm or signaling device contractor installs

- (1) fire sensing and signalling devices;
- (2) intrusion or proximity detection and signalling devices; or
- (3) automatic fire protection systems, except sprinkler systems.

(b) A low voltage alarm or signaling device contractor does not perform any work covered by the National Electrical Code cited in AS 18.60.580, unless the work is specifically exempted under AS 08.40.190.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.400. MARINE CONTRACTOR. A marine contractor performs work in the following areas:

- (1) pilings driven for the construction of piers, docks, and other marine facilities;
- (2) construction of caissons, seawalls, and jetties;
- (3) dredging; or
- (4) underwater construction.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.410. MASONRY CONTRACTOR. A masonry contractor installs

- (1) chimneys of stone, brick, or block;
- (2) stone or brick flooring;
- (3) stone, brick, or block masonry fences and walls;
- (4) refractories;
- (5) fireplaces, attached or remote; or
- (6) brick, stone and block mortaring.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.420. MECHANICAL CONTRACTOR, EXEMPT. The department will, in its discretion, register as a specialty contractor, with a specialty trade designation of “mechanical, exempt” a person doing plumbing, heating, and other mechanical work that is exempt from the supervision of a mechanical administrator under AS 08.40.390(b)(1) or (b)(2). A person acting in this capacity is subject to all applicable requirements of the Department of Labor and Workforce Development under AS 18.62.

Authority: AS 08.01.080 AS 08.18.171 AS 44.33.020
AS 08.18.021

12 AAC 21.430. PAINTING CONTRACTOR. (a) A painting contractor uses brush, roller, or spray application techniques on all types of interior and exterior surfaces to

- (1) perform surface preparation, including drywall taping, patching, filling, sanding, sand blasting, stripping, and masking;
- (2) apply paints, stains, oils, coatings, sealants, epoxies, and similar products, including weatherproofing and waterproofing materials;
- (3) apply texturing and acoustical spray-ons or paints;
- (4) perform electrostatic applications; or
- (5) striping on roads, parking lots, and curbs.

(b) A painting contractor who performs “hazardous painting,” as defined in AS 18.63.100, is also subject to the certification requirements of AS 18.63.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.440. PLASTER CONTRACTOR. A plaster contractor

- (1) installs wood or metal lath; or
- (2) applies plaster and plaster-like materials.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.450. ROAD CONSTRUCTION CONTRACTOR. A road construction contractor performs the following services:

- (1) grading, filling, and leveling;
- (2) drilling;
- (3) blasting;
- (4) sand, gravel, rock, and water hauling and dispersing;
- (5) compaction;
- (6) staking;
- (7) wooden bridges; or
- (8) culverts.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.460. ROOFING CONTRACTOR. A roofing contractor performs the following services on all types of roofs using all types of roofing material:

- (1) installation of roof sheathing;
- (2) installation or application of roof weatherproofing and insulation;
- (3) repair of structural damage to roof support system, but not construction or installation of a new roof support system;
- (4) extension of roof penetrations, vents, and drains on an existing structure, except electrical penetrations; or
- (5) installation of skylights.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.470. SECURITY SYSTEMS CONTRACTOR. (a) A security systems contractor installs security systems that become a permanent part of a structure, including

- (1) vaults and related hardware; or
- (2) mechanical and electronic locking devices and related hardware and controls.

(b) Installation of some security and vault equipment might also require a steel erection specialty contractor registration or an electrical contractor registration.

(c) A locksmith who sells or installs locks and related door hardware that do not become a permanent part of the structure, is exempt from registration as a security systems contractor under AS 08.18.161.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.480. SHEET METAL CONTRACTOR. (a) A sheet metal contractor performs work in the following areas:

- (1) manufacture, fabrication, assembly, installation, and alteration of all ferrous or nonferrous metal work;
- (2) lagging over insulation and duct lining;
- (3) preparation of drawings taken from architectural and engineering plans required for fabrication and erections of sheet metal work;
- (4) exterior wall sheathing and siding;
- (5) metal roofing, flashing, and decking;
- (6) ornamental sheet metal work, including cornices;
- (7) metal venting, chimneys, and breaching;
- (8) skylight installation;
- (9) lavatory partitions;
- (10) sheet metal shelving;
- (11) louvers;
- (12) commercial or industrial food service equipment; or
- (13) demolition of sheet metal.

