

1 IN THE HOUSE

BY THE RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 20

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a public corporation to  
7 be known as the Alaska State Mortgage  
8 Association; empowering the Association to  
9 loan fund upon the security of insured  
10 mortgages; prescribing other powers and  
11 duties; providing for the organization  
12 membership and administration of the Assoc-  
13 iation; and providing for an effective date."

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

15 Section 1. PURPOSES. It is hereby determined and declared  
16 as a matter of legislative finding that

17 a. The lack of sufficient secondary marketing facilities  
18 for housing mortgages in Alaska is a deterrent to the entire  
19 economy of the state, and a condition which the legislature de-  
20 sires to remedy.

21 b. Inadequate funds and secondary marketing facilities for  
22 housing mortgages restrict the building of adequate housing and  
23 create conditions contrary to the public interest which threaten,  
24 or may threaten, the health, safety, welfare, comfort and security  
25 of its citizens.

26 c. The scarcity of available housing mortgage financing  
27 sources makes such a marketing facility both desirable and necessary  
28 and in the best interests of the public welfare.

29 d. There is a definite need in the state for a secondary

1 market facility for housing mortgages.

2       Therefore, it is hereby declared to be the policy of the  
3 State of Alaska to promote the health, safety and welfare of its  
4 citizens by the creation of a body corporate and politic, to  
5 exist and operate for the purposes resulting from the conditions  
6 caused by the lack of a permanent secondary source of funds for  
7 housing financing, thus providing additional financing secured  
8 by insured mortgages to persons, firms or financial institutions  
9 who are unable to obtain such financing in the general market;  
10 thereby improving and stimulating the distribution of investment  
11 capital for housing. Such purposes are deemed necessary and are  
12 public purposes for which public money may be spent.

13       Sec. 2. DEFINITIONS. As used in this Act --

14       a. "Association" means the Alaska State Mortgage Associa-  
15 tion.

16       b. "Board" means the governing body of the Association.

17       c. "Mortgage" means a first mortgage or deed of trust on  
18 real property located in the State of Alaska and the personal  
19 property attached or used in conjunction therewith, which is  
20 given to secure a loan on said property.

21       d. "Insured mortgage" means a mortgage or deed of trust  
22 insured or approved to be insured by the Federal Housing Admini-  
23 stration pursuant to the National Housing Act of June 27, 1934,  
24 and its amendments and supplements heretofore and hereinafter  
25 enacted.

26       e. "Secondary market facility" means a facility or entity  
27 which retains or sells mortgages or deeds of trust obtained from  
28 prior mortgagees or beneficiaries.

29       f. "Bonds, notes and debentures" shall mean the bonds,

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1 notes and debentures, respectively, issued by the Association  
2 pursuant to this Act.

3 g. "State" shall mean the State of Alaska.

4 h. "Members" shall mean the members of the board of direc-  
5 tors of the Association.

6 Sec. 3. ASSOCIATION CREATION. There is hereby created a  
7 body corporate and politic, named the Alaska State Mortgage  
8 Association, as a public corporation and government instrumen-  
9 ality to have continuing succession until its existence shall be  
10 terminated by law; provided, however, that no such law shall  
11 take effect so long as the Association shall have bonds, notes  
12 and other obligations outstanding. Upon termination of the  
13 existence of the Association, all its rights and properties shall  
14 pass to and be vested in the state.

15 Sec. 4. ASSOCIATION MEMBERSHIP. The Governor shall appoint  
16 a board consisting of the three present members of the Board of  
17 Commissioners of the Alaska State Housing Authority, its execu-  
18 tive director and the Commissioner of Commerce. Members shall  
19 serve without compensation except that each member may be reim-  
20 bursed for actual and necessary expenses under Sec. 1, Ch. 34,  
21 SLA 1960.

22 Sec. 5. ASSOCIATION GOVERNING BODY. The board shall be the  
23 governing body of the Association. The board shall elect a  
24 chairman from among its membership at the first meeting of the  
25 board and at its first meeting in each year thereafter. A  
26 majority of the members shall constitute a quorum for the purpose  
27 or organizing the Association, conducting its business and exer-  
28 cising all powers of the Association. The board of directors  
29 shall meet at the call of its chairman who shall require it to

1 meet not less often than once each three months.

