

CS FOR HOUSE BILL NO. 58(ENE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON ENERGY

Offered: 3/9/15

Referred: Labor and Commerce, Finance

Sponsor(s): REPRESENTATIVES KREISS-TOMKINS AND MILLETT, Kito, Ortiz

A BILL

FOR AN ACT ENTITLED

1 **"An Act making an entity that is exempt from federal taxation under 26 U.S.C.**
2 **501(c)(3), (4), (6), (12), or (19) (Internal Revenue Code) and a federally recognized tribe**
3 **eligible for a loan from the Alaska energy efficiency revolving loan fund; relating to**
4 **loans from the Alaska energy efficiency revolving loan fund; and relating to the annual**
5 **report published by the Alaska Housing Finance Corporation."**

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

7 * **Section 1.** AS 18.56.200(d) is amended to read:

8 (d) The corporation shall include in its annual report under (b) of this section

9 (1) a report of its activities under

10 (A) AS 18.55.010 - 18.55.290 (Housing Project and Public
11 Building Assistance Act);

12 (B) AS 18.55.300 - 18.55.470 (programs of moderate income
13 and rental housing);

(C) AS 18.55.480 - 18.55.960 (Slum Clearance and Redevelopment Act); **and**

(D) AS 18.56.855 (Alaska energy efficiency revolving loan fund);

(2) a summary of its efforts to implement a program to extend the operation of the programs authorized under AS 18.55 and this chapter to rural communities;

(3) an evaluation of the corporation's ability to fulfill the objectives of AS 18.56.010(b) - (e); and

(4) the amount of interest rate, building, and other subsidies for each program of the corporation for which subsidies are given.

* **Sec. 2.** AS 18.56.855(b) is amended to read:

(b) Money and other assets of the Alaska energy efficiency revolving loan fund may be used to

(1) make loans to **a tax exempt entity, a federally recognized tribe, a regional educational attendance area, a [AREAS OR TO] municipal government [GOVERNMENTS], including a subdivision [SUBDIVISIONS] of a municipal government, [GOVERNMENTS, TO] the University of Alaska, or [TO] the state for the purpose of financing energy efficiency improvements to buildings in the state owned by a tax exempt entity, a federally recognized tribe, a regional educational attendance area, [AREAS, BY] the University of Alaska, [BY] the state, or a municipality [BY MUNICIPALITIES IN THE STATE];**

(2) secure bonds issued by the corporation to finance the loans described in (1) of this subsection;

(3) pay costs of administering the revolving loan fund; and

(4) pay the costs of administering and enforcing the terms of loans made by the corporation from the revolving loan fund.

* **Sec. 3.** AS 18.56.855(c) is amended to read:

(c) Before **a federally recognized tribe,** a regional educational attendance area, the University of Alaska, a municipal government, or a subdivision of a municipal government, may borrow money from the corporation under this section,

the federally recognized tribe, regional educational attendance area, [THE] University of Alaska, or [THE] municipal government shall waive any sovereign immunity defense it may have available to it with respect to enforcement of the terms of the loan. A regional educational attendance area, the University of Alaska, or a municipal government may waive sovereign immunity to comply with the requirement of this subsection. The state waives any sovereign immunity defense against enforcement of the terms of a loan made to the state under this section. A person or corporation having a claim under this section shall bring an action in a state court in Alaska that has jurisdiction over the claim.

