

Introduced: 3/19/75
Referred: Commerce and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

HCS

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SENATE BILL NO. 289

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3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act enlarging the purposes and powers of the
7 Alaska Housing Finance Corporation; and providing for
8 an effective date."

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

10 * Section 1. AS 18.56.010 is amended by adding new subsections to read:

11 (d) The program of making loans for residential housing to
12 veterans in accordance with AS 26.15 has increased and improved the
13 supply of adequate housing in the state, and the continuation of the
14 program is essential to the economic growth of the state and the
15 expansion of the supply of adequate residential housing in the state.
16 Participation by the Alaska Housing Finance Corporation in the program
17 of purchasing and insuring state veterans' loans as provided in this
18 chapter will be of material aid in insuring the continuance of the
19 program of making loans for residential housing to veterans in accor-
20 dance with AS 26.15.

21 (e) Expansion of the program of the Alaska Housing Finance
22 Corporation of purchasing insured and uninsured mortgage loans is
23 essential to the economic growth of the state and the supply of
24 adequate residential housing in the state.

25 (f) The legislature finds that enabling the Alaska Housing
26 Finance Corporation to assist in financing the program of veterans'
27 loans for residential housing in accordance with AS 26.15 and to
28 expand its program of purchasing other mortgage loans serves a
29 public purpose in benefitting the people of the state. The Alaska

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1 Housing Finance Corporation is empowered to act on behalf of the state
2 and its people in serving this public purpose for the benefit of the
3 general public.

4 * Sec. 2. AS 18.56.090 is amended to read:

5 Sec. 18.56.090. GENERAL POWERS. In addition to other powers
6 granted in this chapter, the corporation may, for the purpose of
7 providing housing for persons of lower and moderate income or persons
8 located in remote, underdeveloped or blighted areas of the state, and
9 for the purpose of assisting the financing of the program of veterans'
10 loans for residential housing in accordance with AS 26.15

11 (1) make or participate in the making of construction loans
12 to sponsors, developers and builders of land development or residential
13 housing, if the corporation determines that construction loans are not
14 otherwise available, wholly or in part, from private lenders upon
15 reasonably equivalent terms and conditions;

16 (2) make or participate in the making of mortgage loans to
17 sponsors, developers, builders and purchasers of residential housing,
18 if the corporation determines that mortgage loans are not otherwise
19 available, wholly or in part, from private lenders upon reasonably
20 equivalent terms and conditions;

21 (3) purchase or participate in the purchase of mortgage
22 loans made to sponsors, developers, builders, owners and purchasers
23 of residential housing, if the corporation

24 (A) has given approval before the initial making of
25 the loan and has determined that mortgage loans were, at the time
26 the approval was given, not otherwise available, wholly or in
27 part, from private lenders upon reasonably equivalent terms and
28 conditions, or

29 (B) has determined that the purchase of participation

1 will result in additional residential housing, taking into account
2 without limitation such factors as reinvestment of the proceeds
3 of the sale in additional mortgage loans, increased availability
4 of mortgage loans insured by the federal government, its agencies
5 or departments, the reduction, if any, of interest payments to
6 be made with respect to mortgage loans, or such other factors as
7 will tend to increase or improve the supply of residential housing
8 within the state;

9 (4) make partial rental payments and mortgage interest
10 payments under a contract with any housing owner if the payments will
11 be applied to decrease rental or mortgage interest charges of persons
12 of lower or moderate income or owners or purchasers of residential
13 housing in remote, underdeveloped or blighted areas of the state;

14 (5) make loans from the housing development fund;

15 (6) collect and pay reasonable fees and charges in con-
16 nection with making, purchasing and servicing its loans, notes, bonds,
17 commitments and other evidences of indebtedness;

