

1 IN THE SENATE

BY PALMER

2 SENATE BILL NO. 217

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska State Development
7 and Small Business Loan Corporation."

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

9 * Section 1. AS 44.59.010 is amended to read:

10 Sec. 44.59.010. ALASKA STATE DEVELOPMENT AND SMALL BUSINESS LOAN
11 CORPORATION. The Alaska State Development and Small Business Loan
12 Corporation is a public corporation of the state. The corporation is
13 an instrumentality of the state within the Department of Commerce,
14 but has a legal existence independent of and separate from the state.

15 * Sec. 2. AS 44.59.020 is amended to read:

16 Sec. 44.59.020. GOVERNING BODY. Except for those functions to
17 be performed by the executive director, the [THE] corporation's board
18 of directors shall conduct the business of the corporation.

19 * Sec. 3. AS 44.59.030(a) is amended to read:

20 (a) The board consists of the commissioner of commerce and five
21 [SIX] residents of the state and the executive director serving ex
22 officio. Members of the board are appointed by the governor and they
23 serve at his pleasure. Membership on the board is on a nonpartisan
24 basis with due regard to representation from all areas of the state.
25 At least one member shall be appointed from each judicial [MAJOR SENATE]
26 district if, in the opinion of the governor, a qualified person resides
27 in the district. No more than one [ONE-HALF] of the appointed members
28 shall [MUST] be active in the banking business [AND THE OTHER HALF MUST
29 BE FROM THE OTHER PROFESSIONS, BUT SHALL HAVE EXTENSIVE KNOWLEDGE OF

1 FINANCIAL MATTERS].

2 * Sec. 4. AS 44.59.040 is amended to read:

3 Sec. 44.59.040. TERM OF OFFICE. The term of office from an ap-
4 pointed member of the board is three years. The term of office expires
5 on February 1 of each year. Upon initial appointment, two members
6 serve for one year, two members serve for two years, and one [TWO]
7 members serve for three years. A member appointed by the governor to
8 fill a vacancy serves for the unexpired term of the member he succeeds.

9 * Sec. 5. AS 44.59.080 is repealed and re-enacted to read:

10 Sec. 44.59.080. LEGAL COUNSEL. The corporation shall hire or
11 retain legal counsel to advise it in legal matters and represent it
12 in suits. Legal counsel shall provide a legal opinion concerning
13 loans approved and guaranteed by the corporation.

14 * Sec. 6. AS 44.59 is amended by adding a new section to read:

15 Sec. 44.59.085. EMPLOYMENT OF PERSONNEL. The board shall hire
16 or retain a bookkeeper. The board may appoint other officers, hire
17 employees and agents, and engage professional and technical service
18 and advice upon an employment or independent-contract basis. The
19 board shall prescribe the duties and compensation of corporation
20 personnel.

21 * Sec. 7. AS 44.59.120 is amended to read:

22 Sec. 44.59.120. EXECUTIVE DIRECTOR [VICE PRESIDENT]. The board
23 shall [MAY] employ an executive director [VICE PRESIDENT] to approve
24 certain loans and manage the corporation. He must have a background in
25 loan appraisal and loan administration and otherwise be professionally
26 trained and experienced in the performance of his duties. His selec-
27 tion is subject to the approval of the governor. The executive director
28 [VICE PRESIDENT] may not have any financial or business interest that
29 might conflict with the approval of loans or the management of the

1 corporation in the best public interest. The board shall [MAY]
2 delegate powers and duties to the executive director [VICE PRESIDENT].

3 * Sec. 8. AS 44.59.190 is amended to read:

4 Sec. 44.59.190. [INITIAL] CAPITAL. Appropriations and loans from
5 the state general fund necessary for the [INITIAL] operation of the
6 corporation are authorized.

7 * Sec. 9. AS 44.59.200(b) and (c) are amended to read:

8 (b) "Class A certificates" shall be issued as evidence of in-
9 debtedness of the corporation either through private or public sales.
10 The maximum principal amount of class A certificates that may be sold
11 is \$15,000,000. Class A certificates are backed by the full resources
12 and credit of the corporation, and take priority in the payment of
13 principal and interest to class B and C certificates. Class A certi-
14 ficates shall be sold at a price which results in an effective interest
15 rate over the life of the certificates of not more than seven [FIVE]
16 per cent a year and upon other terms set by the board, except that
17 the class A certificates outstanding at any time may not exceed five
18 times the principal amount of class B certificates outstanding.

