

BY SENATORS POLLOCK, LOGAN,
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1 IN THE SENATE

2 SENATE BILL NO. 153

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the creation of the
7 Alaska State Development Corporation; and
8 providing for an effective date."

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

10 ARTICLE I

11 ORGANIZATION OF DEVELOPMENT CORPORATION

12 Section 1. PURPOSE. The purpose of this Act is to create
13 an instrumentality of the state to develop, stimulate and advance
14 the business prosperity and economic welfare of Alaska and its
15 citizens. This shall be accomplished by providing critically
16 needed investment capital for development loans to encourage and
17 assist the wholesome development of new business and industry in
18 Alaska and to rehabilitate and expand existing business and
19 industry. By providing development loans to all types of business
20 activity, whether of an industrial, agricultural or recreational
21 nature, the economic stability of the state will be strengthened,
22 the employment opportunities of its citizens enlarged, and their
23 standard of living and general welfare enhanced.

24 Sec. 2. ALASKA STATE DEVELOPMENT CORPORATION. The Alaska
25 state development corporation, hereafter referred to as the cor-
26 poration, is established as a public corporation of the State of
27 Alaska. The corporation is an instrumentality of the state, but
28 has a legal existence independent of and separate from the state.

29 Sec. 3. BOARD OF DIRECTORS. a. The Alaska state develop-

1 ment corporation board of directors, hereafter referred to as
2 the board, shall conduct the business of the corporation.

3 . b. The board consists of the commissioner of commerce and
4 four residents of Alaska appointed by the governor, who shall
5 serve at his pleasure. Membership on the board shall be on a
6 non-partisan basis with due regard given to representation from
7 the different regions of Alaska. One-half of the appointed
8 members shall be active in the banking business and the other
9 half shall be from other professions, but should have extensive
10 knowledge of financial matters. The appointment of members to
11 the board shall be confirmed by the legislature meeting in joint
12 session. Newly appointed members are qualified to act and to
13 receive compensation between the time of their appointment and
14 the time of confirmation or rejection by the legislature.

15 c. The term of service for an appointed member of the
16 board is four years. The term of one appointed member shall ex-
17 pire on February 1 of each year. At the time of the initial
18 appointments, the governor shall designate which members have -
19 been appointed for a one, two, three or four year term. It is
20 the intent of this Act that the terms of the appointed members
21 be staggered to insure continuity of experience. A member
22 appointed by the governor to fill a vacancy occurring other than
23 by expiration of a term shall serve for the unexpired term of
24 the member he succeeds.

25 d. At the time of the appointment of a member to the board,
26 or should there be reason to do so while a member, he shall
27 declare privately, in writing, to the governor and the board any
28 financial or business interest he has, which might conflict with
29 the public nature of his membership on the board. If there is a

1 serious conflict, he may be asked by the board to abstain from
2 decisions resulting in a conflict or to resign from the board.

3 Sec. 4. ORGANIZATION OF BOARD. a. Within 90 days after
4 the effective date of this Act, the governor shall appoint the
5 board. Public employees are not eligible for appointment to the
6 board. Within 14 days after the last of the original appoint-
7 ments, the board shall meet and organize by electing from its
8 members a president, who shall also be chairman of the board; a
9 vice president, who shall preside in the absence of the presi-
10 dent; and a secretary. At the first regular meeting of every
11 odd-numbered year, the board shall elect new officers.

12 b. Members of the board receive no salary, but shall re-
13 ceive the per diem established by law for other boards and shall
14 be paid for their necessary travel expenses.

15 c. The attorney general shall be the legal counsel for the
16 corporation. He shall advise the corporation in legal matters
17 and represent it in suits.

18 d. The meetings of the board may be private or public.
19 Three members shall constitute a quorum for the transaction of
20 business, unless the by-laws require a larger number.

21 e. The board shall keep minutes of its meetings and send
22 certified copies to the governor.

