

Original sponsor: Sackett

Offered: 6/16/78
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 351

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the housing programs of public
7 corporations of the state; and providing for an effec-
8 tive date."

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

10 * Section 1. AS 18.56.030 is repealed and re-enacted to read:

11 Sec. 18.56.030. CORPORATION GOVERNING BODY. (a) The corporation
12 shall be governed by a board of directors. The board of directors of
13 the corporation consists of the commissioner of the Department of Com-
14 merce and Economic Development and six members appointed by the governor.

15 (b) Members appointed by the governor serve for three-year terms.
16 The terms of two members appointed by the governor expire on April 30
17 annually.

18 (c) If a vacancy occurs among the public members appointed by the
19 governor, the governor shall make an appointment, to become effective
20 immediately, for the unexpired portion of the term.

21 (d) Members of the board of directors serve without compensation
22 except that each member may be reimbursed by the corporation for actual
23 and necessary expenses at the same rate as set out in AS 39.20.180.

24 * Sec. 2. AS 18.56.050 is amended to read:

25 Sec. 18.56.050. ADMINISTRATION OF AFFAIRS. The board shall [MAY]
26 manage the assets and business of the corporation and may prescribe,
27 amend and repeal bylaws [, RULES] and regulations governing the manner
28 in which the business of the corporation is conducted and the manner in
29 which its powers are exercised. [THE BOARD MAY DELEGATE TO ONE OR MORE

1 OF ITS DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES THOSE POWERS AND DUTIES
2 IT CONSIDERS PROPER.] The board shall [MAY] delegate supervision of the
3 administration of the corporation to the [AN] executive director, ap-
4 pointed in accordance with sec. 52 of this chapter, and may delegate to
5 him other duties it considers proper [OFFICER].

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

7 Sec. 18.56.052. EXECUTIVE DIRECTOR. The corporation shall employ
8 an executive director, who may not be a member of the board. The execu-
9 tive director shall be appointed by the board of directors and serves at
10 the pleasure of the board.

11 * Sec. 4. AS 18.56.060 is repealed and re-enacted to read:

12 Sec. 18.56.060. EMPLOYMENT OF PERSONNEL. The board may appoint
13 other officers and engage professional and technical advisors as indepen-
14 dent contractors. The executive director may hire employees of the cor-
15 poration and, subject to the approval of the board, engage professional
16 and technical advisors under contract with the corporation. The board
17 shall prescribe the duties and compensation of corporation personnel.

18 * Sec. 5. AS 18.56 is amended by adding a new section to read:

19 Sec. 18.56.088. ADMINISTRATIVE PROCEDURE. (a) Except for AS
20 44.62.310 and 44.62.312, regarding public meetings, and AS 44.62.320(a)
21 regarding legislative review of regulations, the Administrative Proce-
22 dure Act (AS 44.62) does not apply to this chapter. The corporation
23 shall make available to members of the public copies of the regulations
24 adopted under (b) - (e) of this section. Within 45 days after adoption,
25 the chairman of the board shall submit a regulation adopted under (b) -
26 (e) of this section to the chairman of the Administrative Regulation
27 Review Committee under AS 24.20.400 - 24.20.460. The provisions of AS
28 44.62.320(a) apply to regulations adopted under (b) - (e) of this sec-
29 tion.

1 (b) The board may adopt regulations by motion or by resolution or
2 in any other manner permitted by its bylaws.

3 (c) The board may adopt regulations to carry out the purposes of
4 this chapter, and shall adopt regulations necessary for the following
5 purposes:

6 (1) determination of borrower eligibility including, but not
7 limited to, income limitations and the determination of remote, under-
8 developed or blighted areas of the state;

9 (2) loan guidelines and terms including but not limited to
10 maximum loan amounts and required loan-to-value ratios, but excluding
11 mortgage loan interest rates;

12 (3) characteristics of housing eligible for loans or purchase
13 of loans; and

14 (4) the qualifications of loan originators and servicers and
15 the method of allocating amounts available for the purchase of loans.