19 (c) "Class B certificates" shall be issued as evidence of indebt-
20 edness of the corporation either through private or public sales. The
21 maximum principal amount of class B certificates that may be sold is
22 \$3,000,000. Class B certificates are backed by the full resources
23 and credit of the corporation and take priority in the payment of
24 principal and interest to class C certificates. Class B certificates
25 shall be sold at a price which results in an effective interest rate
26 over the life of the certificates of not more than eight [SIX] per
27 cent a year and upon other terms set by the board.

28 * Sec. 10. AS 44.59 is amended by adding a new section to read:

29 Sec. 44.59.275. GUARANTY LOSS RESERVE FUND. The corporation

1 shall maintain a guaranty loss reserve fund. Each year the board
2 shall credit a sum equal to one per cent of all loans it has guaranteed
3 to the fund. Guaranty losses shall be charged to the guaranty loss
4 reserve fund. If a guaranty loss charged to the fund is recovered,
5 it shall be credited to the guaranty loss reserve fund.

6 * Sec. 11. AS 44.59.280 is repealed and re-enacted to read:

7 Sec. 44.59.280. DEVELOPMENT LOAN FUND. There is created a
8 development loan fund which consists of money appropriated to it by
9 the legislature and one-half of the money not required by other funds.
10 Development loans shall be charged to the development loan fund.

11 * Sec. 12. AS 44.59 is amended by adding a new section to read:

12 Sec. 44.59.285. SMALL BUSINESS LOAN FUND. There is created a
13 small business loan fund which consists of money appropriated to it
14 by the legislature and one-half of the money not required by other
15 funds. Small business loans shall be charged to the small business
16 loan fund.

17 * Sec. 13. AS 44.59.310 is amended to read:

18 Sec. 44.59.310. CORPORATE LENDING. (a) The corporation may
19 accept applications for development and small business loans and
20 extend credit directly for the total amount of a loan, or on the basis
21 of no greater than 90 per cent participation by the corporation and
22 no less than 10 per cent participation by a bank.

23 (b) When the corporation makes a participating loan, it [THE
24 CORPORATION] and the participating bank shall share the same ratable
25 interest in the collateral securing a loan.

26 (c) In addition to loans provided for in (a) of this section,
27 the corporation may make secured and unsecured capital operating loans.

28 * Sec. 14. AS 44.59 is amended by adding new sections to read:

29 Sec. 44.59.312. ELIGIBILITY FOR SMALL BUSINESS LOANS. (a) A

1 person is eligible for a small business loan under this chapter if
2 (1) he has been in business in the state for at least one
3 year;

4 (2) he is a resident of the state; and

5 (3) in the judgment of the corporation

6 (A) the business shows a definite potential for growth;

7 (B) the borrower will be able to repay the loan; and

8 (C) the loan will potentially create more jobs and
9 provide additional services in the community.

10 (b) Loans may not be made to a borrower who has as an owner,
11 partner or officer a person who advocates, or is a member of a group
12 which advocates the overthrow of the government of the United States
13 or of the state by force or violence.

14 Sec. 44.59.313. LIMITATIONS ON SMALL BUSINESS LOANS. A small
15 business loan provided for under this chapter may not exceed \$100,000
16 nor be for more than 80 per cent of the appraised value of the col-
17 lateral given as security. Loans shall only be made if the borrower
18 can demonstrate that the full amount of the loan is not available from
19 conventional sources on reasonably equivalent terms.

20 * Sec. 15. AS 44.59 is amended by adding a new section to read:

21 Sec. 44.59.315. LOAN GUARANTY. In addition to direct and partici-
22 pating loans for fixed assets, the corporation may also guarantee up
23 to 90 per cent of development and small business loans made by banks
24 or other financial institutions.

25 * Sec. 16. AS 44.59.320 is amended to read:

26 Sec. 44.59.320. SHORT-TERM LOANS. The corporation may make
27 directly or participate with banks in existing, short-term, development
28 and small business loans with its surplus funds on the same basis as
29 provided in secs. 310, 312 and 313 of this chapter. The intention of

1 this section is to permit the corporation to use funds not immediately
2 necessary for long-term development and small business loan purposes
3 and to receive income to meet its financial obligations.

4 * Sec. 17. AS 44.59.330 is amended to read:

5 Sec. 44.59.330. CORPORATION'S INTEREST. The rate of interest
6 charged on direct loans or for the corporation's share of a [DEVELOP-
7 MENT] loan shall be determined by the board, except that it may not
8 be greater than the legal contract rate of interest as set by state
9 law. The corporation may also charge reasonable loan commitment fees.

