



LAWS OF ALASKA

1987

Source

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Chapter No.

42

AN ACT

Relating to the Alaska Industrial Development and Export Authority; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 8, 1987
Actual Effective Date: June 9, 1987

AN ACT

Relating to the Alaska Industrial Development and Export Authority; and providing for an effective date.

* Section 1. AS 44.88.010 is amended to read:

Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legislature finds, determines, and declares that

(1) there exist areas of the state in which seasonal and nonseasonal unemployment exist;

(2) this unemployment is a serious menace to the health, safety, and general welfare, not only to the people in those areas, but also to the people of the entire state;

(3) the state lacks the basic manufacturing, industrial, export, small business, and business enterprises and the other facilities referred to in [(5) OF] this subsection necessary to permit adequate development of its natural resources and the balanced growth of its economy;

(4) the establishment and expansion of industrial, manufacturing, export, small business, and business enterprises in Alaska and the other facilities referred to in [(5) OF] this subsection are essential to the development of the natural resources and the long-term economic growth of the state, and will directly and indirectly alleviate unemployment in the state;

(5) the expansion of export trade is vital to the health

Chapter 42

1 and growth of the state's economy;

2 (6) many Alaska businesses could benefit from additional
3 financial and technical assistance with respect to the exportation of
4 their products and services;

5 (7) the United States Export-Import Bank has been mandated
6 by the Export-Import Bank Act Amendments of 1983 to provide technical
7 assistance and export financing support to small businesses in coop-
8 eration with state export finance agencies;

9 (8) Alaska-based exporters can be effectively assisted
10 through the establishment, as part of the Alaska Industrial Develop-
11 ment Authority, of an export financing program designed to work with
12 the U.S. Export-Import Bank and other federal, state, and private
13 institutions;

14 (9) the achievement of the goal of full employment, and of
15 establishment and continuing operation and development of industrial,
16 manufacturing, export, small business, and business enterprises in the
17 state, including, without limitation, facilities for transportation,
18 facilities for pollution control and waste disposal, facilities for
19 the local furnishing of gas, facilities for water, facilities for
20 industrial parks, mass commuting vehicles, facilities for local dis-
21 trict heating or cooling, parking facilities, or a storage or training
22 facility relating to a plant or facility, will be accelerated and
23 facilitated by the creation of an instrumentality of the state with
24 powers to incur debt, to own and operate facilities, to make and
25 insure loans to finance, and to assist private lenders to make loans
26 to finance, the establishment, operation, and development of indus-
27 trial, manufacturing, export, small business, and business enter-
28 prises, including, without limitation, facilities for transportation,
29 facilities for pollution control and waste disposal, facilities for

the local furnishing of gas, facilities for water, facilities for industrial parks, mass commuting vehicles, facilities for local district heating or cooling, parking facilities, or a storage or training facility relating to a plant or facility;

(10) [(6)] it is in the public interest to promote the prosperity and general welfare of all citizens of the state by

(A) stimulating commercial and industrial growth and expansion by encouraging an increase of private investment by banks, investment houses, insurance companies, and other financial institutions, including pension and retirement funds, to help satisfy the need for economic expansion;

(B) encouraging the production of raw materials and goods for export, the expansion of exports of raw materials and goods, and the rendering of services abroad by residents of the state through the establishment of a program that provides financial assistance in cooperation with federal, state, and private institutions for these purposes in the form provided in this chapter;

(C) creating the Alaska Industrial Development and Export Authority with the powers necessary to accomplish the objectives stated in this paragraph, including the power to issue taxable and tax-exempt bonds and to acquire ownership interests in projects as provided in this chapter;

(11) [(7)] it is in the state's interest to import private capital to create new economic activity which would not otherwise take place in the state.

(b) It is declared to be the policy of the state, in the interests of promoting the health, security, and general welfare of all the people of the state, and a public purpose, to increase job

Chapter 42

1 opportunities and otherwise to encourage the economic growth of the
2 state, including the development of its natural resources, through the
3 establishment and expansion of manufacturing, industrial, export,
4 small business, and business enterprises and the other facilities
5 referred to in (a) [(a)(5)] of this section by creating the Alaska
6 Industrial Development and Export Authority [PUBLIC CORPORATION] with
7 the powers [POWER], duties, and functions [AS] provided in this chap-
8 ter [AS 44.88.010 - 44.88.220].

9 * Sec. 2. AS 44.88.010 is amended by adding a new subsection to read:

10 (c) It is further declared to be the policy of the state, in the
11 interests of promoting the health, security, and general welfare of
12 all the people of the state, and a public purpose of the state, to
13 accomplish the objectives set out in (b) of this section through the
14 provision of financial support in cooperation with federal, state, and
15 private institutions for the purpose of increasing the export of
16 Alaska goods, talent, raw materials, and services.

17 * Sec. 3. AS 44.88 is amended by adding a new section to article 1 to
18 read:

19 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AU-
20 THORITY REVOLVING FUND. The Alaska Industrial Development and Export
21 Authority revolving fund is established in the authority. The re-
22 volving fund consists of appropriations made to the revolving fund by
23 the legislature, money or other assets transferred to the revolving
24 fund by the authority, and unrestricted payments on loans made or
25 purchased by the authority. Amounts deposited in the revolving fund
26 may be pledged to the payment of bonds of the authority or expended
27 for the purposes of the authority under this chapter.