18 (7) acquire real property, or any interest in real property,
19 in its own name, by purchase, transfer or foreclosure, when the
20 acquisition is necessary or appropriate to protect any loan in which
21 the corporation has an interest; sell, transfer and convey any such
22 property to a buyer; and, if the sale, transfer or conveyance cannot
23 be effected with reasonable promptness or at a reasonable price, rent
24 or lease the property to a tenant pending the sale, transfer or
25 conveyance;

26 (8) sell, at public or private sale, to any purchaser,
27 including the Federal National Mortgage Association, all or any part
28 of a mortgage or other instrument or document securing a construction,
29 land development, mortgage or temporary loan of any type permitted by

1 this chapter;

2 (9) purchase, in order to meet the requirements of the sale
3 of its mortgages to the Federal National Mortgage Association, stock
4 of the Federal National Mortgage Association;

5 (10) procure insurance against any loss in connection with
6 its operation;

7 (11) consent to the modification of the rate of interest,
8 time of payment of any installment of principal or interest, or any
9 other terms, of the mortgage loan, mortgage loan commitment, construc-
10 tion loan, temporary loan, contract or agreement of any kind to which
11 the corporation is a party;

12 (12) borrow money as herein provided to carry out and
13 effectuate its corporate purposes; and issue its obligations as evi-
14 dence of any such borrowing;

15 (13) include in any borrowing the amounts necessary to pay
16 financing charges, interest on the obligations for a period not ex-
17 ceeding one year after the date on which the corporation estimates
18 funds will otherwise be available to pay the interest, consultant,
19 advisory and legal fees and such other expenses as are necessary or
20 incident to this borrowing;

21 (14) make and publish rules and regulations respecting
22 its lending programs and such other rules and regulations as are
23 necessary to effectuate its purposes;

24 (15) provide technical and advisory services to sponsors,
25 builders and developers of residential housing and to residents of it;

26 (16) promote research and development in scientific methods
27 of constructing low-cost residential housing of high durability;

28 (17) make and execute agreements, contracts and other instru-
29 ments necessary or convenient in the exercise of the powers and

1 functions of the corporation under this chapter, including contracts
2 with any person, firm, corporation, governmental agency or other
3 entity;

4 (18) receive, administer and comply with the conditions and
5 requirements respecting any appropriation or gift, grant or donation
6 of property or money;

7 (19) sue and be sued in its own name;

8 (20) adopt an official seal;

9 (21) adopt bylaws for the regulation of its affairs and the
10 conduct of its business and prescribe rules, regulations and policies
11 in connection with the performance of its functions and duties;

12 (22) employ fiscal consultants, engineers, attorneys, real
13 estate counselors, appraisers and such other consultants and employees
14 as may be required in the judgment of the corporation, and fix and pay
15 their compensation from funds available to the corporation;

16 (23) do all acts and things necessary, convenient or
17 desirable to carry out the powers expressly granted or necessarily
18 implied in this chapter;

19 (24) invest or reinvest, subject to its contracts with
20 noteholders and bondholders, any money or funds held by the corporation
21 in any obligations or other securities or investments in which banks
22 or trust companies in the state may legally invest funds held in
23 reserves or sinking funds or any funds not required for immediate dis-
24 bursement, and in certificates of deposit or time deposits secured by
25 obligations of or guaranteed by, the state or the United States of
26 America.

27 * Sec. 3. AS 18.56 is amended by adding a new section to read:

28 Sec. 18.56.095. MORTGAGE INSURANCE. (a) There is another
29 special fund of the state to be known as the "state mortgage insurance

