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IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL

HOUSE BILL NO. 44

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for a program of mortgage insurance and reinsurance by the Alaska State Mortgage Association for housing in areas in which home mortgage loan financing is not available in adequate supply; creating a mortgage insurance reserve fund; and providing for an effective date."

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

* Section 1. FINDINGS. (a) It is found by the legislature that:

(1) there exists a shortage of adequate housing in many areas of the state because of the unavailability in those areas of home mortgage loan financing in adequate supply;

(2) this lack of availability of home mortgage loan financing exists largely for reasons unrelated to the ability of the individuals in those areas to meet mortgage payments;

(3) the provision of a program to insure or reinsure mortgages in areas of the state in which mortgage financing is not available in adequate supply would encourage the flow of private investment capital into housing in those areas and assist in meeting the housing shortage and thereby stabilize the economy of the areas and improve the economy and maintain the tax base of areas and of the state at large; these purposes are public purposes for which public funds may be spent.

■ Sec. 2. INTENT OF ACT. It is the intention of the legislature that the state provide a program of insurance and reinsurance of home mortgage loans, through the Alaska State Mortgage Association, to assist in providing

1 funds to finance housing in areas for which mortgage loan financing is not
2 now available in adequate supply due to factors other than the ability of
3 homeowners to repay mortgage loans.

4 * Sec. 3. AS 44.56 is amended by adding new sections to read:

5 ARTICLE 4. MORTGAGE INSURANCE PROGRAM.

6 Sec. 44.56.300. MORTGAGE INSURANCE. (a) The association is
7 authorized, under regulations promulgated by it, to make commitments
8 to insure and to insure home mortgage loans, including advances during
9 construction, on the terms specified in this section.

10 (b) For a home mortgage loan to be eligible for insurance, it
11 shall:

12 (1) involve a principal obligation (including the initial
13 service charges, appraisal, inspection, and other fees the association
14 approves) in an amount not to exceed 90 per cent of the appraised
15 value of the dwelling as of the date the mortgage loan is accepted for
16 insurance or reinsurance;

17 (2) have a maturity satisfactory to the association, but not
18 to exceed 40 years from the date of the insurance or reinsurance of
19 the mortgage loan or three quarters of the association's estimate of
20 the remaining economic life of the dwelling, whichever is the lesser;

21 (3) contain complete amortization provisions satisfactory
22 to the association, requiring periodic payments by the mortgagor not
23 in excess of his reasonable ability to pay as determined by the
24 association;

25 (4) bear interest (exclusive of premium charges for insur-
26 ance, and service charges, if any) of not more than the rate legally
27 permitted for mortgage loans at the time of the commitment;

28 (5) provide, in a manner satisfactory to the association,
29 for the application of the mortgagor's periodic payments (excluding

1 the amount allocated to interest and to the premium charge which is
2 required for mortgage insurance or reinsurance) to amortization of the
3 principal of the mortgage;

4 (6) contain the terms with respect to insurance, repairs,
5 payment of taxes, reserves, delinquency charges, foreclosure proceed-
6 ings, anticipation of maturity, additional and secondary liens, and
7 other matters which the association prescribes;

8 (c) No commitment or contract to insure a mortgage loan may be
9 made under secs. 300 - 360 of this chapter unless the association deter-
10 mines that mortgage guaranty insurance for all or a part of the mort-
11 gage loan is not available from another source.

12 Sec. 44.56.310. MORTGAGE REINSURANCE. (a) The association is
13 authorized, under regulations promulgated by it, to make commitments
14 to reinsure and to reinsure home mortgage loans, on the terms specified
15 in this section.

16 (b) No mortgage loan may be reinsured by the association under
17 secs. 300 - 360 of this chapter unless mortgage guaranty insurance from
18 another source insuring the payment of the total amount of the loan to
19 be made has been issued and the first 20 per cent of the mortgage
20 guaranty insurance is reinsured by another source. In this case the
21 association may reinsure the remaining 80 per cent of the mortgage loan.

22 (c) The association may not reinsure a private insurance carrier
23 unless that carrier is authorized by the Department of Commerce to
24 transact mortgage guaranty insurance business in the state.

25 Sec. 44.56.320. ADDITIONAL POWERS. In effectuating the purpose
26 of secs. 300 - 360 of this chapter, the association has, in addition to
27 the powers set out in sec. 90(1), (2), (3), (4), (5), (11) and (12) of
28 this chapter, the following powers:

29 (1) to commence or join in any action or proceeding to

1 protect or enforce a right available to it under the contract of insur-
2 ance or reinsurance and to bid for, purchase, and hold any property
3 with respect to which it has insured or reinsured a mortgage at a fore-
4 closure or other sale, or acquire and take possession of the property,
5 and operate, maintain, sell, transfer, convey, rent, lease or otherwise
6 deal with the property in the manner necessary or desirable to protect
7 the interest of the association in it;

8 (2) to procure insurance against loss in connection with its
9 property and assets, including, without limitation, property acquired
10 and held by it in connection with a mortgage loan it has insured or
11 reinsured, in amounts and from insurers it considers necessary and
12 desirable;

13 (3) to consent to the modification of the time of payment
14 of an installment of interest and principal, the rate of interest, the
15 security or any other terms of a mortgage loan which it has insured
16 or reinsured, jointly with the mortgagor, mortgagee or insurer when
17 the association considers it necessary or desirable to effectuate the
18 purposes of secs. 300 - 360 of this chapter;

19 (4) to engage the services of private consultants on a
20 contract or other basis for rendering professional and technical advice
21 and assistance.

