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Referred: Finance

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 404 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Industrial Development  
7 Authority; and providing for an effective date."

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

9 \* Section 1. AS 44.88.010 is amended to read:

10 Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legisla-  
11 ture finds, determines and declares that

12 (1) there exist areas of the state in which seasonal and  
13 nonseasonal unemployment exist;

14 (2) this unemployment is a serious menace to the health,  
15 safety and general welfare, not only to the people in those areas, but  
16 also to the people of the entire state;

17 (3) the state lacks the basic manufacturing, industrial,  
18 small business, tourism, mining, timber, agricultural, multi-family  
19 dwelling, and commercial fishing enterprises and other facilities  
20 referred to in AS 44.88.010(a)(5) necessary to permit adequate develop-  
21 ment of its natural resources and the balanced growth of its economy;

22 (4) the establishment, and expansion of industrial, manufac-  
23 turing, small business, tourism, mining, timber, agricultural, multi-  
24 family dwelling, and commercial fishing enterprises in Alaska, including  
25 facilities for air and water transportation, facilities for pollution  
26 control and waste disposal, facilities for the local furnishing of gas,  
27 facilities for water, and facilities for industrial parks, is essential  
28 to the development of the natural resources and the long-term economic  
29 growth of the state, and will directly and indirectly alleviate

1 unemployment in the state;

2 (5) the achievement of the goal of full employment, and of  
3 establishment and continuing operation and development of industrial,  
4 manufacturing, small business, tourism, mining, timber, agricultural,  
5 multi-family dwelling, and commercial fishing enterprises in the state,  
6 including facilities for air and water transportation, facilities for  
7 pollution control and waste disposal, facilities for the local furnish-  
8 ing of gas, facilities for water, and facilities for industrial parks,  
9 will be accelerated and facilitated by the creation of an instrumentality  
10 of the state with powers to incur debt and to make and insure loans  
11 to finance, and to assist private lenders to make loans to finance, the  
12 establishment, operation, and development of industrial, manufacturing,  
13 small business, tourism, mining, timber, agricultural, multi-family  
14 dwelling, and commercial fishing enterprises, including facilities for  
15 air and water transportation, facilities for pollution control and  
16 waste disposal, facilities for the local furnishing of gas, facilities  
17 for water, and facilities for industrial parks, for private operation;

18 (6) it is in the public interest to promote the prosperity  
19 and general welfare of all citizens of the state by stimulating commercial  
20 and industrial growth and expansion by encouraging an increase of  
21 private investment by banks, investment houses, insurance companies,  
22 and other financial institutions, including pension and retirement  
23 funds, to help satisfy the need for economic expansion;

24 (7) it is in the state's interest to import private capital  
25 to create new economic activity which would not otherwise take place in  
26 the state

27 (b) It is declared to be the policy of the state, in the interests  
28 of promoting the health, security and general welfare of all the people  
29 of the state, and a public purpose, to increase job opportunities and

1 otherwise to encourage the economic growth of the state, including the  
2 development of its natural resources, through the establishment of  
3 manufacturing, industrial, small business, tourism, mining, timber,  
4 agricultural, multi-family dwelling, and commercial fishing enterprises  
5 and the other facilities referred to in AS 44.88.010(a)(5) by creating  
6 the public corporation with power, duties and functions as provided in  
7 this chapter.

8 \* Sec. 2. AS 44.88.050(a) is amended to read:

9 (a) A majority of the members of the authority constitutes a  
10 quorum for the transaction of business or the exercise of a power or  
11 function at a meeting of the authority. In case of a tie vote on a  
12 motion or resolution pending before the authority the motion or resolu-  
13 tion shall be presented to the governor and if approved by him, is  
14 considered adopted by the authority. The authority may meet and trans-  
15 act business by electronic media, including conference telephone, if  
16 the public has the same right to participate in the meeting as if the  
17 meeting were held in person. A meeting by electronic media as provided  
18 in this section has the same legal effect as a meeting in person.

19 \* Sec. 3. AS 44.88.070 is amended to read:

20 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the  
21 authority is to promote, develop and advance the general prosperity and  
22 economic welfare of the people of Alaska, to relieve problems of unem-  
23 ployment, and to create additional employment by providing various  
24 means of financing and means of facilitating the financing of indust-  
25 rial, manufacturing, small business, tourism, mining, timber, agricul-  
26 tural, multi-family dwelling, and commercial fishing enterprises and the  
27 other facilities referred to in AS 44.88.010(a)(5) within the state.