2       Sec. 6. ASSOCIATION ADMINISTRATION. The board shall have  
3 the power to manage the assets and business of the Association  
4 and to prescribe, amend and repeal by-laws, rules and regu-  
5 lations governing the manner in which the business of the  
6 Association is conducted and the manner in which the powers  
7 granted to it are exercised. The Association may delegate  
8 to one or more of its directors, officers, agents or employees  
9 such powers and duties as it may deem proper. The board  
10 may delegate supervision of the administration of the Association  
11 to an executive officer. The Association may appoint other  
12 officers, hire employees and agents, and engage professional  
13 and technical services and advice upon employment or independent-  
14 contract bases. The board shall prescribe the duties and  
15 compensation of Association personnel. The personnel of the  
16 Association shall be exempt from the provisions of Chapter  
17 144, SLA 1960 to the same extent as the personnel of the  
18 Alaska State Housing Authority. All departments, agencies and  
19 public corporations of the state may provide information,  
20 services, facilities and loans to the Association upon its  
21 request. The Association may reimburse departments, agencies  
22 and public corporations of the state for loans advanced or for  
23 expenses incurred on the Association's behalf.

24       Sec. 7. ASSOCIATION POWERS. The Association shall have the  
25 following powers:

26       a. To adopt, use and alter at will a corporate seal.

27       b. To make and alter by-laws for its organization and  
28 internal management.

29       c. To be a party litigant in any court, having jurisdiction

1 according to law, in any form of action whatsoever.

2 d. To enter into contracts of all kinds and to execute  
3 all instruments necessary or convenient for carrying on its opera-  
4 tions.

5 e. To acquire, hold and dispose of personal property,  
6 tangible and intangible.

7 f. To acquire real property, or any interest therein, by  
8 purchase or foreclosure where such acquisition is necessary or  
9 appropriate to protect any loan in which the Association has an  
10 interest; to sell, transfer and convey any such property to a  
11 buyer, and in the event such sale, transfer or conveyance cannot  
12 be effected with reasonable promptness or at a reasonable price,  
13 to rent or lease such property to a tenant.

14 g. To borrow money and issue negotiable notes, bonds,  
15 debentures or other obligations, and to provide for the rights  
16 of the holders thereof.

17 h. To purchase and to sell, at its own discretion, mortgages  
18 insured by the Federal Housing Administration, or mortgages  
19 obtained by the Division of Veterans Affairs, Department of  
20 Commerce, State of Alaska, which have been assigned, sold or  
21 pledged to the Association in return for cash, notes, bonds or  
22 debentures of the Association.

23 i, To invest any funds held in reserve or sinking funds or  
24 any monies not required for immediate use or disbursement, at the  
25 discretion of the Association, in obligations of the state or  
26 the United States Government, or obligations, the principal and  
27 interest of which are guaranteed by the state or the United States  
28 Government.

29 j. In connection with the purchasing of mortgages and com-

1 mitments therefor, the Association shall have the power to make  
2 and collect such fees and charges, including, but not limited to,  
3 reimbursement of all costs of financing by the Association and to  
4 prescribe rules, regulations and limitations under which purchases  
5 may be made under the Administrative Procedure Act.

6 k. To accept grants and subsidies from any federal or state  
7 agency, or any private person, and to enter into agreements  
8 required as a condition to obtaining such grants and subsidies.

9 l. To accept grants-in-aid, donations, legacies or usages  
10 of money made or extended by individuals, organizations, public  
11 or private corporations or the federal government, and to  
12 return money advanced for its usage if required by the agreement  
13 or grant.

14 m. To procure insurance against any loss in connection with  
15 its property and other assets (including mortgages and mortgage  
16 loans) in such amounts, and from such insurers, as it deems  
17 desirable.