28 * Sec. 4. AS 44.88.070 is amended to read:

29 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the

authority is to promote, develop, and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment, and to create additional employment by

(1) providing various means of financing and means of facilitating the financing, in cooperation with federal, state, and private institutions, of industrial, manufacturing, export, small business, and business enterprises and the other facilities referred to in AS 44.88.010(a) in [AS 44.88.010(a)(5) WITHIN] the state;

(2) [, AND BY] owning and operating the enterprises and other facilities described in AS 44.88.172;

(3) fostering the expansion of exports of Alaska goods, services, and raw materials;

(4) cooperating and acting in conjunction with other organizations, public and private, the objects of which are the promotion and advancement of export trade activities in the state;

(5) establishing a source of funding credit guarantees and insurance, not otherwise available, to support export development;

(6) providing and cooperating or participating with federal, state, and private institutions to provide actual and potential Alaska exporters, particularly small- and medium-sized exporters, with financial assistance in support of export transactions.

* Sec. 5. AS 44.88.080(7) is amended to read:

(7) to issue bonds and otherwise to incur indebtedness, in accordance with AS 44.88.090, in order to pay the cost of a project or development projects or in order to provide money for the authority's purposes under this chapter; the authority may also [AND TO] secure payment of the bonds or other indebtedness as provided in this chapter;

* Sec. 6. AS 44.88.080 is amended by adding new paragraphs to read:

Chapter 42

1 (20) to participate with government or private industry in
2 programs for technical assistance, loans, technology, transfer, or
3 other programs related to the exportation of Alaska goods, services
4 or raw materials with respect to its financing activities;

5 (21) to provide export finance training for office staff and
6 other individuals involved in export finance assistance, including the
7 training sessions that may be provided by the United States Export-
8 Import Bank or other organizations;

9 (22) to coordinate to the maximum extent possible its
10 efforts to promote the export of Alaska goods, services, and raw
11 materials with programs and goals of the United States Export-Import
12 Bank, the International Trade Administration of the United States
13 Department of Commerce, the Foreign Credit Insurance Association, and
14 other private and public programs designed to provide export assis-
15 tance and export-related financing;

16 (23) to guarantee loans related to qualified export trans-
17 actions under regulations adopted by the authority;

18 (24) to provide financing assistance, in cooperation with
19 federal, state, and private institutions, as provided in this chapter
20 for small business enterprises.

21 * Sec. 7. AS 44.88.085(a) is amended to read:

22 (a) Except for AS 44.62.310 and 44.62.312 regarding public
23 meetings, and except for AS 44.62.320(a) regarding legislative review
24 of regulations, the provisions of the Administrative Procedure Act
25 regarding the adoption of regulations (AS 44.62.040 - 44.62.320) do
26 not apply to the authority. The authority shall make available to
27 members of the public copies of the regulations adopted under [(b) -
28 (e) OF] this section. Within 45 days after adoption of a regulation
29 under [(b) - (e) OF] this section, the chairman of the authority shall

submit the regulation adopted to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 - 24.20.460.

* Sec. 8. AS 44.88.085(c) is repealed and reenacted to read:

(c) The authority may adopt regulations to carry out the purposes of this chapter and shall adopt regulations as provided in (g) and (h) of this section.

* Sec. 9. AS 44.88.085(d) is amended to read:

(d) Except as provided in (e) of this section, at least 15 days before the adoption, amendment, or repeal of a regulation [ON A SUBJECT SPECIFIED IN (c) OF THIS SECTION], the authority shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the authority. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and must include an informative summary of the subject of the proposed action. On the date and at the time and place designated in the notice, the authority shall give each interested person or an authorized representative of the person, or both, the opportunity to present statements, arguments, or contentions orally or in writing and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The authority shall consider all relevant matter presented to it before taking the proposed action on the regulation. At a hearing under this subsection, the authority may continue or postpone the hearing to a time and place determined by the authority and announced at the hearing before taking the action to continue or postpone the hearing. A regulation adopted, amended, or repealed by the authority

Chapter 42

1 may vary from the informative summary specified in this subsection if
2 the subject matter of the action taken on the regulation remains the
3 same and if the original notice of the proposed action was written so
4 as to assure that members of the public are reasonably notified of the
5 subject matter of the proposed action in order for them to determine
6 whether their interests could be affected by the authority's proposed
7 action on that subject.