16 (d) Except as provided in (e) of this section, at least 15 days
17 before the adoption, amendment, or repeal of a regulation on a subject
18 specified in (1) - (4) of (c) of this section, the board shall give
19 public notice of the proposed action by publishing the notice in at
20 least three newspapers of general circulation in the state and by
21 mailing a copy of the notice to every person who has filed a request for
22 notice of proposed regulations with the board or the corporation. The
23 public notice must include a statement of the time, place, and nature of
24 the proceedings for the adoption, amendment, or repeal of the regulation
25 and must include an informative summary of the proposed subject of the
26 regulation. On the date and at the time and place designated in the
27 notice, the board shall give each interested person or his authorized
28 representative, or both, the opportunity to present statements, argu-
29 ments, or contentions in writing, and shall give members of the public

1 an opportunity to present oral statements, arguments, or contentions for
2 a total period of at least one hour. The board shall consider all
3 relevant matter presented to it before adopting, amending, or repealing
4 a regulation. At a hearing under this subsection, the board may con-
5 tinue or postpone the hearing to a time and place which it determines.
6 A regulation which is adopted, or its amendment or repeal, may vary in
7 content from the informative summary specified in this subsection if the
8 subject matter of the regulation, or its amendment or repeal, remains
9 the same and the original notice was written so as to assure that mem-
10 bers of the public are reasonably notified of the proposed subject of
11 the board's action in order for them to determine whether their inter-
12 ests could be affected by the board's action on that subject.

13 (e) A regulation or order of repeal on a subject specified in (c)
14 of this section may be adopted as an emergency regulation or order of
15 repeal if the board makes a finding in its order of adoption or repeal,
16 including a statement of the facts which constitute the emergency, that
17 the adoption of the regulation or order of repeal is necessary for the
18 immediate preservation of the orderly operation of the corporation's
19 loan and bonding programs. The requirements of (d) of this section do
20 not apply to the initial adoption of an emergency regulation covering a
21 subject specified in (1) - (4) of (c) of this section; however, upon
22 adoption of an emergency regulation, the board shall, within 10 days
23 after adoption, give notice of the adoption in accordance with (d) of
24 this section. No emergency regulation adopted under this subsection
25 remains in effect more than 120 days unless the board complies with (d)
26 of this section during the 120-day period.

27 (f) A regulation adopted under (b) - (e) of this section becomes
28 effective immediately upon its adoption by the board, unless otherwise
29 specifically provided by the order of adoption.

1 (g) The provisions of (b) - (e) of this section do not apply to
2 regulations governing interest rates on the corporation's mortgage loan
3 programs.

4 * Sec. 6. AS 18.56.090(14) is amended to read:

5 (14) under sec. 88 of this chapter, adopt [MAKE] and publish
6 [RULES AND] regulations respecting its lending programs and such other
7 [RULES AND] regulations as are necessary to effectuate its purposes;

8 * Sec. 7. AS 18.56.090 is amended by adding a new paragraph to read:

9 (25) establish a rural housing insurance account in the state
10 mortgage insurance fund established by this chapter and administer a
11 rural housing mortgage insurance program in rural areas of the state; in
12 the administration of the program established under this paragraph, the
13 board of directors shall

14 (A) from sums received from loans from the Department of
15 Revenue, purchase the mortgages or other collateral for rural
16 residential loans issued by a regional housing authority or any
17 other person;

18 (B) determine the maximum rate of interest which may be
19 charged by a regional housing authority for a rural residential
20 loan; and

21 (C) borrow from the Department of Revenue for purposes
22 of the rural housing mortgage program; the Department of Revenue
23 may lend surplus state general funds to the corporation for the
24 purpose of the rural housing mortgage loan program.

25 * Sec. 8. AS 18.56.210(11) is amended to read:

26 (11) "residential housing" means a specific work or improve-
27 ment undertaken primarily to provide dwelling accommodations without
28 limitation as to form of lawful occupancy, whether rental, under con-
29 tract, fee ownership, cooperative housing, condominium, mobile home, or

1 other lawful form [FORMS] of ownership, for persons of lower and
2 moderate income, or in remote, underdeveloped or blighted areas, in-
3 cluding the acquisition, construction or rehabilitation of land, build-
4 ings and improvements to them [THERETO], and such other nonhousing
5 facilities as may be incidental or appurtenant to the land or buildings
6 [THERETO];

7 * Sec. 9. AS 39.50.200(9) is amended by adding a new subparagraph to
8 read:

9 (NN) Alaska Housing Finance Corporation (AS 18.56)

10 * Sec. 10. Section 1 of this Act affects the terms of the public members
11 of the board of directors of the Alaska Housing Finance Corporation who are
12 serving on the effective date of this Act. Not later than 30 days after the
13 effective date of this Act, the governor shall determine the length of the
14 term of the members of the board of directors of the corporation serving on
15 the effective date of this Act and, by letter directed to the president of
16 the Alaska Legislative Council, designate the members whose terms shall end
17 on the date provided in sec. 1 of this Act during 1979, 1980, and 1981. The
18 terms of the members of the board of directors serving on the effective date
19 of this Act shall terminate on the date designated by the governor in his
20 letter, and, thereafter, members of the board shall be appointed in accor-
21 dance with the provisions of this Act.