(b) This specialty contractor category does not include sheet metal work subject to building codes identified in AS 08.18.171, including heating, ventilation, and air conditioning ducting and equipment. Work subject to those codes is done by a mechanical or general contractor under the supervision of a mechanical administrator licensed under AS 08.40.

Authority: AS 08.01.080 AS 08.18.171 AS 44.33.020
AS 08.18.021

12 AAC 21.490. SIGN CONTRACTOR. (a) A sign contractor fabricates and installs wooden, plastic, laminated, or metal signs, including those electrically operated.

(b) A sign contractor does not

(1) install or apply materials that commonly require specialized installation techniques, such as carpet or wallpaper; or

(2) perform any work covered by the National Electrical Code adopted under AS 18.60.580 unless specifically exempted in AS 08.40.190.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.500. SOLID FUEL APPLIANCE CONTRACTOR. (a) A solid fuel appliance contractor is a specialty contractor who installs chimney-connected solid fuel heating appliances, including

(1) solid fuel room heaters;

(2) fireplace stoves;

(3) fireplace inserts;

(4) masonry and factory-built fireplaces;

(5) all chimney components, connectors, and accessories necessary for the installation of solid fuel appliances, including roof flashings; or

(6) noncombustible wall protection materials including masonry and ventilated sheet metal panels.

(b) In this section, “solid fuel” means

(1) wood in its various forms, including chunk wood, pressed logs, wood pellets, wood chips, and paper; and

(2) coal in its various forms, including processed coals, coke, peat, and charcoal.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.510. STEEL ERECTION CONTRACTOR. (a) A steel erection contractor installs

(1) ornamental metal;

(2) structural steel;

(3) steel towers and pylons;

(4) jail or detention bars, gates and hardware;

(5) reinforcing steel for concrete;

(6) corrugated floor steel; or

(7) welding, soldering, or brazing necessary for installation but incidental to the structure.

(b) A steel erection contractor does not perform electrical code work related to jails, barriers, detention systems, or vaults.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.520. TILE AND TERRAZZO CONTRACTOR. A tile and terrazzo contractor installs, and uses materials required to secure, wood or metal lath and tile or terrazzo on floors, walls, or manufactured surfaces such as tables, cabinets, and shelves.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.530. WALLCOVERING CONTRACTOR. A wallcovering contractor installs paper, fabric, and woven or woven-backed material, but does not paint or install wood or plastic laminated paneling.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.540. WATER AND SEWER CONTRACTOR. A water and sewer contractor installs water lines and sanitary, storm, or drain sewer lines more than five feet from a building. A mechanical contractor registration under AS 08.18.028 is required before a person may install water lines or sanitary, storm, or drain sewer lines five feet or less from a building, or perform work covered by a plumbing or mechanical code identified in AS 08.18.171.

Authority: AS 08.01.080 AS 08.18.171 AS 44.33.020
AS 08.18.021

12 AAC 21.550. WATER SYSTEM CONTRACTOR. A water system contractor drills and constructs water wells and performs the work necessary for the installation, repair, or maintenance of water well system equipment. A water system contractor uses

(1) the equipment needed to plumb the water system from a submersible pump to the discharge side of the pressure tank;

(2) the equipment needed to wire the electrical system from the submersible pump to and including the well pump system controls terminating at the first point of connection before the circuit breaker panel.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.560. WELDING CONTRACTOR. (a) A welding contractor

(1) cuts, welds, solders, and brazes any metals;

(2) fabricates steel;

(3) performs welding inspections; or

(4) uses industrial radiologic techniques and materials.

(b) Nothing in this section prohibits cutting, welding, soldering, and brazing by mechanical contractors or other specialty contractors when that work is a necessary and integral part of that mechanical or specialty trade.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

12 AAC 21.570. OTHER SPECIALTY CONTRACTORS. (a) The department will establish, modify, or delete existing specialty contractor trade categories based on established usage in the construction industry. The department will, in its discretion, register an applicant in a specialty trade not recognized by this chapter if the applicant can show to the department that the trade requires special skill that is not related to any of the specialty trades already established.