8 * Sec. 10. AS 44.88.085(e) is amended to read:

9 (e) The adoption, amendment, or repeal of a regulation [ON A
10 SUBJECT SPECIFIED IN (c) OF THIS SECTION] may be made as an emergency
11 regulation if, in the order of adoption, the authority states the
12 facts constituting the emergency and makes a finding that the adoption
13 of the regulation is necessary for the immediate preservation of the
14 orderly operation of the authority's [LOAN AND BONDING] programs. The
15 requirements of (d) of this section do not apply to the initial adop-
16 tion of an emergency regulation [COVERING A SUBJECT SPECIFIED IN (c)
17 OF THIS SECTION]; however, upon adoption of an emergency regulation
18 under this subsection, the authority shall, within 10 days after that
19 adoption, publish notice of the adoption in accordance with the notice
20 procedures specified in (d) of this section. An emergency regulation
21 adopted under this subsection may not remain in effect for more than
22 120 days unless, before the expiration of that period, the authority
23 adopts that regulation as a permanent regulation in accordance with
24 the procedures specified in (d) of this section.

25 * Sec. 11. AS 44.88.085(f) is amended to read:

26 (f) A regulation adopted under [(b) - (e) OF] this section takes
27 effect immediately upon its adoption by the authority or at another
28 [SUCH OTHER] time [AS] specified by the authority in its order of
29 adoption.

* Sec. 12. AS 44.88.085 is amended by adding new subsections to read:

(g) The authority shall adopt regulations necessary for the following purposes in connection with its programs for the financing of projects under AS 44.88.155 - 44.88.159:

- (1) determination of borrower eligibility;
- (2) loan guidelines and terms including, but not limited to, maximum loan amounts and required loan-to-value ratios, but excluding loan interest rates;
- (3) characteristics of projects eligible for loans or purchase of loans; and
- (4) the qualifications of loan originators and servicers and the method of allocating amounts available for the purchase of loans.

(h) The authority shall adopt regulations necessary for the following purposes in connection with its program for encouraging the exportation of Alaska goods, services, and raw materials under AS 44.-88.300 - 44.88.390:

- (1) establishing criteria for the eligibility of exporters and export transactions for the loan guarantees provided in AS 44.88.-300;
- (2) setting out the minimum equity interest a borrower must have in the borrower's business to qualify for a loan guarantee under AS 44.88.300 - 44.88.390;
- (3) adoption of collateral or security requirements to ensure the full repayment of loan guarantees and solvency of an insurance program established under AS 44.88.300 - 44.88.390;
- (4) providing guidelines for extension of a loan guarantee under AS 44.88.300 - 44.88.390;
- (5) setting out the maximum aggregate amount of guaranteed

Chapter 42

1 financing available to an exporter and the maximum amount of guaran-
2 teed financing available for a transaction eligible for guaranteed
3 financing;

4 (6) establishing the limits on the interest that may be
5 charged for guaranteed financings, the maximum fees that a participat-
6 ing financial institution may charge for making a loan that will be
7 guaranteed under AS 44.88.300 - 44.88.390, and the terms of and proced-
8 dures for repayment of a guaranteed financing; and

9 (7) establishing procedures for making a claim on the
10 guarantee or insurance in the event of a default.

11 * Sec. 13. AS 44.88.090(a) is amended to read:

12 (a) Subject to (g) of this section, the authority may borrow
13 money and may issue bonds, including but not limited to bonds on which
14 the principal and interest are payable[,]

15 (1) exclusively from the income and receipts or other money
16 derived from the project or development project financed with the
17 proceeds of the bonds or derived from the exporter or exporting trans-
18 action financed, guaranteed, or insured with the proceeds of the
19 bonds; [,]

20 (2) exclusively from the income and receipts or other money
21 derived from designated projects or development projects or other
22 sources whether or not they are financed, insured, or guaranteed in
23 whole or in part with the proceeds of the bonds; [,] or

24 (3) from its income and receipts or other assets generally,
25 or a designated part or parts of them.

26 * Sec. 14. AS 44.88.090(e) is repealed and reenacted to read:

27 (e) Before issuing bonds, the authority shall provide for con-
28 sideration at least sufficient, in the judgment of the authority, to
29 pay the principal of and interest on the bonds as they become due and

to create and maintain the reserves for the payments that the authority considers necessary or desirable, and to meet all obligations in connection with the lease or agreement and all costs necessary to service the bonds, unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority. If the bonds are being issued to finance a project or projects under AS 44.88.155 - 44.88.159, then the consideration shall be provided by lease or other agreement regarding the project or projects. If the bonds are being issued to finance a development project or development projects under AS 44.88.172 - 44.88.177, then the consideration shall be provided by lease or other agreement regarding the development project or development projects. If the bonds are being issued to provide money to finance, guarantee, or insure an exporting transaction under AS 44.88.300 - 44.88.390, then the consideration shall be provided by agreement with the exporter.

* Sec. 15. AS 44.88.090(g) is amended to read:

(g) The authority may not

(1) issue bonds, other than refunding bonds, in any 12-month period beginning after June 30, 1982, in an amount that exceeds the amount of bonds authorized to be issued during the preceding 12-month period, unless a different amount is authorized by the legislature; or

(2) issue revenue bonds other than refunding bonds for a project under AS 44.88.155 - 44.88.159, for a development project under AS 44.88.172 - 44.88.177, or to provide money to finance, guarantee, or insure an exporting transaction under AS 44.88.300 - 44.88.390, [THIS CHAPTER] in an amount greater than \$50,000,000 during any 12-month period beginning after June 30, 1981, unless the issuance

Chapter 42

1 is included separately in the estimates required in the report of the
2 authority under AS 44.88.210(b) and unless the legislature, by law
3 approves the issuance.