* **Sec. 4.** AS 18.56.855(d) is amended to read:

(d) A tax exempt entity, a federally recognized tribe, a [ALL] regional educational attendance area, a [AREAS AND] municipal government, or [GOVERNMENTS IN THE STATE AND] the University of Alaska is [ARE] authorized to borrow from the corporation under this section. The corporation shall set out the terms of a loan to a tax exempt entity, a federally recognized tribe, or a regional educational attendance area in a loan agreement or similar document. At the discretion of the corporation, a borrowing by a regional educational attendance area, the University of Alaska, or a municipal government under this section may be effected by use of a loan agreement or similar document evidencing and setting out the terms of the loan or by issuance of a bond by the municipal government to the corporation. Notwithstanding a charter provision requiring public sale by a regional educational attendance area or a municipality of its municipal bonds or other indebtedness, a regional educational attendance area or municipality may sell its bonds under this section to the corporation at a negotiated, private sale. At the discretion of the corporation, the bonds or other indebtedness of the municipality may be general obligations of the municipality or may be secured by an identified revenue source or by a combination of the full faith and credit of the municipality and an identified revenue source.

* **Sec. 5.** AS 18.56.855(e) is amended to read:

(e) Notwithstanding any other provision of law, to the extent that a department or agency of the state is the custodian of money payable to a tax exempt entity, a

1 **federally recognized tribe**, a regional educational attendance area, [TO] the
 2 University of Alaska, or [TO] a municipality, at any time after written notice to the
 3 department or agency head from the corporation that **a tax exempt entity, federally**
 4 **recognized tribe**, [THE] regional educational attendance area, [THE] University of
 5 Alaska, or [THE] municipality is in default on the payment of principal of or interest
 6 on municipal bonds or other indebtedness then held or owned by the corporation, or
 7 amounts due under an agreement between the corporation and **a tax exempt entity, a**
 8 **federally recognized tribe**, a regional educational attendance area, the University of
 9 Alaska, or a municipality, the department or agency shall withhold the payment of that
 10 money from **a tax exempt entity, federally recognized tribe**, [THAT] regional
 11 educational attendance area, [THE] University of Alaska, or [THAT] municipality and
 12 pay over the money to the corporation for the purpose of paying the principal of and
 13 interest on the bonds or indebtedness. The notice must be given in each instance of
 14 default. If a notice is given under this subsection and, **if applicable**, under
 15 AS 44.85.170 and the default is continuing under this subsection **or** [AND] under
 16 AS 44.85.170, the department or agency shall make payment to the corporation and to
 17 the Alaska Municipal Bond Bank Authority on a pro rata basis, taking into
 18 consideration the principal amount of the respective default amounts.

19 * **Sec. 6.** AS 18.56.855(j) is amended to read:

20 (j) In this section,

21 **(1)** "authorized state officer" means

22 **(A)** [(1)] the commissioner of the department of the state for a
 23 building owned by the state;

24 **(B)** [(2)] the executive director of a public corporation for a
 25 building owned by the public corporation;

26 **(C)** [(3)] the legislative council for a building owned by the
 27 legislature;

28 **(D)** [(4)] the administrative director of the Alaska Court
 29 System for a building owned by the judicial system;

30 **(E)** [(5)] any other person designated in writing by a person
 31 listed in **(A) - (E)** [(1) - (4)] of this **paragraph** [SUBSECTION];

1 **(2) "federally recognized tribe"**

2 **(A) means a tribe that is recognized by the United States**
 3 **Secretary of the Interior to exist as an Indian tribe under 25 U.S.C. 479a**
 4 **(Federally Recognized Indian Tribe List Act of 1994);**

5 **(B) includes a subdivision, subsidiary, or business**
 6 **enterprise wholly owned by a federally recognized tribe;**

7 **(3) "tax-exempt entity" means an entity designated as tax exempt**
 8 **under 26 U.S.C. 501(c)(3), (4), (6), (12), or (19) (Internal Revenue Code).**

9 * **Sec. 7.** AS 18.56.855 is amended by adding new subsections to read:

10 (k) In considering applications and making loans from the Alaska energy
 11 efficiency revolving loan fund, the corporation shall give priority to energy efficiency
 12 improvements to buildings owned by a regional educational attendance area, the
 13 University of Alaska, a municipality, or the state over other applications and loans.

14 (l) Notwithstanding any provision of this section, the recipient of a loan under
 15 this section may not be a for-profit business enterprise.