

SENATE BILL NO. 115

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

Introduced: 3/24/99

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to investments by the Alaska Permanent Fund Corporation; and
2 providing for an effective date."

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

4 * **Section 1.** AS 37.13.120(e) is amended to read:

5 (e) The corporation may not borrow money or guarantee from principal of the
6 fund the obligations of others except as provided in this subsection. With respect
7 to real property investments of the fund, the corporation may, either directly or
8 through an entity in which the investment is made, borrow money if the
9 borrowing is without recourse to the corporation and the fund.

10 * **Sec. 2.** AS 37.13.120(g) is amended to read:

11 (g) Subject to the limitations contained in this section, the board may invest
12 fund assets at the competitive national market rates or prices that are applicable to each
13 investment only in

14 (1) obligations of, or obligations insured by or guaranteed by, the

1 United States or agencies or instrumentalities of the United States;

2 (2) obligations secured by reserves paid in by the United States or
3 agencies or instrumentalities of the United States or obligations of corporations in
4 which the United States is a shareholder or member;

5 (3) certificates of deposit and term deposits of United States domestic
6 banks that are members of the Federal Deposit Insurance Corporation and that may be
7 readily sold in a secondary market at prices reflecting fair value or that are fully
8 secured at all times as to payment of principal and interest as described in (m) of this
9 section;

10 (4) certificates of deposit and term deposits of federally chartered
11 savings and loan associations in Alaska that are fully secured at all times as to
12 payments of principal and interest as described in (m) of this section;

13 (5) certificates of deposit and term deposits of mutual savings banks
14 in Alaska that are fully secured at all times as to payments of principal and interest as
15 described in (m) of this section;

16 (6) fixed-term certificates of indebtedness of federally insured credit
17 unions in Alaska that are fully secured at all times as to payments of principal and
18 interest as described in (m) of this section;

19 (7) [DOMESTIC CORPORATE] debt **instruments that have been**
20 **issued by domestic entities and** [SECURITIES] that are rated investment grade [BY
21 A NATIONALLY RECOGNIZED RATING SERVICE], or [NONDOMESTIC
22 CORPORATE] debt **instruments** [SECURITIES] of comparable quality **issued by**
23 **nondomestic entities**;

24 (8) short-term

25 (A) [DOMESTIC CORPORATE] promissory notes **that have**
26 **been issued by domestic entities and that are rated investment grade** [OF
27 THE HIGHEST RATINGS ASSIGNED BY A NATIONALLY RECOGNIZED
28 RATING SERVICE]; or

29 (B) [NONDOMESTIC CORPORATE] promissory notes of
30 comparable quality **issued by nondomestic entities**, the interest on which may
31 be payable in either United States dollars or nondomestic currencies;

1 (9) bankers' acceptances drawn on and accepted by United States banks
2 each of which has a combined capital and surplus aggregating at least \$200,000,000;

3 (10) repurchase agreements, the securities underlying the agreements
4 being any of the items in (1) - (6) of this subsection;

5 (11) the portions of business and industrial loans made under the Rural
6 Development Act of 1972 that are guaranteed by the Farmers Home Administration;

7 (12) the guaranteed portion of Farmers Home Administration loans;

8 (13) notes secured by mortgages granting a first lien on residential real
9 estate improved by completed buildings if the mortgages are insured by a private
10 mortgage insurance corporation that is authorized to do business in this state and has
11 combined capital and surplus aggregating at least \$20,000,000 [,] and if loan-to-value
12 ratios do not exceed 90 percent; however, mortgage insurance is not necessary for
13 residential loans having a loan-to-value ratio of less than 70 percent and the minimum
14 coverage of other residential loans shall be 10 percent for those having a loan-to-value
15 ratio greater than 70 percent but less than 90 percent and 20 percent for those having
16 a loan-to-value ratio of 90 percent;

17 (14) preferred and common stock **and other equity interests in**
18 **entities organized** [OF CORPORATIONS INCORPORATED] in the United States;