28 \* Sec. 4. AS 44.88.080(12) is amended to read:

29 (12) to purchase or insure loans to finance the costs of

1 manufacturing, industrial, small business, tourism, mining, timber,  
2 agricultural, multi-family dwelling, and commercial fishing enterprise  
3 projects;

4 \* Sec. 5. AS 44.88.105 is amended by adding a new subsection to read:

5 (f) The authority may establish a reserve fund, other than a  
6 capital reserve fund, to secure its bonds. The authority may deposit  
7 in a reserve fund established under this subsection the proceeds of  
8 sale of its bonds and other money which may be made available from any  
9 other source. A reserve fund established under this subsection must  
10 comply with (a) - (c) of this section. The authority may allow a  
11 reserve fund established under this subsection to be depleted without  
12 complying with (d) of this section.

13 \* Sec. 6. AS 44.88.155 is repealed and reenacted to read:

14 Sec. 44.88.155. ENTERPRISE DEVELOPMENT FUND. (a) There is  
15 established in the authority the enterprise development fund. The  
16 authority may use money in the enterprise development fund to purchase  
17 all or a part of a loan made by a private financial institution to  
18 finance the cost of a project. The authority may pledge or enter into  
19 covenants with respect to

20 (1) loans purchased by it; and

21 (2) amounts and loans appropriated to the authority for the  
22 enterprise development fund to secure the payment of the principal,  
23 interest, and redemption premium, if any, on bonds issued by the author-  
24 ity to finance the purchase of loans for a project.

25 (b) If the security for the bonds issued to provide money to  
26 purchase a loan for a project includes the general obligation of the  
27 authority or a pledge of, or covenants with respect to, assets of the  
28 authority, other than bond proceeds or amounts provided by nongovern-  
29 mental sources, the enterprise development loan purchased must be for a

1 purpose and comply with the conditions specified in AS 44.88.158(c).

2 \* Sec. 7. AS 44.88.157(a) is amended to read:

3 (a) The authority may establish a loan insurance account. The  
4 purpose of the loan insurance account is to provide insurance of mort-  
5 gage loans and other loans made or purchased by the authority, or made  
6 by others and approved for insurance by the authority, for a project.  
7 The authority may enter into agreements as to the use of money in the  
8 loan insurance account and may pledge, assign, or grant interests in  
9 the loan insurance account as provided in this section. The authority  
10 may adopt regulations and enter into agreements with respect to the  
11 exercise of any power or approval relating to the loan insurance account  
12 under this section, including, without limitation, agreements as to the  
13 use of money in the loan insurance account, agreements with respect to  
14 the terms and conditions upon which payments from the loan insurance  
15 account will be made with respect to a loan insured under this section,  
16 agreements as to separate subaccounts in the loan insurance account for  
17 different categories of loans or as to loans made by the authority or  
18 any other person, and agreements regarding the payment of and security  
19 for bonds issued by the authority. An agreement, the rights of the  
20 authority under an agreement, or payments received or to be received  
21 under an agreement may be pledged or assigned by the authority for the  
22 benefit of the holders of bonds issued by the authority.

23 \* Sec. 8. AS 44.88.158(a) is amended to read:

24 Sec. 44.88.158. SMALL BUSINESS, TOURISM, MINING, TIMBER, AGRICUL-  
25 TURAL, MULTI-FAMILY DWELLING, AND COMMERCIAL FISHING ENTERPRISES LOAN  
26 ACCOUNT. (a) There is established in the authority a small business,  
27 tourism, mining, timber, agricultural, multi-family dwelling, and com-  
28 mercial fishing enterprises loan account. The account is composed of  
29 money or assets appropriated or transferred to the authority, interest

1 on investments and loans of the account, and other money deposited in  
2 it by the authority. The authority may use the assets of the small  
3 business, tourism, mining, timber, agricultural, multi-family dwelling,  
4 and commercial fishing enterprises loan account to purchase loans made  
5 by others to small business enterprises, tourism enterprises, mining  
6 enterprises, timber enterprises, agricultural enterprises, multi-family  
7 dwelling enterprises, and commercial fishing enterprises to pay the  
8 costs of projects, as defined in AS 44.88.220 [, WHICH HAVE BEEN OR  
9 WHICH THE AUTHORITY ANTICIPATES WILL BE FINANCED WITH THE PROCEEDS OF  
10 BONDS].