(b) The department will, in its discretion, register as a construction surveying specialty contractor a person whose trade involves setting of line and grade, slope staking, blue and red topping, and other construction oriented surveying procedures. The performance of "as-built" surveys or any of the services defined as the practice of land surveying in AS 08.48.341(9), require registration as a professional land surveyor under AS 08.48.

Authority: AS 08.01.080 AS 08.18.171(8) AS 44.33.020
AS 08.18.021

ARTICLE 3. MECHANICAL CONTRACTOR.

Section

600. Mechanical contractor

12 AAC. 21.600. MECHANICAL CONTRACTOR. (a) A mechanical contractor, as defined in AS 08.18.171, is registered under AS 08.18.028 and is subject to that section's requirement regarding mechanical administrator licensure. Unless specifically exempted under AS 08.40.390, a mechanical contractor must be registered as, or employ, a mechanical administrator licensed under AS 08.40. The mechanical contractor may only submit bids for, or work on, projects for which the contractor has a licensed mechanical administrator.

(b) A mechanical contractor may not function as a general contractor unless registered as a general contractor under AS 08.18, except that a mechanical contractor may contract with

(1) another licensed mechanical contractor; and

(2) an electrical contractor who performs electrical work directly related to the mechanical installation for which the prime mechanical contractor is responsible.

Authority: AS 08.01.080 AS 08.18.021 AS 08.18.171
AS 08.18.013 AS 08.18.028 AS 44.33.020

ARTICLE 4.
RESIDENTIAL CONTRACTOR ENDORSEMENT.

Section

- 650. Residential contractor continuing competency requirements**
- 660. Acceptable continuing competency activities**
- 663. Types of continuing competency activities**
- 665. Contact hours**
- 670. Audit of continuing competency requirements**
- 680. Residential contractor endorsement**
- 690. Assignment of residential endorsement**
- 695. Residential contractor endorsement renewal and reinstatement**

12 AAC 21.650. RESIDENTIAL CONTRACTOR CONTINUING COMPETENCY REQUIREMENTS.

(a) Except as provided in (b) of this section, an applicant for renewal of a residential contractor endorsement shall document having completed 16 contact hours of acceptable continuing competency activities.

(b) An applicant for renewal of a residential contractor endorsement for the first time shall document having completed eight contact hours of acceptable continuing competency activities for each complete calendar year the applicant held an endorsement during the concluding licensing period. If an applicant under this subsection held an endorsement for less than one complete calendar year during the concluding licensing period, the applicant is not required to complete any contact hours of continuing competency activities.

(c) If a residential endorsement holder completes more than the required number of contact hours of approved continuing competency activities during a licensing period, the holder may carry forward to the next licensing period no more than five of the surplus contact hours that were completed during the last 12 months of a licensing period. However, the holder may not carry forward any surplus contact hours to the next licensing period if the next licensing period begins on or after January 1, 2003.

(d) Except as provided in (c) of this section, an applicant for renewal of a residential contractor endorsement shall document that the applicant completed the number of contact hours of acceptable continuing competency activities claimed during the concluding licensing period. However, the holder may not carry forward any surplus contact hours to the next licensing period if the next licensing period begins on or after January 1, 2003.

(e) Repealed 10/15/2000.

(f) The department will not accept more than a total of eight contact hours per licensing period for continuing competency activities in business related topics. Business related topics include

- (1) building and property management;
- (2) finance and housing programs;
- (3) labor, safety, and health issues;
- (4) land development and environmental regulations;
- (5) marketing and customer service;
- (6) organization and business management;
- (7) trends and forecasting housing markets;
- (8) cardiopulmonary resuscitation (CPR), not to exceed two contact hours per licensing period; and
- (9) first aid, not to exceed two contact hours per licensing period.

(g) The department will accept up to 16 contact hours per licensing period for continuing competency activities in technical topics. Technical topics include

- (1) architecture and interior design;
- (2) construction codes;
- (3) materials and energy issues;
- (4) remodeling issues; and
- (5) construction techniques.

(h) The provisions of (f) and (g) of this section apply to endorsements being renewed for a licensing period beginning January 1, 2003 or later.