23 Sec. 5. EXECUTIVE VICE PRESIDENT. The board may employ an
24 executive vice president to manage the corporation. He shall be
25 professionally trained and experienced in the performance of his
26 duties. The selection of the executive vice president is subject
27 to the approval of the governor. The executive vice president
28 may not have any financial or business interest that might con-
29 flict with the management of the corporation in the best public

1 interest. The board may delegate to the executive vice president
2 the powers and duties it deems proper.

3 Sec. 6. POWERS AND DUTIES OF THE CORPORATION. The corpor-
4 ation has, but is not limited to, the following powers:

5 (1) to have perpetual existence as a corporation;

6 (2) to adopt, alter, and use a seal;

7 (3) to adopt, amend and repeal by-laws and regulations
8 governing the business of the corporation;

9 (4) to sue and be sued;

10 (5) to appoint officers, employees and agents and to
11 vest in them the powers and duties that the corporation may deem
12 proper; provided, that employees shall be bonded;

13 (6) to make contracts and to execute all instruments
14 necessary or convenient in the exercise of its corporate powers;

15 (7) to make loans in participation with financial in-
16 stitutions to any person, firm, corporation, joint-stock company,
17 association or trust, and to establish and regulate the terms of
18 these loans;

19 (8) to acquire in any lawful manner by purchase,
20 lease, bequest, devise, gift or as may be acquired by the satis-
21 faction of debts or the foreclosure of mortgages, and to hold,
22 maintain, use, operate and convey any real or personal property;

23 (9) to borrow money and to make and issue bonds, de-
24 bentures, notes or other evidences of indebtedness, whether
25 secured or unsecured, for any of its corporate purposes or for
26 the purpose of funding, refunding, paying, or discharging any of
27 its outstanding or assumed bonds or obligations, and to enter
28 into agreements and contracts concerning these obligations; and
29 the corporation may secure the payment of its obligations by

1 pledge or mortgage, or other lien, on any or all of its contracts,
2 revenues, income or property; provided, however, that the cor-
3 poration may not incur any secondary liability by way of guaranty
4 or endorsement of the obligations of any other corporation or
5 legal entity;

6 (10) to accept grants or loans from, and to enter into
7 contracts with, the federal government, the State of Alaska, or
8 any of its political subdivisions;

9 (11) to qualify for and participate in federal pro-
10 grams of the type provided by the Small Business Investment Act
11 of 1958 and to that end to comply with the provisions of any
12 federal program when necessary;

13 (12) to lease, alienate and dispose of any of its
14 property;

15 (13) to acquire, hold and dispose of stocks, member-
16 ships, contracts, bonds or other interests in other corporations
17 or legal entities, and to exercise any powers or rights, in
18 connection with these interests, as may be specific in contracts
19 or agreements and as allowed by law concerning the satisfaction
20 of debts;

21 (14) to do whatever may be necessary to carry out the
22 powers granted by this Act or other acts of the Alaska legisla-
23 ture, or the laws and regulations of the federal government; pro-
24 vided, however, that the corporation shall have no power to
25 pledge the credit or the taxing power of the State of Alaska or
26 any of its political subdivisions, nor shall the State of Alaska
27 or its political subdivisions be liable for the debts of the
28 corporation.

29 Sec. 7. SUBMISSION OF REPORTS. Before December 1 of each

1 year the board shall submit to the governor and the legislature
2 a report which shall describe the board's operations, fiscal
3 transactions, financial condition, and future plans. The report
4 shall be in a comprehensive form, which may be prescribed by the
5 governor.

6 Sec. 8. AUDIT AND EXAMINATION OF RECORDS. The board shall
7 have its financial records audited annually. The annual audit
8 shall be conducted by the legislative auditor. If an audit con-
9 ducted by a certified public accountant is satisfactory in the
10 judgment of the legislative auditor, it may be accepted in lieu
11 of the state audit. The legislative auditor may prescribe the
12 form and content of the financial records of the board and may
13 have access to these records at any time. In addition, the
14 state bank examiner shall examine the records of the corporation
15 annually.