11 \* Sec. 9. AS 44.88.158(c) is amended to read:

12 (c) A loan purchased with money in the small business, tourism,  
13 mining, timber, agricultural, multi-family dwelling, and commercial  
14 fishing enterprises loan account

15 (1) may not exceed \$10,000,000;

16 [(A) \$6,000,000 IF THE LOAN IS MADE TO A TOURISM ENTER-  
17 PRISE;

18 (B) \$1,000,000 IF THE LOAN IS MADE TO A MINING ENTER-  
19 PRISE OR TO A SMALL BUSINESS ENTERPRISE THAT IS NOT A TOURISM  
20 ENTERPRISE OR A COMMERCIAL FISHING ENTERPRISE; OR

21 (C) \$500,000 FOR EACH INDIVIDUAL COMMERCIAL FISHERMAN  
22 IN THE COMMERCIAL FISHING ENTERPRISE IF THE LOAN IS MADE TO A  
23 COMMERCIAL FISHING ENTERPRISE;]

24 (2) may not exceed 75 percent of the cost of the project or  
25 75 percent of the appraised value of the project, whichever is less,  
26 unless the amount of the loan in excess of those limits is federally  
27 insured or guaranteed or is insured by a qualified mortgage insurance  
28 company;

29 (3) may not be made for a term longer than three-quarters of

1 the authority's estimate of the life of the project or 25 years from  
2 the date the loan is made, whichever is earlier;

3 (4) shall contain complete amortization provisions satisfac-  
4 tory to the authority requiring periodic payments by the borrower;

5 (5) shall be in the form and contain the terms and provisions  
6 with respect to insurance, repairs, alterations, payment of taxes and  
7 assessments, default reserves, delinquency charges, default remedies,  
8 acceleration of maturity, secondary liens and other matters the author-  
9 ity prescribes; and

10 (6) shall be secured as to repayment by a mortgage or other  
11 security instrument in the manner the authority determines is feasible  
12 to assure timely repayment under a loan agreement entered into with the  
13 borrower;

14 (7) must involve participation from private lending sources  
15 in an amount not less than 10 percent of the cost of the project or 10  
16 percent of the appraised value of the project, whichever is less.

17 \* Sec. 10. AS 44.88.158(d) is amended to read:

18 (d) The authority may adopt regulations for the administration of  
19 the small business, tourism, mining, timber, agricultural, multi-family  
20 dwelling, and commercial fishing enterprises loan account which may  
21 include, without limitation, provisions for fees and agreements relating  
22 to application, loan commitment, servicing, and origination of loans by  
23 other lenders.

24 \* Sec. 11. AS 44.88.158(e) is amended to read:

25 (e) The authority may enter into agreements as to the use of the  
26 money in the small business, tourism, mining, timber, agricultural,  
27 multi-family dwelling, and commercial fishing enterprises loan account,  
28 including without limitation, trust or custody arrangements with banks  
29 or trust companies. It may also pledge, assign, or grant the agreement,

1 interests under an agreement, or interests in the small business,  
2 tourism, mining, timber, agricultural, multi-family dwelling, and  
3 commercial fishing enterprises loan account as may be necessary or  
4 appropriate to provide for payment and security for bonds of the author-  
5 ity.

6 \* Sec. 12. AS 44.88.158 is amended by adding a new subsection to read:

7 (g) The authority may purchase loans made to agricultural enter-  
8 prises originated by the Alaska Rural Rehabilitation Corporation. The  
9 interest rate on an agricultural loan purchased from the Alaska Rural  
10 Rehabilitation Corporation by the authority with financing which has  
11 been appropriated for that purpose may not exceed eight percent to the  
12 borrower. Loans purchased under this subsection may be secured by  
13 substitute collateral if the amount of the loan does not exceed 75  
14 percent of the value of the total collateral for the loan. The Alaska  
15 Rural Rehabilitation Corporation may charge a one percent service fee  
16 for loans made and purchased under this subsection.

17 \* Sec. 13. AS 44.88 is amended by adding a new section to read:

18 Sec. 44.88.159. INTEREST RATES. (a) The interest rate on a loan  
19 may not exceed by more than one-half of one percent a year the interest  
20 rate on loans of the authority prevailing at the time the loan is  
21 purchased for projects which are financed with the proceeds from the  
22 sale of a series of bonds with interest exempt from federal income tax  
23 in the principal amount of \$1,000,000 or less if the loan is purchased

24 (1) with money in the small business, tourism, mining,  
25 timber, agricultural, multi-family dwelling, and commercial fishing  
26 enterprises loan account; or

27 (2) with the proceeds of bonds of the authority the interest  
28 on which is not exempt from federal income tax.