1 fund" (called the "mortgage insurance fund") which shall be completely
2 segregated and set apart from all other funds of the state, and which
3 is a trust fund for the uses and purposes of this section and into and
4 from which money shall be paid as provided in this section. The
5 mortgage insurance fund shall be held by the commissioner of revenue,
6 subject to the power of the commissioner of commerce to enter into and
7 perform agreements with respect to the use of money in the mortgage
8 insurance fund and to pledge, assign or grant interests in the mortgage
9 insurance fund as provided in this section. The commissioner of
10 commerce may enter into agreements with the corporation with respect
11 to the exercise of any power or approval relating to the mortgage
12 insurance fund under this section, including, without limitation,
13 agreements as to the use of money in the mortgage insurance fund,
14 agreements with respect to the terms and conditions upon which payments
15 from the mortgage insurance fund shall be made to the corporation with
16 respect to mortgage loans insured under this section, and agreements
17 regarding the payment of and security for mortgage insurance bonds,
18 and in connection with these agreements the commissioner of commerce
19 may pledge, assign or grant other interests in the mortgage insurance
20 fund to the corporation as may be necessary or appropriate in con-
21 nection with the insurance of mortgage loans and to provide for the
22 payment of and security for mortgage insurance bonds. Any such
23 agreement or any of the rights of the corporation under the agreement
24 and payments received or to be received under the agreement may be
25 pledged or assigned by the corporation for the benefit of the holders
26 of mortgage insurance bonds.

27 (b) In addition to any other fees and charges which the cor-
28 poration may charge on mortgage loans, it may collect or cause to be
29 collected on all mortgage loans made or purchased with the proceeds of

1 the sale of mortgage insurance bonds, either or both a special mortgage
2 loan insurance commitment fee or a mortgage loan insurance premium.
3 The special mortgage loan insurance commitment fees and special
4 mortgage loan insurance premiums when received shall be deposited in
5 the mortgage insurance fund by the corporation, or by any mortgage
6 loan servicer, trustee, or agent designated by the corporation to
7 receive them, and shall be held, invested and, together with all
8 investment income derived from them, reinvested by the commissioner of
9 revenue in investments authorized under AS 37.10.070(a), subject to
10 agreement with the corporation under (a) of this section.

11 (c) If, at any time after receipt by the corporation of a payment
12 from the mortgage insurance fund with respect to a mortgage loan or
13 any portion of the principal and interest and other amounts payable on
14 a mortgage loan, the corporation recovers an amount on the mortgage
15 loan or portion of it from any source other than the mortgage insurance
16 fund, it shall apply the amount recovered in the following order: to
17 repay the general fund of the state to the extent of appropriations
18 made pursuant to requests made under (f) of this section, and second,
19 to repay the mortgage insurance fund.

20 (d) A mortgage loan, including a state veterans' loan, may be
21 insured if the mortgage loan does not exceed 80 per cent of the
22 appraised value of the property securing the mortgage loan or, if the
23 mortgage loan does exceed that percentage, if it is federally insured
24 or guaranteed or insured by a qualified mortgage insurance company to
25 the extent of the excess. In addition, a state veteran's loan may be
26 insured if it does not exceed 90 per cent of the appraised value of
27 the property securing the mortgage loan. The endorsement of the
28 corporation on the mortgage at the time of purchase or acquisition of
29 the mortgage loan is conclusive evidence that the mortgage loan is

1 insured under the provisions of this section. The insurance is
2 payable solely from the mortgage insurance fund.

3 (e) Mortgage loans may only be insured when the amount in the
4 mortgage insurance fund as a percentage of the sum of all mortgage
5 loans to be insured and all unpaid principal on mortgage loans insured
6 by the corporation, equals or exceeds the fund requirement. As used
7 in this section, the "fund requirement" is calculated as follows as to
8 the following mortgage loans insured by the corporation:

9 (1) in the case of federally insured or guaranteed mortgage
10 loans, or mortgage loans, including state veterans loans, insured by a
11 qualified mortgage insurance company or, if not so insured or
12 guaranteed, with a loan to value ratio at the time of the mortgage
13 insurance application less than 80 per cent, the greater of (A) two
14 per cent of the unpaid principal amount of those mortgage loans, or
15 (B) a percentage which the corporation with the approval of the
16 commissioner of commerce determines is actuarially sound for operation
17 of the mortgage insurance fund;

18 (2) in the case of state veterans' loans not insured by a
19 qualified mortgage insurance company and with a loan to value ratio at
20 the time of the mortgage insurance application between 80 and 90 per
21 cent, the greater of (A) six per cent of the unpaid principal amount
22 of those state veterans' loans, or (B) a percentage which the corpora-
23 tion with the approval of the commissioner of commerce determines is
24 actuarially sound for the operation of the mortgage insurance fund.