16 Sec. 9. LOAN ADVISORY COMMITTEES. The board may establish
17 loan advisory committees in the different regions of the state,
18 who shall serve without pay or per diem. The purpose of these
19 committees shall be to make recommendations to and generally
20 advise the board.

21 Sec. 10. LOCATION OF CORPORATION. The corporation shall
22 have its principal office at the state capital, but may have
23 offices at other locations in the state as determined by the
24 board.

25 ARTICLE II

26 FINANCES OF CORPORATION

27 Sec. 20. INITIAL CAPITAL. Appropriations and loans from
28 the state general fund necessary for the initial operation of
29 the corporation are authorized.

1 Sec. 21. DEBENTURE CERTIFICATES. a. There shall be three
2 classes of negotiable debenture certificates, which shall have
3 graduated call features, issued by the corporation.

4 (1) "Class A certificates" shall be issued as evidence
5 of indebtedness of the corporation through private and public
6 sales. The maximum face value of class A certificates that may
7 be sold shall be \$15,000,000.00. Class A certificates shall be
8 backed by the full resources and credit of the corporation, and
9 they shall take priority in the payment of principal and interest
10 to class B and C certificates. \$1,000,000.00 in class A certi-
11 ficates shall be sold to banks, financial institutions and other
12 investors at a $3\frac{1}{2}$ percent interest rate prior to the commencement
13 of loan activities by the corporation, and prior to a public
14 offering of the balance of \$14,000,000.00 of class A certificates
15 at an interest rate no greater than $4\frac{1}{2}$ percent. The general
16 procedure for the sale of class A certificates shall be deter-
17 mined by the board; provided, however, that the class A certifi-
18 cates outstanding at any time shall not exceed five times the
19 face value of class B certificates outstanding.

20 (2) "Class B certificates" shall be issued as evidence
21 of indebtedness of the corporation through private and public
22 sales. The maximum value of class B certificates that may be
23 sold shall be \$3,000,000.00. Class B certificates shall be back-
24 ed by the full resources and credit of the corporation and they
25 shall take priority in the payment of principal and interest to
26 class C certificates. At least \$500,000.00 in class B certifi-
27 cates shall be sold at a 4 percent interest rate prior to the
28 commencement of loan activities by the corporation, and prior to
29 the sale of the remaining class B certificates, which shall bear

1 an interest rate no greater than 5½ percent.

2 (3) "Class C certificates" shall be accepted by a
3 borrower of funds from the corporation at the time of a development
4 loan. The borrower shall accept these certificates in lieu of
5 cash from a development loan and in an amount equal to 5 percent of
6 the face value of the loan. The funds represented by the class C
7 certificates shall be deposited by the corporation in a time de-
8 posit account, and shall earn interest at the maximum rate allowed
9 by banking regulations. The funds represented by class C certifi-
10 cates shall constitute a reserve for possible loan losses, which
11 shall not be drawn against unless the corporation has exhausted
12 the reserve funds provided by Sec. 23 of this Act. Class C cer-
13 tificates shall not be issued when corporate money is invested in
14 accordance with Secs. 23 e. and 27 b. of this Act.

15 b. The corporation shall provide a legal opinion, from a
16 recognized private source, concerning class A and B certificates
17 without cost to the underwriter.

18 c. The annual report of the corporation provided in Sec. 7
19 shall be available without cost to any certificate holder.

20 d. The certificates of the corporation shall be lawful in-
21 vestment and may be accepted as security for all fiduciary, trust,
22 and public funds of the State of Alaska or its political sub-
23 divisions.

24 Sec. 22. COMMENCEMENT OF CORPORATE ACTIVITIES. The cor-
25 poration shall place \$1,000,000.00 from the sale of class A cer-
26 tificates and \$500,000.00 from the sale of class B certificates,
27 as provided in Sec. 21 (1) and (2), in a trust fund. At the time
28 the trust fund contains \$1,500,000.00, the board shall certify
29 this fact and may commence its corporate activities as provided by

1 this Act.

