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Referred: Resources and  
Finance

1 IN THE SENATE

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2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 107

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the public utility revolving loan  
7 fund; and providing for an effective date."

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

9 \* Section 1. DECLARATION OF POLICY AND PURPOSE. The legislature finds  
10 that

11 (1) the availability of adequate public utility services and  
12 facilities at reasonable rates in the state is a proper matter of public  
13 concern;

14 (2) the ability of privately, municipally and cooperatively owned  
15 public utilities in the state to finance service to the public and to finance  
16 capital improvements required to extend and improve those services on terms  
17 that will enable utility service rates to remain at reasonable levels in the  
18 foreseeable future is seriously impaired by the unavailability of low-cost  
19 private financing and by the delays experienced in obtaining low-cost federal  
20 loans;

21 (3) as a matter of public policy, to ensure the sound development  
22 of the state and its resources and to provide an acceptable level of utility  
23 services to its residents at reasonable rates, the state should assist these  
24 public utilities in acquiring the money that is essential to operate, main-  
25 tain and expand utility facilities and services.

26 \* Sec. 2. AS 42 is amended by adding a new chapter to read:

27 CHAPTER 08. PUBLIC UTILITY REVOLVING LOAN FUND.

28 Sec. 42.08.010. REVOLVING LOAN FUND CREATED. The public utility  
29 revolving loan fund is created in the Department of Commerce and Eco-

1        nomic Development.

2            Sec. 42.08.020.    POWERS AND DUTIES OF THE DEPARTMENT.    (a)    The  
3        department shall formulate procedures and adopt regulations to implement  
4        this chapter in consultation with the Alaska Public Utilities Commis-  
5        sion.

6            (b)    The department may

7            (1)    make a loan from the public utility revolving loan fund  
8        to a public utility to finance or refinance capital improvements, plant  
9        and facilities, and to improve and expand services, if other credit is  
10       not readily available from private lending institutions at a rate of  
11       interest less than the rate of interest which the state agreed to pay  
12       on the most recent general obligation bonds issued before the applica-  
13       tion for the loan under this chapter;

14           (2)    make loans from the public utility revolving loan fund  
15       to a public utility to meet short-term or interim capital needs before  
16       receipt by the public utility of long-term loans;

17           (3)    consult with appropriate federal agencies and other  
18       lending institutions which make loans to public utilities in the state  
19       concerning policies, regulations and procedures to carry out the pro-  
20       visions of this chapter;

21           (4)    designate agents and delegate powers to them as is  
22       necessary;

23           (5)    require bonds and undertakings from persons employed by  
24       the department as in the commissioner's judgment are necessary, and pay  
25       the premiums on the bonds and undertakings;

26           (6)    establish amortization plans as provided in AS 42.08.-  
27       040(c).

28           Sec. 42.08.030.    ELIGIBILITY FOR LOANS.    A public utility is eli-  
29       gible for a loan under this chapter if

1 (1) it is a public utility as defined in AS 42.05.701(2)-  
2 (A) - (E);

3 (2) at the time of application for a loan it is serving the  
4 public under a certificate of public convenience and necessity issued  
5 by the Alaska Public Utilities Commission;

6 (3) in the judgment of the department

7 (A) the public utility shows a definite potential for  
8 providing improved or expanded service in the community or service  
9 area it serves, or otherwise requires the financing to maintain  
10 adequate, efficient and safe service; and

11 (B) the utility will be able to repay the loan.

12 Sec. 42.08.040. CONDITIONS AND LIMITATIONS ON LOANS. (a) A loan  
13 to a public utility under this chapter may not exceed \$1,000,000.

14 (b) A loan made under this chapter shall be on terms and condi-  
15 tions the department determines appropriate and, if secured by collat-  
16 eral, may not exceed 75 percent of the value of the collateral offered.

17 (c) Amortization plans for the repayment of a loan made under  
18 this chapter may not exceed 30 years. The rate of interest charged on  
19 the unpaid balance may not exceed the rate of interest which the state  
20 agreed to pay on the most recent general obligation bonds issued before  
21 the application for the loan under this chapter.