Authority: AS 08.01.080 AS 08.18.025

12 AAC 21.660. ACCEPTABLE CONTINUING COMPETENCY ACTIVITIES. (a) To be approved by the department, a continuing competency activity must contribute directly to the professional competency of a residential contractor and must be directly related to the skills and knowledge required for a person to work as a residential contractor.

(b) A continuing competency activity approved by one of the following organizations is approved by the department, without additional action, if the organization submits the information required by (c)(2) of this section and verification that the activity meets the requirements of (a) of this section:

- (1) the Department of Labor and Workforce Development, the Department of Public Safety, or another state agency that offers an activity meeting the requirements of (a) of this section;
- (2) the Alaska Housing Finance Corporation (AHFC);

- (3) the University of Alaska;
- (4) the Alaska State Homebuilders Association;
- (5) the Alaska Professional Design Council;
- (6) the Alaska Building Science Network;
- (7) the Alaska Craftsman Home Program, Inc.;
- (8) the Associated General Contractors of Alaska.

(c) The department will approve, by means of a written determination, a continuing competency activity if the activity's sponsor or the residential endorsement holder

(1) demonstrates to the department's satisfaction that the activity meets the requirements of (a) of this section; and

(2) submits the following for approval on a form provided by the department:

(A) a description of the content of the activity;

(B) documentation of successful completion if the activity has already occurred;

(C) a copy of the certification that will be provided to successful participants if the activity has not yet occurred;

(D) each known date and location of the activity;

(E) the number of contact hours requested to be awarded for successful completion of the activity;

(F) the name, address, and telephone number of the sponsor;

(G) a statement explaining how the activity meets the requirements of (a) of this section.

(d) An approval under (c) of this section expires two years after the date of department approval or on the date that the department determines that the continuing competency activity no longer meets the requirements of this section, whichever is sooner.

(e) Any proposed modification to the content of a continuing competency activity must be submitted in writing to the department for approval before the modification is implemented.

Authority: AS 08.01.080 AS 08.18.025

12 AAC 21.663. TYPES OF CONTINUING COMPETENCY ACTIVITIES. For purposes of renewing an endorsement a "continuing competency activity" includes the following, if it meets the requirements of 12 AAC 21.660(a) and is approved under 12 AAC 21.660(b) or (c):

(1) a course, seminar, workshop, or correspondence course;

(2) completion of an energy rated home or remodel in accordance with 12 AAC 21.665(b);

(3) a trade conference or product seminar for a licensing period that begins before January 1, 2003;

(4) first-time preparation and presentation of a residential construction course, seminar, or workshop;

(5) verification of passing the examination under AS 08.18.025(b)(2) during the concluding licensing period.

Authority: AS 08.01.080 AS 08.18.025

12 AAC 21.665. CONTACT HOURS. (a) For successful completion of an approved continuing competency activity, the department will award the following contact hours:

(1) one contact hour for each consecutive 50-minute block of classroom instruction;

(2) 15 contact hours for one academic semester credit;

(3) ten contact hours for one academic quarter credit;

(4) for a correspondence course, the number of contact hours

(A) recommended by the organization submitting the information required by 12 AAC 21.660(c)(2) if the course is approved under 12 AAC 21.660(b); or

(B) approved by the department if the course is approved under 12 AAC 21.660(c);

(5) 16 contact hours for successfully passing the examination under AS 08.18.025(b)(2);

(6) notwithstanding (1)-(4) of this subsection, no more than two contact hours for successful completion of a first aid or cardiopulmonary resuscitation (CPR) class for a licensing period that begins after January 1, 2003.