29 (b) If the purchase of a loan is financed with the proceeds of

1 bonds referred to in (a)(2) of this section, the difference between the  
2 interest rate on the bonds, plus the necessary expenses of the authority  
3 attributable to the loan and the rate of interest charged by the au-  
4 thority on the loan, shall be paid, as the authority determines, with  
5 money or assets appropriated or transferred to the authority. The dif-  
6 ference between the rate the authority estimates would be payable by a  
7 borrower referred to in (a)(1) of this section on a loan if the loan  
8 were financed from private sources and the rate of interest charged by  
9 the authority on the loan shall be separately reported by the authority  
10 in the report required by AS 44.88.210.

11 \* Sec. 14. AS 44.88 is amended by adding a new section to read:

12 Sec. 44.88.165. DELINQUENT LOANS. If more than two percent of  
13 the loans purchased from a financial institution under this chapter  
14 become delinquent for 90 days or more, the authority shall discontinue  
15 purchasing loans from that financial institution until the delinquency  
16 is reduced to less than two percent.

17 \* Sec. 15. AS 44.88.220(2) is amended to read:

18 (2) "business enterprise" means a single proprietorship,  
19 corporation, firm, partnership, or other association of persons organ-  
20 ized in any manner, for any business purpose, other than [WHICH IS NOT  
21 ORGANIZED] on a nonprofit basis;

22 \* Sec. 16. AS 44.88.220(5) is amended to read:

23 (5) "project" means [INCLUDES]

24 (A) a plant or facility used or intended for use in  
25 connection with making, processing, preparing, or producing in any  
26 manner, goods, products or substances of any kind or nature or in  
27 connection with developing or utilizing a natural resource, or  
28 extracting, smelting, transporting, converting, assembling or  
29 producing in any manner, minerals, raw materials, chemicals,

1 compounds, alloys, fibers, commodities and materials, products or  
2 substances of any kind or nature, any plant or facility used or  
3 intended for use as an industrial park or in connection with air  
4 and water transportation, or any plant or facility for the preven-  
5 tion, limitation or control of air or water pollution, for the  
6 disposal of sewage or solid waste, for the local furnishing of  
7 gas, or for the furnishing of water; or

8 (B) commercial activity by a small business enterprise,  
9 tourism enterprise, mining enterprise, timber enterprise, agricul-  
10 tural enterprise, multi-family dwelling enterprise, or [AND] com-  
11 mercial fishing enterprise as defined in (12), (13), (14), [AND]  
12 (15), (16), (17), and (18) of this section;

13 \* Sec. 17. AS 44.88.220(12) is amended to read:

14 (12) "small business enterprise" means a business enterprise  
15 which is a project applicant with annual profit before the payment of  
16 taxes [GROSS INCOME] of \$10,000,000 or less for its annual reporting  
17 period which ended immediately before the application to the authority  
18 for a loan;

19 \* Sec. 18. AS 44.88.220(13) is amended to read:

20 (13) "tourism enterprise" means a business enterprise which  
21 is a project applicant directly involved in the tourist industry;

22 \* Sec. 19. AS 44.88.220(14) is amended to read:

23 (14) "commercial fishing enterprise" means one or more indi-  
24 vidual commercial fishermen who are project applicants and residents of  
25 the state who jointly apply for and receive a commercial fishing loan  
26 from a private financial institution in the state or from a state or  
27 federal loan program;

28 \* Sec. 20. AS 44.88.220(15) is amended to read:

29 (15) "mining enterprise" means a business enterprise which is

1 a project applicant directly involved in the mining industry.

2 \* Sec. 21. AS 44.88.220 is amended by adding new paragraphs to read:

3 (16) "agricultural enterprise" means a project applicant  
4 involved in the raising and harvesting of plants, trees, crops, and  
5 livestock and includes the real estate, buildings, equipment, and  
6 supplies normally necessary for the distribution, processing, marketing,  
7 and servicing of products related to agriculture or an agricultural  
8 purpose;

9 (17) "timber enterprise" means a project applicant which is  
10 directly involved in the timber industry;

11 (18) "multi-family dwelling enterprise" means a project  
12 applicant which is directly involved in the construction and operation  
13 and rental or sale of multi-family housing units as a commercial enter-  
14 prise.

15 \* Sec. 22. Subject to the limitation of AS 44.88.090(g), the Alaska  
16 Industrial Development Authority may issue revenue bonds in the principal  
17 amount of \$400,000,000 during the fiscal year ending June 30, 1982.

18 \* Sec. 23. AS 44.88.158(b) and (f) and sec. 9(c), ch. 120, SLA 1980 are  
19 repealed.

20 \* Sec. 24. This Act takes effect immediately in accordance with AS 01.-  
21 10.070(c).

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