4 * Sec. 16. AS 44.88.090(h) is amended to read:

5 (h) The authority may combine, for the purposes of a single
6 offering, bonds financing more than one project or development project
7 under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, and bonds
8 issued to provide money to finance, guarantee, or insure an exporting
9 transaction under AS 44.88.300 - 44.88.390 [AS 44.88.010 - 44.88.220].

10 * Sec. 17. AS 44.88.100 is amended to read:

11 Sec. 44.88.100. TRUST INDENTURES AND TRUST AGREEMENTS. In the
12 discretion of the authority, an issue of bonds may be secured by a
13 trust indenture or trust agreement between the authority and a corpo-
14 rate trustee (which may be a trust company, bank, or national banking
15 association, with corporate trust powers, located inside or outside
16 the state) or by a secured loan agreement or other instrument or under
17 a resolution giving powers to a corporate trustee (hereinafter in this
18 section referred to as "trust agreement") by means of which the auth-
19 ority may:

20 (1) make and enter into any and all the covenants and
21 agreements with the trustee or the holders of the bonds which the
22 authority may determine to be necessary or desirable, including,
23 without limitation, covenants, provisions, limitations and agreements
24 as to

25 (A) the application, investment, deposit, use and
26 disposition of the proceeds of bonds of the authority or of money
27 or other property of the authority or in which it has an inter-
28 est;

29 (B) the fixing and collection of rents or other

consideration for, and the other terms to be incorporated in, a lease or contract of sale of a project or development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, or of a facility that is part of an exporting transaction financed, guaranteed, or insured under AS 44.88.300 - 44.88.390;

(C) the assignment by the authority of its rights in the lease or contract of sale of a project or development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, or of a facility that is part of an exporting transaction financed, guaranteed, or insured under AS 44.88.300 - 44.88.390 or in a mortgage or other security interest created with respect to a project or development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, or with respect to a facility that is part of an exporting transaction financed, guaranteed, or insured under AS 44.88.300 - 44.88.390 to a trustee for the benefit of the bondholders;

(D) the terms and conditions upon which additional bonds of the authority may be issued;

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance and all other rights of the authority or of the bondholders [,] under a lease, contract of sale, mortgage, security agreement, or trust agreement with respect to a project or development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, or with respect to a facility that is part of an exporting transaction financed, guaranteed, or insured under AS 44.88.300 - 44.88.390 by mandamus or other proceeding or by taking possession of by agent or otherwise and operating a

Chapter 42

1 project or facility and collecting rents or other consideration
2 and applying the same in accordance with the trust agreement;

3 (2) pledge, mortgage or assign money, leases, agreements,
4 property or other assets of the authority either presently in hand or
5 to be received in the future, or both; and

6 (3) provide for any other matters of like or different
7 character which in any way affect the security or protection of the
8 bonds.

9 * Sec. 18. AS 44.88.105(f) is amended to read:

10 (f) The authority may not establish a capital reserve fund to
11 secure an issue of bonds in an amount in excess of \$1,000,000 unless
12 at least 20 percent of the principal amount of the loan for the proj-
13 ect or development project being financed under AS 44.88.155 -
14 44.88.159 or 44.88.172 - 44.88.177, or of the loan to finance, guaran-
15 tee, or insure an exporting transaction under AS 44.88.300 - 44.88.390
16 is retained by a federal or state chartered financial institution or
17 the Alaska Commercial Fishing and Agriculture Bank.

18 * Sec. 19. AS 44.88.130 is amended to read:

19 Sec. 44.88.130. PLEDGE OF THE STATE. The state pledges to and
20 agrees with the holders of bonds issued under this chapter and with
21 the federal agency that lends [WHICH LOANS] or contributes funds in
22 respect to a project or development project financed under AS 44.88.-
23 155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an export-
24 ing transaction financed, guaranteed, or insured under AS 44.88.300 -
25 44.88.390 [,] that the state will not limit or alter the rights and
26 powers vested in the authority by this chapter to fulfill the terms of
27 a contract made by the authority with the holders or federal agency
28 and that the state will not [, OR] in any way impair the rights and
29 remedies of the holders until the bonds, together with the interest on

them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders [,] are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders [,] and, insofar as it relates to a federal agency, in a contract with the federal agency.