(b) The department will award a residential endorsement holder contact hours for completion of

(1) one new home per licensing period for a licensing period that begins before January 1, 2003, if the home is assigned an energy rating of "four-star" or higher by an energy rater certificated under and using the Energy Rated Homes of Alaska program established under 15 AAC 155.510 – 15 AAC 155.560; the department will award contact hours under this paragraph as follows:

(A) for a "four-star" home, four contact hours;

(B) for a "four-star plus" home, eight contact hours;

(C) for a "five-star" home, ten contact hours;

(D) for a "five-star plus" home, twelve contact hours;

(2) one new home per licensing period for a licensing period that begins after January 1, 2003, if the home is assigned an energy rating of "four-star plus" or higher by an energy rater certificated under and using the Energy Rated Homes of Alaska program established under 15 AAC 155.510 – 15 AAC 155.560; the department will award contact hours under this paragraph as follows:

(A) for a "four-star plus" home, four contact hours;

- (B) for a “five-star” home, six contact hours;
- (C) for a “five-star plus” home, eight contact hours; or
- (3) one remodel of an existing home per licensing period, if the remodel increases, by at least a half star, the energy rating assigned to the home by an energy rater certificated under and using the Energy Rated Homes of Alaska program established under 15 AAC 155.510 – 15 AAC 155.560; the department will award one contact hour for each half-star rating increase obtained on a remodel.
- (c) For the first time preparation and presentation of a residential construction course, seminar, or workshop, as described in 12 AAC 21.663(4) and approved under 12 AAC 21.660(b) or (c), the department will award one and one-half times the contact hours approved for students in the course, up to a maximum of 16 contact hours.
- (d) The department will not award contact hours to a licensee for the same activity more than once during a licensing period.
- (e) Contact hours used to satisfy the reinstatement requirements of AS 08.18.025(c) when an endorsement has lapsed may not be submitted again to satisfy the requirements for a future renewal.

Authority: AS 08.01.080 AS 08.18.025

12 AAC 21.670. AUDIT OF CONTINUING COMPETENCY REQUIREMENTS. (a) After each renewal period the department will, in its discretion, audit renewal applications to monitor compliance with the continuing competency requirements of 12 AAC 21.650 - 12 AAC 21.670.

(b) A residential contractor selected for audit shall, within 30 days after the date of notification, submit documentation to the department to verify completion of the contact hours required in 12 AAC 21.650. The documentation must include a certificate or similar verification of satisfactory completion of the continuing competency activity that includes

- (1) the name of the participant;
- (2) the number of contact hours awarded;
- (3) a description of the continuing competency activity;
- (4) the dates of participation;
- (5) the name and signature of the instructor, sponsor, or other verifier.

(c) An applicant for renewal of a residential contractor endorsement is responsible for maintaining adequate and detailed records of all contact hours of acceptable continuing competency activities claimed and shall make the records available to the department upon request under (b) of this section. Records must be retained for four years after the date the contact hours were earned.

Authority: AS 08.01.080 AS 08.18.025

12 AAC 21.680. RESIDENTIAL CONTRACTOR ENDORSEMENT. An applicant for a residential contractor endorsement must submit

- (1) a completed application on a form provided by the department, including the name of the registered general contractor to whom the endorsement will be assigned;
- (2) the applicable fees established in 12 AAC 02.180;
- (3) verification that the applicant has obtained, within the 12 months immediately preceding the date of the application, a score of at least 70 percent on the residential contractor examination administered by Exporior Assessments, LLC or other examination approved by the department; and
- (4) verification that the applicant has satisfactorily completed, within the 24 months immediately preceding the date of the application, a program or course that meets the requirements of AS 08.18.025(b)(4).

Authority: AS 08.01.080 AS 08.18.013

Editor’s note: Information on the residential contractor examination referred to in 12 AAC 21.680 may be obtained from Exporior Assessments, LLC, 2100 NW 53rd Avenue, Gainesville, Florida 32653; telephone: (800) 280-3926; e-mail: www.exporioronline.com.

12 AAC 21.690. ASSIGNMENT OF RESIDENTIAL ENDORSEMENT. (a) A residential endorsement holder under (b) of this section shall serve in a position in which the residential endorsement holder ensures competent construction of residential construction projects of the type described in AS 08.18.025(a) for the general contractor to which the residential endorsement holder is assigned.