2 Sec. 23. CORPORATION FUNDS. a. The corporation shall have
3 a general income fund. All interest received from loans shall be
4 credited to this fund. Expenses of the corporation, including
5 interest payments on class A, B, and C certificates, shall be
6 charged to this fund.

7 b. The corporation shall have a principal reserve fund. All
8 repayments of principal from loans made by the corporation shall
9 be credited to this fund. The board, while arranging the loans
10 of the corporation, shall maintain sufficient money in this fund
11 to amortize class A certificates. There shall also be maintained
12 in the principal reserve fund a sinking fund for class B certifi-
13 cates. When three years amortization for class A certificates is
14 accumulated and when a sinking fund for class B certificates is
15 established, surplus money may be transferred to the development
16 loan fund.

17 c. The corporation shall have a loan loss reserve fund. The
18 board shall annually credit to this fund a sum equal to one-fourth
19 percent of all outstanding loans. Loan losses shall be charged
20 to the loan loss reserve fund. Recovery of a loan loss, charged
21 to the fund, shall be credited to this fund. Money in the general
22 income fund in excess to the estimated expenses of the following
23 fiscal year shall be transferred to the loan loss reserve fund.

24 d. The corporation shall have a development loan fund. Money
25 not required by other funds shall be credited to this fund. Loans
26 of the corporation, as provided by this Act, shall be charged to
27 the development loan fund.

28 e. The income, reserve and development loan funds of the
29 corporation may be deposited in a bank or trust company having its

1 principal place of business in the State of Alaska; or invested
2 in obligations of the United States of America, the State of
3 Alaska, and its political subdivisions; provided, however, that
4 these obligations shall be secured by the general taxing power of
5 the obligor.

6 Sec. 24. REMEDIES OF HOLDERS OF DEBENTURE CERTIFICATES. a.
7 The board may provide in covenants and agreements with the holders
8 of its certificates any remedies that may be reasonable and not in
9 violation of the law or contrary to any of the provisions of this
10 Act.

11 b. The underwriters may appoint a trustee outside the state.
12 He may have the fiduciary duties of observing the maintenance of
13 debenture covenants and other agreements.

14 c. In the event that the corporation defaults in the payment
15 of the principal or interest on any debentures or fails or refuses
16 to comply with any agreement made with holders of its debentures,
17 the holders of these debentures may bring an action in the superior
18 court of Alaska to enforce their rights in accordance with the
19 following provisions:

20 (1) 30 days prior to initiating an action in the
21 superior court the plaintiff shall give notice in writing to the
22 corporation, the legislature, the attorney general, and the gover-
23 nor.

24 (2) A receiver appointed by the court to collect the
25 revenues of the corporation in satisfaction of a debt may not sell
26 assign, mortgage or otherwise dispose of any of the assets belong-
27 ing to the corporation.

28 Sec. 25. LIMITATION OF STATE POWER. The state pledges that
29 it will do nothing to diminish or impair the power of the corpora-

1 tion so as to affect the security of the corporation's financial
2 obligations. The state further pledges that it will do nothing
3 to alter the powers of the corporation which would be inconsis-
4 tent with contractual agreements between the corporation and the
5 federal government.

6 Sec. 26. TAX EXEMPTION. The purpose of the corporation, as
7 an instrumentality of the state, is to benefit the people of
8 Alaska by increasing their commerce, prosperity and general well-
9 being. Because the corporation has this purpose, it is free of
10 all taxes and assessments in the State of Alaska. Debenture
11 certificates issued by the corporation, their transfer, and their
12 income shall also be free of taxes and assessments.

13 Sec. 27. CORPORATE LENDING AND LIMITATIONS. a. The cor-
14 poration may accept applications for development loans and extend
15 credit on the basis of no greater than 90 percent participation
16 by the corporation and no less than 10 percent participation by a
17 bank or banks. The corporation and the participating bank or
18 banks shall share the same ratable interest from, and collateral
19 securing, a loan.