10 * Sec. 18. AS 44.59.340 is amended to read:

11 Sec. 44.59.340. BANK'S RATE OF INTEREST. A [THE] participating
12 bank shall fix the rate of interest charged by it. However, the rate
13 of interest may not exceed the legal contract rate of interest
14 prescribed by law.

15 * Sec. 19. AS 44.59.350 is amended to read:

16 Sec. 44.59.350. MAXIMUM TERM OF LOAN. The maximum term of a
17 development loan is 20 years and the maximum term of a small business
18 loan is 15 years. However, a loan may not mature later than the final
19 maturity date of the class A and B certificates outstanding at the
20 time of the loan.

21 * Sec. 20. AS 44.59.360 is amended to read:

22 Sec. 44.59.360. APPLICATION FOR LOAN. Participating development
23 and small business [DEVELOPMENT] loans must be applied for and pre-
24 sented to the corporation for approval through the participating bank.

25 * Sec. 21. AS 44.59.370 is amended to read:

26 Sec. 44.59.370. BANK'S FEES. (a) A [THE] participating bank
27 shall administer the loans and may charge the borrower a reasonable
28 loan fee for this service.

29 (b) When the corporation makes a participating loan it [THE

1 CORPORATION] shall enter into a servicing agreement with a partici-
2 pating bank. The servicing agreement may provide a participating bank
3 with a fee equal to one-quarter of one per cent of interest on the
4 corporation's share of the loan.

5 * Sec. 22. AS 44.59.390 is amended to read:

6 Sec. 44.59.390. GENERAL LIMITATIONS ON LOANS. (a) In making
7 [DEVELOPMENT] loans, the board and executive director shall consider
8 the proposed collateral, the integrity and the management ability
9 of the borrower, and the borrower's past and prospective earnings.

10 (b) Before approving a [DEVELOPMENT] loan, the board and the
11 executive director shall consider the purpose of the loan. The board
12 and the executive director may make only loans that are economically
13 advantageous to the state and the general public welfare.

14 (c) The board and the executive director may make a [DEVELOPMENT]
15 loan to a responsible borrower only if other credit is not readily
16 available on reasonable terms. Before granting a [DEVELOPMENT] loan,
17 the board and the executive director shall determine, so far as it is
18 reasonably possible, that the first opportunity to grant the loan is
19 given to banking or financial institutions in the state.

20 * Sec. 23. AS 44.59 is amended by adding a new section to read:

21 Sec. 44.59.395. REPAYMENT. The board and the executive director
22 shall establish amortization plans for repayment of loans, which may
23 include delayed payments of principal and interest for not to exceed
24 five years.

25 * Sec. 24. AS 44.59.400 is amended to read:

26 Sec. 44.59.400. REGULATIONS FOR LOANS. The board may adopt
27 regulations for loan policy and procedure, except that a regulation
28 may not conflict with an indenture agreement or a provision of this
29 chapter. The board shall, however, designate the specific kinds and

1 monetary limits of loans which the executive director can make without
2 the prior approval of the board.

3 * Sec. 25. AS 44.59 is amended by adding a new section to read:

4 Sec. 44.59.415. COOPERATION. The executive director shall
5 cooperate with federal and state agencies which make similar loans or
6 construct public works facilities which could have an eventual effect
7 upon the project the corporation is assisting.

8 * Sec. 26. AS 44.59.430 is amended by adding a new subsection to read:

9 (b) It is also the policy of this chapter to promote the more
10 rapid development of small business in the state by making available
11 long-term low interest small business loans for refinancing, consoli-
12 dation, expansion or for use as operating capital because the legisla-
13 ture finds that

14 (1) small independent business is important to the future
15 development of the state;

16 (2) it has been difficult in the past for small business
17 to secure financing through regular established channels; and

18 (3) the lack of operating capital is a main cause of
19 failure of small business.

20 * Sec. 27. AS 44.59 is amended by adding a new section to read:

21 Sec. 44.59.435. REFINANCING LIMITATION. The corporation may not
22 refinance any portion of a loan it made before the effective date of
23 this Act.

24 * Sec. 28. AS 44.59.440(1) is amended to read:

25 (1) "the corporation" means the Alaska state development
26 and small business loan corporation;

27 * Sec. 29. AS 44.59.440 is amended by adding a new paragraph to read:

28 (4) "small business" means one which is independently owned
29 and operated and which is not dominant in its field of operation.