* Sec. 20. AS 44.88.140 is amended to read:

Sec. 44.88.140. EXEMPTION FROM TAXATION. (a) The real and personal property of the authority and its assets, income, and receipts are declared to be the property of a political subdivision of the state and, together with any project or development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, [THIS CHAPTER] and a leasehold interest created in a project or development project financed [APPLICANT OR OTHER PERSON] under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177 [THIS CHAPTER], devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project, development project, and leasehold interests shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing units. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality, and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income and receipts pledged to pay or secure the payments [PAYMENT] of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except

Chapter 42

1 for inheritance and estate taxes and taxes on transfers by or in
2 contemplation of death. Nothing in this section affects or limits an
3 exemption from license fees, property taxes, or excise, income or any
4 other taxes, provided under any other law, nor does it create a tax
5 exemption with respect to the interest of any business enterprise or
6 other person, other than the authority, in any property, assets,
7 income, receipts, project, development project, or lease whether or
8 not financed under this chapter. By January 10 of each year, the
9 authority shall submit to the governor and the legislature a report
10 describing the nature and extent of the tax exemption of the property,
11 assets, income, receipts, project, development project and leasehold
12 interests of the authority under this section.

13 (b) The authority may enter into agreements with an applicant or
14 [A] proposed [PROJECT] applicant under this chapter [OR PROJECT APPLI-
15 CANT] providing for payments, computed on a formula basis or otherwise
16 [,] in lieu of taxes, which the authority may consider appropriate.
17 The agreement may provide that the payments be made to the political
18 subdivision of the state in which a project or development project is
19 or is to be located or to any other taxing unit of the state includ-
20 ing, without limitation, a borough, city, municipality, school dis-
21 trict or public utility district, the area of which is coterminous in
22 whole or in part with that of the political subdivision.

23 * Sec. 21. AS 44.88.155(a) is amended to read:

24 Sec. 44.88.155. ENTERPRISE DEVELOPMENT ACCOUNT [FUND]. (a) The
25 enterprise development account [FUND] is established in the revolving
26 fund [AUTHORITY]. The enterprise development account [FUND] is a
27 trust fund for the uses and purposes of this chapter [AS 44.88.010 -
28 44.88.220]. The enterprise development account [FUND] consists of
29 money or assets appropriated or transferred to the authority and other

money or assets deposited in it by the authority.

* Sec. 22. AS 44.88.155(b) is amended to read:

(b) The authority may establish in the enterprise development account [FUND] a small enterprise loan account, a loan insurance account, and other accounts it considers appropriate.

* Sec. 23. AS 44.88.155(c) is amended to read:

(c) Money and other assets of the enterprise development account [FUND] may be used to secure bonds of the authority issued to finance the purchase of loans for projects [,] and shall be held and invested by the authority in the types of investments described in AS 37.10.-070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase loans for projects [AS DEFINED IN AS 44.88.220].

* Sec. 24. AS 44.88.155(d) is amended to read:

(d) A loan purchased in whole or in part by the authority with assets of the enterprise development account or with proceeds of bonds secured by assets of the enterprise development account, other than a loan which is financed with the proceeds of bonds of the authority and secured only by a project applicant or a project,

(1) may not exceed

(A) \$10,000,000; or

(B) \$500,000 if the loan is purchased under AS 44.88.-

158;

(2) may not exceed the cost of the project or 75 percent of the appraised value of the project, whichever is less, unless the amount of the loan in excess of this limit is federally insured or guaranteed or is insured by a qualified mortgage insurance company;

(3) may not be for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date the loan is made, whichever is earlier;

Chapter 42

1 (4) shall contain complete amortization provisions satis-
2 factory to the authority requiring periodic payments by the borrower;

3 (5) shall be in the form and contain the terms and pro-
4 visions with respect to insurance, repairs, alterations, payment of
5 taxes and assessments, default reserves, delinquency charges, default
6 remedies, acceleration of maturity, secondary liens, and other matters
7 the authority prescribes;

8 (6) shall be secured as to repayment by a mortgage or other
9 security instrument in the manner the authority determines is feasible
10 to assure timely repayment under a loan agreement entered into with
11 the borrower;

12 (7) may not be made unless

13 (A) at least 10 percent of the principal amount of the
14 loan is retained by the originator of the loan; or

15 (B) 100 percent of the principal amount of the loan is
16 guaranteed by the United States or an agency or instrumentality
17 of the United States;

18 (8) must be

19 (A) at least partially guaranteed by the United States
20 or an agency or instrumentality of the United States, subject to
21 the provisions of AS 44.88.158; [OR]

22 (B) financed from the proceeds of bonds; or

23 (C) expected by the authority to be financed from the
24 proceeds of bonds.

25 * Sec. 25. AS 44.88.155(e) is amended to read:

26 (e) The authority may adopt regulations for the administration
27 of the enterprise development account including [FUND WHICH MAY IN-
28 CLUDE], without limitation, provisions for fees and agreements re-
29 lating to application, loan commitment, servicing, and origination of

loans by other lenders.

* Sec. 26. AS 44.88.155(f) is amended to read:

(f) The authority may enter into agreements as to the use of the money in the enterprise development account [FUND], including without limitation, trust or custody arrangements with banks or trust companies. It may also pledge, assign, or grant the agreement, interests under an agreement, or interests in the enterprise development account [FUND] as may be necessary or appropriate to provide for payment and security for bonds of the authority issued to finance the purchase by the authority of loans for projects.

* Sec. 27. AS 44.88.155 is amended by adding a new subsection to read:

(h) The provisions of this section apply only with respect to loans purchased or made by the authority for projects under AS 44.88.-155 - 44.88.159.