- (b) If a general contractor is registered with the department as a
 - (1) sole proprietorship, the residential endorsement holder must be the sole proprietor;
 - (2) partnership, the residential endorsement holder must be one of the partners; or
 - (3) corporation, the residential endorsement holder must be an employee of the corporation, a member of the corporation’s board of directors, or an officer of the corporation.
- (c) The department will reissue a residential endorsement as unassigned if the residential endorsement holder is
 - (1) assigned to a general contractor
 - (A) who fails to renew the general contractor’s registration; or

- (B) whose registration is deactivated;
- (2) not assigned to another registered general contractor; and
- (3) otherwise eligible for the endorsement.
- (d) An unassigned residential endorsement holder may assign the endorsement to a registered general contractor by submitting a completed residential endorsement assignment on a form provided by the department.
- (e) On or after January 1, 2003, a residential endorsement may be assigned to no more than two general contractors.

Authority: AS 08.18.025

Editor's note: The residential endorsement assignment form described in 12 AAC 21.690 may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, Alaska 99811-0806; phone: (907) 465-2534.

12 AAC 21.695. RESIDENTIAL CONTRACTOR ENDORSEMENT RENEWAL AND REINSTATEMENT. (a) The department will renew a residential contractor endorsement that has been lapsed for two years or less if the applicant for renewal submits

- (1) a completed renewal application on a form provided by the department;
- (2) the applicable fee established in 12 AAC 02.180; and
- (3) verification of the successful completion of the continuing competency requirements of 12 AAC 21.650.

(b) The department will reinstate a residential contractor endorsement that has been lapsed for more than two years but less than five years if the applicant for reinstatement submits

- (1) a completed renewal application on a form provided by the department;
- (2) the applicable fee established in 12 AAC 02.180; and
- (3) verification that the applicant has obtained, within the 12 months immediately preceding the date of the application for reinstatement, a score of at least 70 percent on the residential contractor examination administered by Experior Assessments, LLC or other examination approved by the department.

(c) In accordance with AS 08.01.100(d), the department will not reinstate a residential contractor endorsement that has been lapsed for five years or more. The holder of a residential contractor endorsement that has been lapsed for five years or more must submit a new application for an endorsement under 12 AAC 21.680.

Authority: AS 08.01.080 AS 08.18.013 AS 08.18.025
AS 08.01.100

Editor's note: Information on the residential contractor examination referred to in 12 AAC 21.695 may be obtained from Experior Assessments, LLC, 2100 NW 53rd Avenue, Gainesville, Florida 32653; telephone: (800) 280-3926; e-mail: www.experioronline.com.

ARTICLE 5. GENERAL PROVISIONS.

Section

990. Definitions

12 AAC 21.990. DEFINITIONS. Unless the context requires otherwise, in this chapter and for the purposes of AS 08.18

- (1) "commissioner" means the commissioner of Commerce, Community, and Economic Development;
- (2) "department" means the Department of Commerce, Community, and Economic Development;
- (3) "federal employer identification number" means that number specifically assigned by the United States Internal Revenue Service to an employer that is used to identify employer tax returns, quarterly reports of employee wage withholdings, and for other related purposes;
- (4) "joint venture" means an association of two or more persons to carry out a single construction project for profit, for which purpose they combine their property, money, efforts, skill, and knowledge;
- (5) "negotiable security" means any written security which may be transferred by endorsement and delivery or by delivery only, so as to vest in the transferee the right to demand payment of the full value stated on the face of the security, and includes time certificates of deposit, bonds issued by governmental agencies and other similar instruments;
- (6) "obsolete form" means a form which is no longer being used by the department;
- (7) "Uniform Mechanical Code" has the meaning given in 12 AAC 39.992(b).

Authority: AS 44.33.020

APPENDIX

Submitting a Bid on a Federally-Funded Project

In accordance with AS 36.30.110(b) and AS 08.18.011 a contractor's license is required prior to submitting a bid. However, please be advised that 23 Code of Federal Regulations (CFR) 635.110(c) states in part "(c) No contractor shall be required by law, regulation, or practice to obtain a license before submission of a bid or before the bid may be considered for award of a contract." The Alaska procurement code specifically recognized that there may be times when there is conflict between state and federal requirements. AS 36.30.890 and 2 AAC 12.730 Federal Assistance resolves any conflicts and states in part "If a procurement involves the expenditure of federal funds or federal assistance and there is a conflict between a provision of this chapter or a regulation adopted under a provision of this chapter and a federal statute, regulation, policy, or requirement, the federal statute, regulation, policy, or requirement shall prevail."