22 (d) Subject to (e) of this section, a loan may not be made until  
23 an investigation and an economic feasibility study is conducted and, as  
24 a result of the investigation and study, the department determines that  
25 the loan is economically sound, that the utility will be financially  
26 self-sustaining, and the loan will be fully amortized in accordance  
27 with the terms and conditions of the loan. The economic feasibility  
28 study shall be conducted by the department staff or by consultants,  
29 engineers or other technical experts approved by the department. To

1 facilitate its determination of economic feasibility, and its deter-  
2 mination of the ability of the utility to be fully self-sustaining and  
3 to amortize the loan, the department shall require the applicant for a  
4 loan under this chapter to furnish the systems studies, long-range  
5 economic forecasts, financial data, and technical information that the  
6 department considers necessary.

7 (e) If a loan under this chapter is participated in by a financial  
8 institution in an amount not less than 20 percent of the total amount  
9 of the loan, the department may accept the investigation and economic  
10 feasibility study made or accepted by the financial institution as a  
11 basis for its participation. If a public utility applies for a short-  
12 term or interim loan, the department may accept approval by the federal  
13 Rural Electrification Administration of a long-term loan to the ap-  
14 plicant as evidence of economic feasibility and as a basis for awarding  
15 a short-term or interim loan.

16 (f) If a financial institution participates in a loan made under  
17 this chapter, it may elect to administer and service the loan for a  
18 reasonable fee not exceeding one-half of one percent.

19 (g) The state and a financial institution which participates in a  
20 loan shall each have a lien on the collateral or share the collateral  
21 to the extent of their respective parts of the total loan to a public  
22 utility. The department may agree to subordinate a lien on collateral  
23 securing a short-term loan to the lien of the federal Rural Electrifica-  
24 tion Administration if, before the date the short-term loan was awarded,  
25 the public utility entered into a federal loan agreement with the Rural  
26 Electrification Administration requiring the utility to grant a lien  
27 first in priority on the collateral to the federal Rural Electrification  
28 Administration.

29 Sec. 42.08.050. ADMINISTRATION. Money loaned under this chapter

1 shall be delivered to the borrower in the form of a warrant drawn on  
2 the treasury, and charged against the public utility revolving loan  
3 fund. Upon repayment of loans in accordance with the prescribed terms,  
4 or upon liquidation by foreclosure or other process, or upon receipt of  
5 interest or other revenue, the money received shall be turned over to  
6 the commissioner of revenue for deposit in the public utility revolving  
7 loan fund.

8 Sec. 42.08.060. SALE OR TRANSFER OF NOTES, MORTGAGES AND OTHER  
9 COLLATERAL. (a) The commissioner may sell or transfer at par value or  
10 at a premium or discount to a bank or private purchaser for cash or  
11 other consideration the notes, mortgages and collateral held by the  
12 department as security for loans made under this chapter.

13 (b) The commissioner may sell or transfer at par value to the  
14 Department of Revenue the notes, mortgages and other collateral held by  
15 the Department of Commerce and Economic Development as security for  
16 loans made under this chapter. The Department of Revenue may purchase  
17 the notes, mortgages and other collateral so offered, allowing the  
18 Department of Commerce and Economic Development a one-half of one  
19 percent service fee.

20 Sec. 42.08.070. GUARANTEES OF LOANS. (a) The commissioner may  
21 enter into agreements with other state departments and agencies,  
22 private banks, other lending institutions, and individuals for the  
23 purpose of guaranteeing loans made to qualified public utilities. The  
24 guarantees may not exceed 90 percent of the amount loaned and the loans  
25 shall be secured in the same manner as provided for direct loans under  
26 this chapter.

27 (b) A loan made under this chapter and guaranteed by the state  
28 shall bear an interest rate on the unpaid balance not exceeding the  
29 rate of interest which the state agreed to pay on the most recent

1 general obligation bonds issued before the application for the loan.

2 Sec. 42.08.080. PROCEEDINGS AND REGULATIONS. The Administrative  
3 Procedure Act (AS 44.62) governs all proceedings, and the adoption of  
4 regulations, under this chapter.

5 Sec. 42.08.090. DEFINITIONS. In this chapter

6 (1) "commissioner" means the commissioner of commerce and  
7 economic development;

8 (2) "department" means the Department of Commerce and Econo-  
9 mic Development.

0 \* Sec. 3. This Act takes effect July 1, 1981.