19 (15) certificates of deposit, term deposits, or bankers' acceptances, that
20 are issued by a United States or nondomestic bank or trust company located outside
21 of the United States and are denominated in United States or nondomestic currency [,]
22 if either (A) they may be readily sold in a secondary market at prices reflecting fair
23 value, or (B) the issuing bank or trust company has capital, surplus, and retained
24 earnings at the date of issue equaling at least \$500,000,000; investments made under
25 this paragraph are not subject to the collateral requirements for domestic certificates
26 under (m) of this section;

27 (16) equity interests in, and debt obligations secured by mortgages
28 granting a first lien on, real estate **if the real estate is located in the United States**
29 **and is**

30 **(A)** improved by completed and substantially rented buildings;

31 **or**

1 **(B) located within the market area of real property in which**
 2 **the fund holds an existing interest and is acquired**

3 **(i) for the purpose of creating or adding to a**
 4 **portfolio of similar properties; or**

5 **(ii) to retain or service the needs of existing tenants**

6 [AND LOCATED IN THE UNITED STATES IF THE TOTAL
 7 VALUE HELD BY THE FUND IN EACH INVESTMENT DOES NOT
 8 EXCEED \$150,000,000, AND, IF THE TOTAL VALUE HELD BY
 9 THE FUND IN EACH INVESTMENT EXCEEDS \$150,000,000,
 10 THESE INVESTMENTS ARE MADE

11 (A) IN A CORPORATION, PARTNERSHIP, TRUST, OR
 12 OTHER ENTITY IN WHICH, AT THE CONCLUSION OF EACH
 13 INVESTMENT TRANSACTION, AT LEAST 33 PERCENT OF THE
 14 BENEFICIAL OWNERSHIP INTERESTS ARE HELD BY OTHER
 15 INSTITUTIONAL INVESTORS, AND WHICH IS ORGANIZED AND
 16 OPERATED FOR THE PURPOSE OF MAKING REAL ESTATE
 17 INVESTMENTS BY A BANK, INSURANCE COMPANY, OR OTHER
 18 MANAGER OF INSTITUTIONAL FUNDS THAT HAS HAD AT LEAST
 19 FIVE YEARS OF EXPERIENCE IN THE MANAGEMENT OF REAL
 20 ESTATE INVESTMENTS OF INSTITUTIONAL INVESTORS; OR

21 (B) WITH CORPORATIONS, PARTNERSHIPS, TRUSTS, OR
 22 ENTITIES IN WHICH, AT THE CONCLUSION OF EACH INVESTMENT
 23 TRANSACTION, AT LEAST 33 PERCENT OF THE BENEFICIAL
 24 OWNERSHIP INTERESTS IN THE CO-INVESTING ENTITY OR ENTITIES
 25 AS A WHOLE ARE HELD BY INSTITUTIONAL INVESTORS, AND IF

26 (i) AT THE TIME OF INVESTMENT THE FUND
 27 HAS NO MORE THAN A 67 PERCENT BENEFICIAL OWNERSHIP
 28 INTEREST IN THE REAL ESTATE INVESTED IN AS A WHOLE;

29 (ii) THE RIGHTS AND OBLIGATIONS OF THE
 30 FUND ARE SUBSTANTIALLY SIMILAR TO THOSE OF THE
 31 OTHER INSTITUTIONAL INVESTORS, EXCEPT FOR THE

1 PERCENTAGE INTEREST IN THE PROPERTY; AND

2 (iii) THE PROPERTY IS MANAGED AND
3 OPERATED BY AN ENTITY THAT HAS HAD AT LEAST FIVE
4 YEARS OF EXPERIENCE IN THE MANAGEMENT OF REAL
5 ESTATE INVESTMENTS OF INSTITUTIONAL INVESTORS];

6 (17) securities of nondomestic governments and nondomestic
7 government agencies, the principal of, or interest on, which is payable in either United
8 States dollars or nondomestic currencies;

9 (18) securities of **other** nondomestic **entities** [CORPORATIONS,
10 INCLUDING COMMON AND PREFERRED STOCK,] whose dividends, if any, may
11 be payable in either United States dollars or nondomestic currencies;