22 * Sec. 11. AS 18.55 is amended by adding a new section to read:

23 Sec. 18.55.997. RESIDENTIAL LOANS. (a) In addition to the powers
24 authorized to a regional housing authority under sec. 996 of this chap-
25 ter, a regional housing authority may, in accordance with procedures and
26 policies adopted and approved by the board of directors of the Alaska
27 Housing Finance Corporation, make loans for the purchase or development
28 of residential housing in rural areas of the state. A loan shall be
29 secured by collateral in an amount acceptable to the board of directors

1 of the Alaska Housing Finance Corporation. The rate of interest on a
2 loan authorized by this section may not exceed an interest rate approved
3 by the board of directors of the Alaska Housing Finance Corporation.

4 (b) In this section,

5 (1) "development" means the construction of a new residence
6 or the repair, remodeling, rehabilitation or expansion of an existing
7 home;

8 (2) "rural" means any community of the state with a popula-
9 tion of 4,500 or less that is not connected by road or rail to Anchorage
10 or Fairbanks.

11 * Sec. 12. LEGISLATIVE FINDINGS. The legislature finds that

12 (1) owners and occupants of housing constructed from the proceeds
13 of the general fund appropriation made under ch. 250, SLA 1970, have insti-
14 tuted a class action alleging defects in the design and construction of the
15 housing units;

16 (2) owners and occupants of housing constructed from the proceeds
17 of the state general obligation bond authorized and issued under ch. 180, SLA
18 1970 have instituted similar proceedings alleging defects in the design and
19 construction of the housing units;

20 (3) the determination of the liability of the state and the Alaska
21 State Housing Authority, if any, through the judicial process will not pro-
22 vide early opportunity for settlement of the claims and prospective claims;
23 and

24 (4) it is in the interests of the owners and occupants of the
25 housing and the state to provide for the settlement of the claims on a class-
26 settlement basis without need for further litigation, in a manner which
27 limits the liability of the state and provides owners and occupants oppor-
28 tunity to obtain title to the housing units clear of debts, liens and encum-
29 brances owed to the state or the authority.

1 * Sec. 13. SETTLEMENT OF CLAIMS. Upon approval of this settlement by the
2 court as provided in sec. 15 of this Act, the Board of Directors of the
3 Alaska State Housing Authority, through its executive director, shall

4 (1) pay to home buyers possessing homes constructed under one of
5 the programs described in sec. 12 of this Act the amount provided by legisla-
6 tive appropriation for this purpose; the amount appropriated shall be divided
7 by the number of home buyers, and payments will be equal for each home buyer;

8 (2) refund to the home buyers the amount of money paid by each of
9 them to the Alaska State Housing Authority; this refund shall not include the
10 cash value of labor provided by the home buyers;

11 (3) order the cancellation of the entire outstanding indebtedness
12 of the home buyers with respect to their houses; and

13 (4) convey and quitclaim to each of the home buyers, without
14 additional consideration, the interests of the authority in the houses and
15 the property on which the houses are located.

16 * Sec. 14. WAIVER OF CLAIMS. Upon approval of this settlement by the
17 court as provided in sec. 15 of this Act and in return for the settlement
18 provided in sec. 13 of this Act, the home buyers covered by this Act and by
19 the settlement forfeit and waive all legal claims, existing or potential,
20 which the home buyers have against the Alaska State Housing Authority, its
21 employees, or the state which arise out of the home buyers' relationship with
22 the authority with regard to the houses which are the subject of this Act.

23 * Sec. 15. SETTLEMENT APPROVAL. The settlement provided in secs. 12 - 14
24 of this Act may not take effect as to any home buyers until it is approved by
25 the court as required by Rule 23(e) of the Alaska Rules of Civil Procedure.
26 If approval is withheld for the home buyers in one of the two housing pro-
27 grams, the settlement will go into effect as to the home buyers in the other
28 housing program if that settlement is approved, and those home buyers who are
29 members of the class for which a settlement is approved will receive a pro

1 rata share of the funds made available for the settlement.

2 * Sec. 16. EFFECTIVE DATE. This Act takes effect immediately in accor-
3 dance with AS 01.10.070(c).

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29