22 Sec. 44.56.330. PREMIUM CHARGES. The association is authorized
23 to establish and collect, on an annual or lump sum basis, a premium
24 charge for the insurance and reinsurance of mortgage loans under
25 secs. 300 - 360 of this chapter in an amount that will be at least
26 adequate, in the opinion of the association, to provide for the insur-
27 ance or reinsurance risk assumed and to meet any costs and expenses
28 of the association in carrying out the provisions of secs. 300 - 360 of
29 this chapter.

1 Sec. 44.56.340. DEFAULTS. The association may include in its
2 contracts of insurance or reinsurance conditions precedent upon its
3 liability to pay a claim arising under the contracts and other pro-
4 visions determining its liability under a contract of insurance or
5 reinsurance, including, without limitation, conditions precedent requir-
6 ing the lender to exhaust all means of securing payment of the mortgage
7 loan, and otherwise, as it considers necessary or desirable to effectu-
8 ate the purposes of secs. 300 - 360 of this chapter.

9 Sec. 44.56.350. MORTGAGE INSURANCE RESERVE FUND. (a) There is
10 created in the general fund of the state a special account to be known
11 as the "Mortgage Insurance Reserve Fund". The Mortgage Insurance
12 Reserve Fund may be used and expended by the association for any of
13 the authorized purposes of secs. 300 - 360 of this chapter. The
14 obligation to fulfill the terms of an insurance contract or reinsurance
15 contract entered into under secs. 300 - 360 of this chapter is limited
16 to the amounts which may be in the Mortgage Insurance Reserve Fund at
17 the time payment becomes due under the mortgage insurance contract or
18 mortgage reinsurance contract. The association may provide in the
19 insurance contracts and reinsurance contracts uniform provisions with
20 respect to the amount of principal of mortgages which may be paid,
21 upon default, from amounts which may be in the Mortgage Insurance
22 Reserve Fund. However, each of these contracts shall recite that the
23 obligation of the state or the association to make payments under it
24 is limited to amounts which may be appropriated by the legislature and
25 paid into the Mortgage Insurance Reserve Fund, and on hand at the
26 time payment is due. The association may not have mortgage guaranty
27 insurance or reinsurance contracts issued under secs. 300 - 360 of
28 this chapter outstanding in principal amount exceeding 60 times the
29 amount in the Mortgage Insurance Reserve Fund.

1 (b) To assure the maintenance of the Mortgage Insurance Reserve
2 Fund, there may be annually appropriated to the Mortgage Insurance
3 Reserve Fund the amount certified by the chairman of the association
4 to the governor as necessary to restore the Mortgage Insurance Reserve
5 Fund to an amount equal to that necessary to fulfill the terms of any
6 mortgage guaranty insurance or reinsurance contract. The chairman of
7 the association shall annually, no later than December 1, deliver to
8 the governor his certificate stating his estimate of the amount, if
9 any, necessary to be appropriated to the Mortgage Insurance Reserve
10 Fund during the next ensuing fiscal year, and the amount so certified
11 may be appropriated to the fund during that fiscal year.

12 (c) Money in the Mortgage Insurance Reserve Fund may be invested
13 in obligations of or guaranteed by the United States or any agency or
14 instrumentality of it, or in obligations of the state or a political
15 subdivision of it.

16 Sec. 44.56.360. DEFINITIONS. As used in secs. 300 - 360 of this
17 chapter

18 (1) "housing" and "home" mean single-family-owner-occupied
19 and multi-family rental dwellings;

20 (2) "mortgage" means a first mortgage or deed of trust on
21 a fee simple or a lesser interest in real property located in the
22 state which the association determines is adequate to secure the loan,
23 and the personal property attached to or used in conjunction with the
24 real property, together with the note or other evidence of indebtedness
25 issued by the borrower in connection and secured by the mortgage;

26 (3) "mortgagee" includes the original lender under a mort-
27 gage, and his successors and assigns approved by the association;

28 (4) "mortgagor" includes the original borrower under a
29 mortgage and his successor and assigns;

1 (5) "note" means the note or other evidence of indebtedness
2 issued by a mortgagor in connection with a mortgage loan under
3 secs. 300 - 360 of this chapter.

4 ARTICLE 5. GENERAL PROVISIONS.

5 Sec. 44.56.450. DEFINITIONS. In this chapter, unless the con-
6 text requires otherwise

7 (1) "association" means the Alaska State Mortgage Associ-
8 ation;

9 (2) "board" means the governing body of the association;

10 (3) "bonds, notes, and debentures" means the bonds, notes
11 and debentures issued by the association;

12 (4) "insured mortgage" means a mortgage or deed of trust
13 insured or approved to be insured by the Federal Housing Administration
14 under the National Housing Act of June 27, 1934, and its amendments
15 and supplements;

16 (5) "members" means the members of the board of directors
17 of the association;

18 (6) "mortgage" means a first mortgage or deed of trust on
19 real property located in the state and the personal property attached
20 or used in conjunction with the real property, which is given to
21 secure a loan on real property;

22 (7) "secondary market facility" means a facility or entity
23 which retains or sells mortgages or deeds of trust obtained from prior
24 mortgages or beneficiaries.

25 • Sec. 4. AS 44.56.280 is repealed.

26 • Sec. 5. This Act takes effect on the day after its passage or approval
27 or on the day it becomes law without approval.
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