12 (19) taxable municipal or state debt **instruments** [SECURITIES] that
13 are rated investment grade [BY A NATIONALLY RECOGNIZED RATING
14 SERVICE];

15 (20) shares in a money market or short-term investment fund that has
16 either collateral securities of a type authorized elsewhere in this section as acceptable
17 collateral or securities of similar quality to those authorized elsewhere in this section
18 as acceptable collateral;

19 **(21) interests in a titleholding entity, real estate investment trust,**
20 **real estate operating company, or other entity whose assets consist predominantly**
21 **of**

22 **(A) equity interests in real property or debt obligations**
23 **secured by mortgages granting a lien on real property, so long as the**
24 **property is of a type in which the corporation is otherwise permitted to**
25 **invest fund assets under this subsection; or**

26 **(B) interests in other entities in which the corporation is**
27 **permitted to invest fund assets under this paragraph.**

28 * Sec. 3. AS 37.13.120(h) is amended to read:

29 (h) The board may enter into future contracts for the sale of investments
30 purchased under (g) of this section, or for the sale of nondomestic currencies, only for
31 the purpose of hedging an existing equivalent ownership position in these investments

1 or as a means of implementing asset allocation strategies.

2 * **Sec. 4.** AS 37.13.120(i) is amended to read:

3 (i) The fund may at no time **acquire** [OWN] more than five percent of the
 4 voting stock of a corporation unless the issuing corporation is an entity in which the
 5 Alaska Permanent Fund Corporation is permitted to invest fund assets under
 6 (g)(21) of this section. Domestic stocks, except for bank and insurance company
 7 stocks and stocks of corporations in which the Alaska Permanent Fund
 8 Corporation is permitted to invest fund assets under (g)(21) of this section, must
 9 be listed at the date of purchase on an exchange registered with the Securities and
 10 Exchange Commission. Except as otherwise permitted under (k) of this section,
 11 at [AT] the time of each investment, the aggregate investment of the fund in each
 12 stated category of investment may not exceed the following stated percentage of the
 13 total investments of the fund:

14 (1) mortgages under (g)(13) of this section--15 percent;

15 (2) real estate investments under (g)(16) **and 21** of this section--15
 16 percent;

17 (3) certificates of deposit, term deposit, or bankers' acceptances under
 18 (g)(15) of this section--20 percent;

19 (4) **interests in** domestic and nondomestic **entities** [CORPORATE
 20 STOCKS] under (g)(14) and (18) of this section--50 percent [.

21 (5) REPEALED].

22 * **Sec. 5.** AS 37.13.120(j) is amended to read:

23 (j) The assets of the fund may not be used for the purchase of **debt**
 24 **instruments** [BONDS] of a corporation **or other entity** [,] upon which any regular
 25 interest payment has been defaulted within five years before purchase, except **debt**
 26 **instruments** [BONDS] never in default but which have been outstanding for less than
 27 five years.

28 * **Sec. 6.** AS 37.13.120(k) is amended to read:

29 (k) The board shall establish and from time to time as necessary modify
 30 guidelines for the investment of the assets of the fund. Before adoption of any
 31 guidelines, the guidelines shall be reported to the Legislative Budget and Audit

1 Committee for review and comment. Notwithstanding (g) of this section or the
2 percentage investment limitations under (i) of this section and so long as doing so
3 satisfies the prudent-investor rule under (a) of this section, the board may invest
4 up to five percent of the total assets of the fund in either or a combination of the
5 following:

6 (A) other types of investments not specifically listed in (g)
7 of this section;

8 (B) categories of investment subject to the percentage
9 investment limitations established in (i) of this section, even though
10 investing additional assets in a category will cause the aggregate
11 investment in the category to exceed the applicable percentage limitation.

12 * **Sec. 7.** AS 37.13.120 is amended by adding a new subsection to read:

13 (p) For purposes of applying the percentage investment limitations established
14 in (i) of this section, if the board determines that a particular form of investment
15 authorized under (g) of this section may appropriately be classified in more than one
16 category of investment, it may elect the category to which that form of investment is
17 assigned.

18 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).