* Sec. 28. AS 44.88.157(a) is amended to read:

(a) The loan insurance account is established in the revolving fund. The purpose of the loan insurance account is to provide insurance of mortgage loans and other loans made or purchased by the authority under AS 44.88.155, or made by others and approved for insurance by the authority, for a project. The authority may enter into agreements as to the use of money in the loan insurance account and may pledge, assign, or grant interests in the loan insurance account as provided in this section. The authority may adopt regulations and enter into agreements with respect to the exercise of any power or approval relating to the loan insurance account under this section, including, without limitation, agreements as to the use of money in the loan insurance account, agreements with respect to the terms and conditions upon which payments from the loan insurance account will be made with respect to a loan insured under this section, agreements as

Chapter 42

1 to separate subaccounts in the loan insurance account for different
2 categories of loans or as to loans made by the authority or any other
3 person, and agreements regarding the payment of and security for bonds
4 issued by the authority. An agreement, the rights of the authority
5 under an agreement, or payments received or to be received under an
6 agreement may be pledged or assigned by the authority for the benefit
7 of the holders of bonds issued by the authority.

8 * Sec. 29. AS 44.88.157(b) is amended to read:

9 (b) The authority may, upon application of a borrower or pro-
10 posed borrower, insure and make advance commitments to insure loan
11 repayments required under the terms of a loan made by it or by another
12 lender with respect to a project, upon the terms and conditions the
13 authority prescribes. To be eligible for insurance under this section
14 [AS 44.88.010 - 44.88.220], a loan for a project

15 (1) shall be held by the authority or by a lender approved
16 by the authority as responsible and able to service the loan;

17 (2) may not exceed \$10,000,000 for a project, or 90 percent
18 of the cost of the project or 90 percent of the appraised value of the
19 project, whichever is less;

20 (3) may not be made for a term longer than three-quarters
21 of the authority's estimate of the life of the project or 25 years
22 from the date of issuance of the insurance, whichever is earlier;

23 (4) shall contain complete amortization provisions satis-
24 factory to the authority requiring periodic payments by the borrower;
25 and

26 (5) shall be in the form and contain the terms with respect
27 to insurance, repairs, alterations, payment of taxes and assessments,
28 default reserves, delinquency charges, default remedies, acceleration
29 of maturity, additional and secondary liens, and other matters that

the authority prescribes.

- * Sec. 30. AS 44.88.157(k) is amended to read:

(k) A loan may not be insured under this section [FROM A LOAN INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan is for a project the cost of which exceeds \$10,000,000.

- * Sec. 31. AS 44.88.157(1) is amended to read:

(1) A loan in excess of \$1,000,000 may not be insured under this section [FROM A LOAN INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] unless at least 20 percent of the principal amount of the loan is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank.

- * Sec. 32. AS 44.88.158(a) is amended to read:

Sec. 44.88.158. SMALL BUSINESS ENTERPRISE LOAN ACCOUNT. (a) A small business enterprise loan account is established in the revolving [ENTERPRISE DEVELOPMENT] fund. The account may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the small business enterprise loan account, the unpledged income of the revolving [ENTERPRISE DEVELOPMENT] fund, and other money or assets deposited in it by the authority.

- * Sec. 33. AS 44.88.158(b) is amended to read:

(b) The authority may use money in the small business enterprise loan account to purchase or participate in the purchase of loans to small business enterprises and to purchase the guaranteed portion of a loan made by a private financial institution after June 30, 1981, to a small business enterprise to pay the cost of a project or exporting transaction [, AS DEFINED IN AS 44.88.220], if the loan is guaranteed by the United States or an agency or instrumentality of the United States, including, but not limited to, the Small Business Administration, the National Marine Fisheries Service, and the Farmers Home

Chapter 42

Administration.

* Sec. 34. AS 44.88.159 is amended by adding a new subsection to read:

(d) The provisions of this section apply only to loans financed under AS 44.88.155 - 44.88.159.

* Sec. 35. AS 44.88.172 is amended to read:

Sec. 44.88.172. ECONOMIC DEVELOPMENT ACCOUNT [FUND]. (a) The economic development account [FUND] is established in the revolving fund [AUTHORITY]. The account [FUND] consists of money or assets appropriated, loaned, or transferred to the authority, and other money or assets deposited in the account [FUND] by the authority. The account [FUND] may [ONLY] be used only to finance, acquire, manage, and operate development projects that the authority intends to own and operate. The term "operate" includes operation directly by the authority, or by an agent of the authority.

(b) If a development project is financed or developed through use of the assets of the economic development account [FUND], the authority may not pledge or use [OTHER] assets of the enterprise development account established in AS 44.88.155 [AUTHORITY] to assist in the financing, development, or operation of the development project. However, whether or not the authority uses the economic development account [FUND], it may issue bonds to finance a development project and may secure the bonds with a mortgage, pledge, or assignment of the development project or of revenues, money, or agreements attributable to the development project or the bonds. Financing assistance provided with respect to a development project under this section shall, to the maximum extent reasonable under the circumstances, be made in the form of a loan to the project [AS PROVIDED IN SEC. 10 OF THIS ACT].