20 b. The corporation may, with surplus funds, participate with
21 banks on the same basis as Sec. 27 a. in existing, short term,
22 non-development loans. The intention of this provision is to
23 permit the corporation to utilize funds not solicited for develop-
24 ment purposes and to receive income to meet its financial obli-
25 gations.

26 c. The rate of interest charged for the corporation's share
27 of a loan shall be determined by the board; provided, that it shall
28 be no greater than 7 percent.

29 d. The rate of interest charged by a participating bank may

1 be determined by the participating bank; provided, that it shall
2 be no greater than the legal contract rate of interest as set by
3 state law.

4 e. The maximum term of a development loan shall be 20
5 years; provided, however, that the term of a loan shall in no
6 instance extend beyond the final maturity date of all class A
7 certificates.

8 f. Development loans shall be applied for and presented to
9 the corporation for approval through the participating bank.

10 g. Loans shall be administered by the participating bank,
11 and for this service a bank may charge the borrower a reasonable
12 loan fee. In addition to this fee, the corporation shall enter
13 into a servicing agreement with a participating bank, which may
14 provide a participating bank with a fee equal to one-quarter of
15 one percent interest on the corporation's share of the loan.

16 h. To safeguard the records of the corporation, participat-
17 ing banks shall make duplicates of all documents, retaining one
18 copy, and providing the corporation with the other copy. This -
19 copy shall be deposited with a bank or trust company located in
20 Alaska.

21 i. The corporation may have no more than 10 percent of the
22 face value of outstanding class A and B certificates or
23 \$750,000.00, whichever is the lower amount, outstanding at a time
24 to any one borrower. The borrowing of individuals who hold a
25 controlling interest in a borrowing company shall be added to the
26 debt of the company in determining this limitation.

27 j. The board shall make a loan only when it is reasonably
28 certain that the loan shall be repaid. In making this determina-
29 tion, the directors shall consider the proposed collateral, the

1 integrity and management ability of the borrower, and the borrow-
2 er's past and prospective earnings.

3 k. Before approving a development loan, the board shall
4 consider the purpose of the loan. Only loans that are economi-
5 cally advantageous to the State of Alaska and the general public
6 welfare shall be approved.

7 l. The board shall make a development loan to a responsible
8 borrower only when credit is not elsewhere readily available on
9 reasonable terms. Before granting a development loan, the board
10 shall endeavor, so far as it is reasonably possible, to ascertain
11 that the first opportunity to grant the loan has been given to
12 banking or financial institutions in the State of Alaska.

13 m. The board may promulgate rules and regulations concern-
14 ing loan policy and procedure; provided, however, that these
15 rules may not conflict with any debenture agreements or provi-
16 sions of this Act.

17 Sec. 28. ADDITIONAL SECURITIES. The legislature may amend
18 this Act to permit the corporation to issue additional series of
19 securities; provided, however, that additional securities may not
20 rely on assets accumulated in connection with the issuance of any
21 previous series of securities, except when reserves provided by
22 covenants, this Act, or subsequent legislation have been met.

23 Sec. 29. DISSOLUTION. The corporation, after the payment
24 in full of its debentures and other obligations or after deposit-
25 ing in a trust sufficient money to secure the payment of its
26 obligations, may dissolve by the majority vote of its directors
27 followed by the confirmation of the legislature. The effective
28 date of dissolution shall be the date of confirmation by the
29 legislature or on a date determined by the legislature at the

1 time of confirmation. Assets remaining after the liabilities and
2 obligations of the corporation have been satisfied shall be
3 deposited to the credit of the general fund of the State of
4 Alaska.

5 Sec. 30. EFFECTIVE DATE. This Act takes effect on the day
6 after its passage and approval or on the day it becomes law with-
7 out such approval.
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