25 (f) On December 1 of each year the commissioner of commerce
26 shall determine the amount on deposit in the mortgage insurance fund.
27 If the amount in the fund is less than the fund requirement, the
28 commissioner shall request the corporation to transfer from any
29 available funds the amount necessary to restore the mortgage insurance

1 fund to the fund requirement and the corporation shall promptly comply
2 with the request from any funds available, subject to agreements with
3 holders of mortgage insurance bonds. If the funds are not transferred
4 the commissioner shall, no later than January 2 of the following year,
5 make and deliver to the governor and to the chairmen of the house and
6 senate finance committees his certificate stating the sum required to
7 restore the fund to the fund requirement and the sum so certified may
8 be appropriated and paid to the fund during the then current state
9 fiscal year. Nothing in this subsection creates a debt or liability
10 of the state.

11 (g) The commissioner of revenue may sell to the corporation, and
12 the corporation may purchase, state veterans' loans purchased for and
13 held in the general fund on such terms and conditions as the commis-
14 sioner of revenue and the corporation consider appropriate. When the
15 commissioner of revenue sells any state veteran's loan to the corpora-
16 tion he may cause to be deposited in the mortgage insurance fund from
17 the proceeds of sale an amount not exceeding the lesser of (1) six per
18 cent of the proceeds of sale, or (2) the difference between the amount
19 the commissioner of revenue actually receives on the sale and the
20 amount the commissioner determines would have been received if the
21 state veterans' loans had been sold in the private mortgage market.
22 The determination shall be based on information reasonably available
23 to the commissioner of revenue at the time of sale and is conclusive
24 in the determining the amount of the deposit.

25 (h) As used in this section, unless the context clearly indicates
26 a different meaning:

27 (1) "mortgage insurance bond" means a bond, note or other
28 obligation of the corporation, the proceeds of which are authorized to
29 be expended to purchase or make a mortgage loan insured under this

1 section;

2 (2) "qualified mortgage insurance company" means a mortgage
3 insurance company satisfactory to the corporation;

4 (3) "special mortgage loan insurance commitment fee" and
5 "special mortgage loan insurance premium" mean, respectively, a fee of
6 such per cent of the principal amount of a mortgage loan to be insured
7 under this section, and an annual insurance premium of such per cent
8 of the portion of the unpaid principal amount of a mortgage loan
9 insured under this section which is not federally insured or guaranteed
10 or insured by a private mortgage company, which the corporation with
11 the approval of the commissioner of commerce determines is actuarially
12 sound for the operation of the mortgage insurance fund;

13 (4) "state veteran's loan" means a mortgage loan for resi-
14 dential housing made in accordance with AS 26.15;

15 (5) the determination of what is "actuarially sound" with
16 respect to the operation of the mortgage insurance fund shall be based
17 on a consideration of the factors which will provide sufficient
18 revenues for the operation of the fund, without regard to amounts
19 which may have been or may, after the date of determination of actu-
20 arial soundness, be appropriated pursuant to (f) of this section,
21 including, without limitation, estimates of future defaults and losses
22 on mortgage loans insured under this section based on actual default
23 and loss experience on those mortgage loans or on similar mortgage
24 loans in Alaska or elsewhere, estimates of recoveries on defaulted or
25 foreclosed mortgage loans based on that experience, the terms and
26 conditions of the mortgage loans insured under this section, estimates
27 of earnings and income of amounts on deposit in the mortgage insurance
28 fund, and any other appropriate factors.