* Sec. 36. AS 44.88.172 is amended by adding a new subsection to read:

(c) The authority may not issue bonds to assist in the acquisition, financing, or operation of a development project under this section without prior legislative approval.

* Sec. 37. AS 44.88.190 is amended by adding a new subsection to read:

(c) A loan purchased or financed by the authority in whole or in part is exempt from the provisions of AS 45.45.010. A guarantee extended under AS 44.88.300 or insurance provided under AS 44.88.390 does not constitute insurance for the purposes of AS 21.03.010.

* Sec. 38. AS 44.88.212 is amended by adding a new subsection to read:

(c) The authority may not limit, or charge a fee or penalty for, prepayment of a loan after five years from the inception of the loan.

* Sec. 39. AS 44.88.220(1) is amended to read:

(1) "authority" means the Alaska Industrial Development and Export Authority created by AS 44.88.010 - 44.88.220;

* Sec. 40. AS 44.88.220(2) is amended to read:

(2) "business enterprise" means a single proprietorship, cooperative, corporation, firm, partnership, or other association of persons organized in any manner, for any credit worthy business purpose [, OTHER THAN ON A NONPROFIT BASIS];

* Sec. 41. AS 44.88.220 is amended by adding new paragraphs to read:

(13) "development project" means a plant or facility used or intended for use in connection with making, processing, preparing, or producing goods, products, or substances, or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling, or producing minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products, or substances;

(14) "revolving fund" means the Alaska Industrial Development and Export Authority revolving fund created in AS 44.88.060.

Chapter 42

* Sec. 42. AS 44.88 is amended by adding new sections to read:

ARTICLE 5. EXPORT ASSISTANCE.

Sec. 44.88.300. GUARANTEED FUNDING FOR EXPORT TRANSACTIONS. The authority may provide guaranteed funding, through a participating banking organization, for an export transaction that the authority determines is eligible under AS 44.88.310.

Sec. 44.88.310. ELIGIBILITY OF EXPORT TRANSACTIONS. An exporting contract is a transaction eligible for guaranteed funding under AS 44.88.300 - 44.88.390 if, in the judgment of the authority, it will create or maintain employment in the state and it

(1) promotes the sale abroad of raw materials extracted in the state, or goods whose final stage of production occurs in the state, that constitutes 25 percent or more of the contract price;

(2) provides for the rendering of services abroad by a business located in the state if 25 percent or more of the contract price consists of wages or other payments made to persons normally residing in the state;

(3) promotes the sale abroad of raw materials or goods distributed by a business located in the state if

(A) 25 percent or more of the contract price consists of wages or other payments made to persons or businesses normally residing or located in the state; or

(B) the business has a significant relationship with the state based upon

(i) the amount of capital investments it has that are located in the state;

(ii) the number of state residents employed by the business;

(iii) the amount of business transacted in the

state; or

(iv) a combination of (i) - (iii); or

(4) provides both for the sale abroad of raw materials extracted in the state or goods whose final stage of production occurs in the state, and for the rendering of services abroad by state residents, the aggregate value of which is 25 percent or more of the contract price.

Sec. 44.88.320. LIMITATIONS ON GUARANTEES. (a) The authority may not guarantee more than 90 percent of a loan under AS 44.88.300.

(b) The authority may not guarantee a loan under AS 44.88.300 unless the authority finds that the guarantee is reasonably necessary to stimulate or facilitate the making of a loan for an eligible exporting transaction.

Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may guarantee a loan under AS 44.88.300, the participating financial institution shall investigate the credit or sources of credit available to the exporter to determine the economic benefits to be derived from the guarantee, the prospects of repayment, and other factors necessary to determine that the guaranteed funding is consistent with the purposes of AS 44.88.300 - 44.88.390.

Sec. 44.88.340. CONFIDENTIALITY OF INFORMATION. Information submitted to or compiled by the authority regarding the identity, background, finances, marketing plans, trade secrets, or other commercially sensitive affairs of the exporter is confidential, unless the exporter consents to its disclosure.

Sec. 44.88.350. FEES CHARGED. The authority shall, by regulation, establish fees to be charged to a participating financial institution for providing a guarantee under AS 44.88.300. The fees must be sufficient to cover the costs of administering the guarantee program

Chapter 42

1 under AS 44.88.300 - 44.88.390 and any premium the authority pays for
2 insuring its risks.

3 Sec. 44.88.360. EFFECT OF GUARANTEE. (a) A guarantee under
4 AS 44.88.300 shall guarantee against political or commercial loss, in
5 whole or in part, of principal and interest on an eligible export
6 transaction. The guarantee may include, without limitation, insurance
7 against loss up to a stated amount. A guarantee under AS 44.88.300
8 may not be terminated, canceled, or revoked, except under its terms.
9 A guarantee held by a participating financial institution is presumed
10 to be valid.

11 (b) In this section, "political loss" means a loss incurred as a
12 result of a political risk insured under an export credit insurance
13 umbrella policy, or a comparable policy or agreement, issued by the
14 Export-Import Bank of the United States.

