



LAWS OF ALASKA

2003

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Chapter No.

AN ACT

Relating to the loan participation program of the Alaska Industrial Development and Export Authority and to regulations of 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

AN ACT

1 Relating to the loan participation program of the Alaska Industrial Development and Export
2 Authority and to regulations of the Alaska Industrial Development and Export Authority; and
3 providing for an effective date.

4

5 * **Section 1.** AS 44.88.085(g) is amended to read:

6 (g) The authority shall adopt regulations necessary for the following purposes
7 in connection with its programs for the financing of projects under AS 44.88.155 -
8 44.88.159:

9 (1) determination of borrower eligibility;

10 (2) loan guidelines and terms, including

11 (A) maximum loan amounts;

12 (B) required loan-to-value ratios; and

13 (C) a method for determining loan interest rates [FOR THE

14 LOANS THAT ARE FINANCED DIRECTLY FROM THE ASSETS OF

1 THE AUTHORITY];

2 (3) characteristics of projects eligible for loans or purchase of loans;
3 and

4 (4) the qualifications of loan originators and servicers and the method
5 of allocating amounts available for the purchase of loans.

6 * **Sec. 2.** AS 44.88.155(d) is amended to read:

7 (d) A loan participation purchased by the authority with assets of the
8 enterprise development account or with proceeds of bonds secured by assets of the
9 enterprise development account

10 (1) may not exceed **\$20,000,000** [\$10,000,000]; however, in the case
11 of a loan participation for a power transmission intertie, the loan participation may
12 exceed **\$20,000,000** [\$10,000,000] with legislative approval;

13 (2) may not be purchased unless

14 (A) the project applicant is not, or, if the applicant is not a
15 single proprietorship, all members of the business enterprise or enterprises
16 constituting the project applicant are not, in default on another loan made by
17 the state or by a public corporation of the state; and

18 (B) at least **10** [20] percent of the principal amount of the loan
19 is retained by the loan originator;

20 (3) may not be purchased if the loan to be purchased exceeds 75
21 percent of the appraised value of the collateral offered as security for the loan unless
22 the amount of the loan in excess of this limit is federally insured or guaranteed or is
23 insured by a qualified mortgage insurance company, except that [IN NO EVENT
24 MAY] the loan to be purchased under this paragraph **may not** exceed the total of loan
25 proceeds used to refinance an existing debt plus the cost of new construction,
26 expansion, or acquisition **unless the proceeds from the additional amounts of the**
27 **loan to be purchased are restricted to uses approved by the authority to finance**
28 **commercial activity in the state by a business enterprise;**

29 (4) may not be purchased if the participation in the loan to be
30 purchased is for a term longer than the following, except that [IN NO EVENT MAY]
31 a loan under (A) or (C) of this paragraph **may not** have a term longer than three-

1 quarters of the authority's estimate of the life of the collateral offered as security for
2 the loan:

3 (A) 40 years from the date the loan is made in the case of a
4 loan participation for a project described in AS 44.88.900(9)(E);

5 (B) 50 years from the date the loan is made in the case of a loan
6 participation for a power transmission intertie;

7 (C) 25 years from the date the loan is made in the case of a loan
8 participation for other projects;

9 (5) may be made only if the participation in the loan to be purchased
10 contains amortization provisions; the amortization provisions

11 (A) must be complete and satisfactory to the authority and
12 require periodic payments by the borrower;

13 (B) may allow the loan originator to amortize the portion of the
14 loan retained by the loan originator using a shorter amortization schedule than
15 the amortization schedule for the portion of the loan held by the authority if

16 (i) in the authority's opinion, the project financed can
17 support the increased debt service; and

18 (ii) the accelerated amortization schedule is required to
19 induce the originator to make the loan;

20 (6) may be made only if the participation in the loan to be purchased is
21 in the form and contains the terms and provisions with respect to insurance, repairs,
22 alterations, payment of taxes and assessments, default reserves, delinquency charges,
23 default remedies, acceleration of maturity, secondary liens, and other matters the
24 authority prescribes; and

25 (7) may be made only if the participation in the loan to be purchased is
26 secured as to repayment by a mortgage or other security instrument in the manner the
27 authority determines is feasible to assure timely repayment under the loan documents
28 entered into with the borrower.

29 * **Sec. 3.** AS 44.88.159(a) is amended to read:

30 (a) The interest rate on a loan participation purchased from the proceeds of
31 tax-exempt bonds or expected by the authority to be purchased from the proceeds of

1 tax-exempt bonds **shall be determined under the regulations adopted by the**
2 **authority under AS 44.88.085(g)(2)(C) and shall be not less than** [IS EQUAL TO]
3 the cost of funds to the authority. In this subsection, "cost of funds" means the true
4 interest cost expressed as a rate on tax-exempt bonds of the authority plus an
5 additional percentage as determined by the authority to represent the allocable
6 expenses of operation, costs of issuance, and loan servicing **costs**.

7 * **Sec. 4.** AS 44.88.159(b) is amended to read:

8 (b) The interest rate on a loan participation purchased from the proceeds of
9 taxable bonds or expected by the authority to be purchased from the proceeds of
10 taxable bonds **shall be determined under the regulations adopted by the authority**
11 **under AS 44.88.085(g)(2)(C) and shall be not less than** [IS EQUAL TO] the cost of
12 funds to the authority. In this subsection, "cost of funds" means the true interest cost
13 expressed as a rate on taxable bonds, plus an additional percentage as determined by
14 the authority to represent the allocable expenses of operation, costs of issuance, and
15 loan servicing costs.

16 * **Sec. 5.** AS 44.88.159(e) is amended to read:

17 (e) The interest rate on a loan participation purchased directly from the assets
18 of the authority shall be determined under the regulations adopted by the authority
19 under AS 44.88.085(g)(2)(C). However, the **minimum** interest rate on a loan
20 participation purchased from assets of the authority may not be less than the
21 **minimum interest** rate determined

22 (1) under (a) of this section if the project is of a type that could be
23 funded with tax-exempt bonds; or

24 (2) under (b) of this section if the project is of a type that could not be
25 funded with tax-exempt bonds.

26 * **Sec. 6.** AS 44.88.159 is amended by adding a new subsection to read:

27 (f) In determining an interest rate under the regulations adopted by the
28 authority under AS 44.88.085(g)(2)(C), the authority may determine to disregard the
29 minimum interest rate required under (a), (b), or (e) of this section for a loan
30 participation purchased by the authority to resolve lending limits or reserve restrictions
31 imposed on the financial institution and may instead determine to retain the interest

1 rate existing at the time the authority purchases a portion of the loan.

2 * **Sec. 7.** AS 44.88.900(7) is amended to read:

3 (7) "loan participation" means the purchase of a portion of a loan from
4 a financial institution if

5 (A) the financial institution has obtained a commitment from
6 the authority to purchase the portion of that loan before the financial institution
7 has disbursed money as part of the loan to the borrower; **or**

8 (B) the authority determines that purchasing a portion of a
9 preexisting loan will resolve lending limits or reserve restrictions imposed
10 on the financial institution by law or a state or federal regulatory agency,
11 or by the financial institution if the internal lending limit or reserve
12 restriction is acceptable to the authority;

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