18 n. Subject to the provisions of any contract with note-  
19 holders or bondholders, whenever it deems it necessary or desirable,  
20 to consent to the modification, with respect to rate of interest,  
21 time of payment or any installment of principal or interest,  
22 security, or any other term, of any mortgage, mortgage loan,  
23 mortgage loan commitment, contract or agreement of any kind to  
24 which the Association is a party.

25 Sec. 8. BONDS, NOTES AND DEBENTURES. The Association  
26 shall have the power and is hereby authorized from time to time  
27 to issue its negotiable bonds, notes and debentures in such  
28 principal amount as, in the opinion of the Association, shall be  
29 necessary to provide sufficient funds for achieving its corporate

1 purposes, including the purchasing of home mortgages, the pay-  
2 ment of interest on bonds of the Association, establishment of  
3 reserves to secure such bonds, notes and debentures, and all  
4 other expenditures of the Association incident to and necessary  
5 or convenient to carry out its corporate purposes and powers.

6 The Association shall have the power from time to time to  
7 issue renewal notes and debentures, to issue bonds, to pay notes  
8 and debentures and whenever it deems refunding expedient, to  
9 refund any bonds by the issuance of new bonds, whether the  
10 bonds to be refunded have or have not matured, and to issue bonds  
11 partly to refund bonds then outstanding and partly for any other  
12 purpose. The refunding bonds shall be sold and the proceeds  
13 applied to the purchase, redemption or payment of the bonds to  
14 be refunded.

15 Except as may otherwise be expressly provided by the Associa-  
16 tion, every issue of its notes, debentures or bonds shall be  
17 general obligations of the Association payable out of any reve-  
18 nues or monies of the Association, subject only to any agree-  
19 ments with the holders of particular notes, debentures or bonds  
20 pledging any particular receipts or revenues.

21 Whether or not the notes, debentures or bonds are of such  
22 form and character as to be negotiable instruments under the  
23 provisions of the negotiable instruments law, the notes, deben-  
24 tures or bonds shall be and hereby are made negotiable  
25 instruments within the meaning of and for all the purposes of  
26 the negotiable instruments law.

27 The notes, debentures and bonds shall be authorized by  
28 resolution of the board of directors of the Association, shall  
29 bear such date or dates, and shall mature at such time or times,

1 in the case of any such note or debenture or any renewals there-  
2 of not exceeding five years from the date of issue of such  
3 original note of debenture; and in the case of any such bond,  
4 not exceeding fifty years from the date of issue as such resolu-  
5 tion or resolutions may provide. The notes, debentures and  
6 bonds shall bear interest at such rate or rates, be in such  
7 denominations, be in such form, be executed in such manner, be  
8 payable in such medium of payment at such place or places, and  
9 be subject to such terms of redemption as such resolution or  
10 resolutions may provide. The notes, debentures and bonds of the  
11 Association may be sold by the Association at public sale  
12 at such price or prices as the Association may determine.

13 Any resolution or resolutions authorizing any notes, debentures or bonds or any issue thereof may contain provisions which  
14 shall be a part of the contract with the holders thereof, as to:  
15

16 a. Pledging all or any part of the monies received in pay-  
17 ment of mortgage loans and interest thereon, and other monies  
18 received or to be received, to secure the payment of the notes,  
19 debentures or bonds or of any issue thereof, subject to such  
20 agreements with bondholders, noteholders or debenture holders as  
21 may then exist;

22 b. Pledging all or any part of the assets of the Associa-  
23 tion, including mortgages and obligations securing the same, to  
24 secure the payment of the notes, debentures or bonds or of any  
25 issue of notes, debentures or bonds, subject to such agreements  
26 with noteholders, debenture holders or bondholders as may then  
27 exist;

28 c. The use and disposition of the gross income from mortgages  
29 owned by the Association;

1 d. The setting aside of reserves or sinking funds and the  
2 regulation and disposition thereof;

3 e. Limitations on the purpose to which the proceeds of sale  
4 of notes, debentures or bonds may be applied and pledging such  
5 proceeds to secure the payment of the notes, debentures or bonds  
6 or of any issue thereof;