15 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.
16 A guarantee under AS 44.88.300 is not a general obligation of the
17 state.

18 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
19 agent of the authority may not be held personally liable in a civil
20 action for damages for an act done or omitted in good faith while
21 performing the functions of office, employment, or agency under this
22 chapter.

23 Sec. 44.88.390. EXPORT INSURANCE ACCOUNT. (a) The export
24 insurance account is established in the revolving fund. The account
25 consists of money appropriated to it by the legislature and other
26 money and assets, including bond proceeds, deposited in it by the
27 authority. The account shall be held as security for the holders of
28 bonds issued by the authority for the purposes of AS 44.88.300 -
29 44.88.390. The authority may enter into trust agreements with respect

to the use of money in the account, including the use of that money to discharge a guarantee obligation of the authority. The trust agreements may contain provisions and limitations concerning the investment and disbursement of money in the account, the payment of expenses of the account, the appointment, resignation and discharge of trustees, the delegation of enforcement and collection powers under the insurance agreements to the trustee, the duties of the trustees, amendments of the trust agreements, and other lawful provisions and limitations the authority considers appropriate. The trust agreements may pledge premiums and other money that may be deposited in the account. The pledge shall be valid and binding from the time the pledge is made. The premiums and other money pledged and thereafter received by the account, or by the trustees in its behalf, shall immediately be subject to the lien of the pledge. The pledge shall be valid and binding against parties having claims against the account, irrespective of whether the parties have notice of the pledge.

(b) The authority may use proceeds of bonds issued for the purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may be pledged for the security of the holders of the bonds. If insurance is pledged as security, whether obtained through the export insurance account or purchased with bond proceeds, a description of the insurance shall expressly indicate the limitation of the liability of the authority and that neither the credit nor the taxing power of the state or a political subdivision of the state is available to satisfy obligations with respect to the insurance.

ARTICLE 6. SMALL BUSINESS ECONOMIC DEVELOPMENT

REVOLVING LOAN FUND.

Sec. 44.88.400. CREATION OF A SMALL BUSINESS ECONOMIC DEVELOPMENT REVOLVING LOAN FUND. There is created in the authority a small

Chapter 42

1 business economic development revolving loan fund to carry out the
2 purposes of AS 44.88.400 - 44.88.430, including the administration of
3 a revolving loan fund qualified to receive revolving loan fund grants
4 from the United States Economic Development Administration (EDA) under
5 Title IX of the Public Works and Economic Development Act of 1965, as
6 amended (42 U.S.C. 3121 et seq.). All money granted to the authority
7 by the United States Economic Development Administration, all money
8 appropriated to the fund, all principal and interest payments, and all
9 money chargeable to principal or interest that is collected through
10 liquidation by foreclosure or other process on loans made under
11 AS 44.88.400 - 44.83.430 shall be paid into the small business economic
12 development revolving loan fund.

13 Sec. 44.88.410. SPECIAL ACCOUNT ESTABLISHED. (a) There is
14 established as a special account within the small business economic
15 development revolving loan fund the foreclosure expense account. This
16 account is established as a reserve from fund equity.

17 (b) The authority may expend money credited to the foreclosure
18 expense account when necessary to protect the authority's security
19 interest in collateral on loans made under AS 44.88.420 or to defray
20 expenses incurred during foreclosure proceedings after a default by an
21 obligor.

22 Sec. 44.88.420. POWERS AND DUTIES OF THE AUTHORITY. (a) The
23 authority may

24 (1) accept United States Economic Development Administration
25 revolving fund grants;

26 (2) make loans to eligible applicants under the United
27 States Economic Development Administration Long-Term Economic Deteri-
28 oration (LTED) and Sudden and Severe Economic Dislocation (SSED)
29 programs;

(3) designate agents and delegate powers to them as necessary;

(4) adopt regulations necessary to carry out its functions and to administer programs under United States Economic Development Administration guidelines, including regulations to establish reasonable fees for services provided;

(5) establish amortization plans for the repayment of loans that may include extensions; and

(6) charge and collect the fees established under this subsection.

(b) The commissioner of administration shall separately account for all fees and collection charges that the authority deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the authority to carry out the purposes of AS 44.88.400 - 44.88.430.

Sec. 44.88.430. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORECLOSURE. The authority shall dispose of property acquired through default or foreclosure on a loan made under AS 44.88.400 - 44.88.430. Disposal shall be made in a manner that serves the best interests of the state and may include the amortization of payments over a period of years.

* Sec. 43. To be consistent with the change made by this Act, wherever in the Alaska Statutes and in regulations adopted under those statutes "Alaska Industrial Development Authority" is used, it shall be read as referring to the Alaska Industrial Development and Export Authority. Under AS 01.05.031 the revisor of statutes shall implement this section in the statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall implement this section in the administrative regulations.

* Sec. 44. AS 44.88.156, 44.88.158(c), and secs. 10 and 11, ch. 162,

Chapter 42

1 SLA 1984, are repealed.

2 * Sec. 45. This Act takes effect immediately under AS 01.10.070(c).

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