29 * Sec. 4. AS 18.56 is amended by adding a new section to read:

1 Sec. 18.56.125. CAPITAL RESERVE FUND. (a) For the purpose of
2 securing any one or more issues of its obligations, the corporation
3 may establish one or more special funds, called "capital reserve
4 funds", and shall pay into those capital reserve funds (1) any money
5 appropriated and made available by the state for the purpose of any of
6 those funds, (2) any proceeds of the sale of obligations, to the
7 extent provided in the resolution or resolutions of the corporation
8 authorizing their issuance, and (3) any other money which may be made
9 available to the corporation for the purposes of those funds from any
10 other source. All money held in a capital reserve fund, except as
11 provided in this section, shall be used as required, solely for (1)
12 the payment of the principal of obligations or of the sinking fund
13 payments with respect to those obligations, (2) the purchase or
14 redemption of obligations, (3) the payment of interest on obligations,
15 or (4) the payment of any redemption premium required to be paid when
16 those obligations are redeemed before maturity; however, money in any
17 fund may not be withdrawn from it at any time in an amount which would
18 reduce the amount of that fund to less than the capital reserve require-
19 ment set out in (b) of this section, except for the purpose of making,
20 with respect to those obligations, payment, when due, of principal,
21 interest, redemption premiums and the sinking fund payments for the
22 payment of which other money of the corporation is not available. Any
23 income or interest earned by, or increment to, a capital reserve fund,
24 due to the investment of the fund or any other amounts in it, may be
25 transferred by the corporation to other funds or accounts of the
26 corporation to the extent that the transfer does not reduce the amount
27 of the capital reserve fund below the capital reserve fund requirement.

28 (b) If the corporation decides to issue obligations secured by
29 such a capital reserve fund, the obligations may not be issued if the

1 amount in the capital reserve fund is less than such a per cent, not
2 exceeding 10 per cent of the principal amount of all of those obliga-
3 tions secured by that capital reserve fund then to be issued and then
4 outstanding in accordance with their terms, as may be established by
5 resolution of the corporation (called the "capital reserve fund
6 requirement"), unless the corporation, at the time of issuance of the
7 obligations, deposits in the fund from the proceeds of the obligations
8 to be issued or from other sources, an amount which, together with the
9 amount then in the fund, will not be less than the capital reserve
10 fund requirement.

11 (c) In computing the amount of a capital reserve fund for the
12 purpose of this section, securities in which all or a portion of the
13 funds are invested shall be valued at par or, if purchased at less
14 than par, at amortized costs if the term is defined by resolution of
15 the corporation authorizing the issue of the obligations, or by some
16 other reasonable method established by the corporation by resolution.
17 Valuation on a particular date shall include the amount of interest
18 earned or accrued to that date on the securities.

19 (d) To assure the continued operation and solvency of the cor-
20 poration for the carrying out of its corporate purposes, provision is
21 made in (a) of this section for the accumulation in capital reserve
22 funds of an amount equal to the capital reserve fund requirement.

23 (e) The chairman of the corporation shall annually, no later
24 than January 2, make and deliver to the governor and chairmen of the
25 house and senate finance committees his certificate stating the sum,
26 if any, required to restore any capital reserve fund to the capital
27 reserve fund requirement. The legislature may appropriate such a sum,
28 and all sums appropriated during the then current fiscal year by the
29 legislature for such restoration shall be deposited by the corporation

1 in the proper capital reserve fund. Nothing in this section creates a
2 debt or liability of the state.

3 (f) Whenever the corporation has created and established a
4 capital reserve fund, the commissioner of revenue may lend money in
5 the general fund to the corporation for deposit in a capital reserve
6 fund in an amount equal to the capital reserve fund requirement. The
7 loans shall be made on such terms and conditions as may be agreed upon
8 by the commissioner of revenue and the corporation, including without
9 limitation, terms and conditions providing that the loans need not be
10 repaid until the obligations of the corporation secured and to be
11 secured by the capital reserve fund are no longer outstanding.

12 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).