7 f. Limitations on the issuance of additional notes, debentures  
8 or bonds; the terms upon which additional notes, debentures  
9 or bonds may be issued and secured; the refunding of outstanding  
10 or other notes, debentures or bonds;

11 g. The procedure, if any, by which the terms of any con-  
12 tract with noteholders, bondholders or debenture holders may be  
13 amended or abrogated, the amount of notes, debentures or bonds  
14 the holders of which must consent thereto, and the manner in  
15 which such consent may be given;

16 h. Vesting in a trustee or trustees such property, rights,  
17 powers and duties in trust as the Association may determine,  
18 which may include any or all of the rights, powers, and duties of  
19 the trustee appointed by the bondholders pursuant to this section,  
20 and limiting or abrogating the right of the bondholders to appoint  
21 a trustee under this section, or limiting the rights, powers and  
22 duties of such trustee;

23 i. Provide for the replacement of lost, destroyed or mutila-  
24 ted bonds, notes and debentures;

25 j. Any other matters, of like or different character, which  
26 in any way affect the security or protecting of the notes, bonds  
27 or debentures.

28 It is the intention hereof that any pledge made by the Associa-  
29 tion shall be valid and binding from the time when the pledge is

1 made; that the monies or properties so pledged and thereafter  
2 received by the Association shall immediately be subject to the  
3 lien of such pledge without any physical delivery thereof or fur-  
4 ther act; and that the lien of any such pledge shall be valid and  
5 binding as against all parties having claims of any kind in tort,  
6 contract or otherwise against the Association, irrespective of  
7 whether such parties have notice thereof. Neither the resolution  
8 nor any other instrument by which a pledge is created need be  
9 recorded.

10 Neither the members of this Association nor any persons  
11 executing the notes, debentures or bonds shall be liable person-  
12 ally on the notes, debentures or bonds or be subject to any  
13 personal liability or accountability by reason of the issuance  
14 thereof.

15 The Association, subject to such agreements with noteholders,  
16 debenture holders or bondholders as may then exist, shall have  
17 power out of any funds available therefor to purchase notes,  
18 debentures or bonds of the Association, which shall thereupon be  
19 cancelled, at a price not exceeding

20 a. the redemption price then applicable plus accrued  
21 interest to the next interest payment date thereon, if the notes,  
22 debentures or bonds are then redeemable, or

23 b. the redemption price applicable on the first date after  
24 such purchase upon which the notes, debentures or bonds become  
25 subject to redemption plus accrued interest to such date, if the  
26 notes, debentures or bonds are not then redeemable.

27 The state shall not be liable on notes, bonds or debentures  
28 of the Association and such notes, bonds or debentures shall not  
29 be a debt of the state.

1           Subject to any contractual limitations or restrictions adopted  
2 pursuant to other provisions of this section, any holder of bonds,  
3 notes or debentures, in addition to other remedies, shall have the  
4 right by appropriate action or proceeding, at law or in equity,  
5 to require the Association to carry out any of its covenants and  
6 agreements made with or for the benefit of such holder.

7           Sec. 9. DEFAULT; TRUSTEE FOR BENEFIT OF HOLDERS. In the  
8 event that the Association shall default in the payment of princi-  
9 pal of or interest on any issue of bonds, notes or debentures after  
10 the same shall become due, either at maturity or upon call for  
11 redemption, and such default shall continue for a period of thirty  
12 days, or in the event that the Association shall fail or refuse  
13 to comply with the provisions of this Act or shall default in any  
14 agreement made with or for the benefit of the holders of any  
15 issue of bonds, notes or debentures, the holders of twenty-five  
16 per centum in aggregate principal amount of the bonds, notes or  
17 debentures of such issue then outstanding, may appoint a trustee  
18 to represent the holders of such bonds, notes or debentures,  
19 which trustee may and, upon written request of the holders of  
20 twenty-five per centum in principal amount of such bonds, notes  
21 or debentures then outstanding, shall in his or its own name:

22           a. By appropriate action or proceeding at law or in equity,  
23 enforce all rights of the holders of such bonds, notes or debentures,  
24 including the right to require the Association subject to  
25 existing provisions in obligations to collect interest and  
26 amortization payments on mortgages held by it adequate to carry  
27 out any agreement as to or pledge of such interest and amortiza-  
28 tion payments and mortgages and to require the Association to  
29 carry out any other agreements with the holders of such bonds,

1 notes or debentures and to perform its duties under this Act.

2 b. Bring suit upon such bonds, notes or debentures.

3 c. By action in equity, enjoin any acts or things which may  
4 be unlawful or in violation of the rights of the holders of such  
5 bonds, notes or debentures.

6 d. By action in equity, require the Association to account  
7 as if it were the trustees of an express trust for the holders of  
8 such bonds, notes or debentures.

9 e. Declare all such bonds, notes or debentures due and pay-  
10 able and if all defaults shall be made good, then with the consent  
11 of the holders of twenty-five per centum of the principal amount  
12 of such bonds, debentures or notes then outstanding, annul such  
13 declaration and its consequences.

14 Such trustees shall, in addition, have and possess all the  
15 powers necessary or appropriate for the exercise of any functions  
16 specifically set forth herein or incident to the general repre-  
17 sentation of the holders of such bonds, notes or debentures in the  
18 enforcement and protection of their rights.

19 Sec. 10. GENERAL PROVISIONS; POLICY. The State of Alaska  
20 hereby pledges to and agrees with the holders of any bonds, notes  
21 or debentures issued under this Act that the state will not dis-  
22 solve the Association and will not revoke, limit or alter the  
23 rights and powers hereby vested in the Association to fulfill the  
24 terms of any agreements made with the holders thereof, or in any  
25 way impair the rights and remedies of such holders until such  
26 bonds, notes or debentures, together with the interest thereon,  
27 and all costs and expenses in connection with any action or pro-  
28 ceedings by or on behalf of such holders if required to be paid  
29 by a court are fully met and discharged. The state further does

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1 hereby pledge to and agree with any federal agency providing funds  
2 mortgage insurance or other assistance to the operations of the  
3 Association that the state will not limit or alter the rights and  
4 powers hereby vested in the Association in any manner which would  
5 be inconsistent with the due performance of any agreements between  
6 the Association and such federal agency.

7 It is hereby determined that the creation of the Association  
8 is in all respects for the benefit of the people of the state and  
9 for the improvement of their health, safety, welfare, comfort and  
10 security, and that said purposes are public purposes and that the  
11 Association will be performing an essential governmental function  
12 in the exercise of the powers conferred upon it by this Act. The  
13 state covenants with the purchasers and all subsequent holders and  
14 transferees of notes, bonds and debentures issued by the Associa-  
15 tion, in consideration of the acceptance of and payment for the  
16 notes, bonds and debentures, that the notes, bonds and debentures  
17 of the Association, issued pursuant to this Act and the income  
18 therefrom and all its fees, charges, gifts, grants, revenues,  
19 receipts, and other monies received or to be received, pledged to  
20 pay or secure the payment of such notes, bonds or debentures shall  
21 at all times be free from taxation and assessments of every kind  
22 and nature, except for estate and gift taxes and taxes on transfers.

23 Bonds, notes and debentures of the Association, the income  
24 therefrom, and the income and revenues of the Association shall at  
25 all times be free from taxation and assessments of every kind and  
26 nature.

27 Notwithstanding the provisions of any other act, bonds,  
28 notes and debentures of the Association are hereby made authorized  
29 and legal investments for all departments, boards and commissions

1 of the state and its political subdivisions, all banks, savings  
2 banks, trust companies, savings and loan associations, investment  
3 companies and other persons carrying on a banking business, all  
4 insurance companies, insurance associations and other persons  
5 carrying on an insurance business and all guardians, committees,  
6 trustees and other fiduciaries.

7       Sec. 11. EFFECTIVE DATE. This Act takes effect on the day  
8 after its passage and approval or on the day it becomes law  
9 without such approval.

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