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1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 684 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the investment and management of  
7 the Alaska permanent fund and to the computation of the  
8 income of the fund available for distribution; and  
9 providing for an effective date."

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

11 \* Section 1. AS 37.13.050 is amended to read:

12 Sec. 37.13.050. COMPOSITION AND QUALIFICATIONS OF BOARD OF  
13 TRUSTEES. (a) The Board of Trustees of the Alaska Permanent Fund  
14 Corporation consists of six members appointed by the governor. Two  
15 [THREE] of the members shall be heads of principal departments of state  
16 government, one of whom shall be the commissioner of revenue. Four  
17 [THREE] members shall be appointed by the governor from the public and  
18 may not hold any other state or federal office, position or employment,  
19 either elective or appointive, except as a member of the armed forces of  
20 either the United States or of this state. [MEMBERS OTHER THAN THE  
21 COMMISSIONER OF REVENUE SHALL BE SEPARATELY CONFIRMED BY A MAJORITY OF  
22 THE MEMBERS OF THE LEGISLATURE IN JOINT SESSION.]

23 (b) The four [THREE] public members of the board shall have recog-  
24 nized competence and wide experience in finance, investments, or other  
25 business management-related fields.

26 (c) The board shall annually elect a chairman from among its  
27 members.

28 \* Sec. 2. AS 37.13.060 is amended to read:

29 Sec. 37.13.060. TERM OF OFFICE. The public members of the

1 board shall be appointed for terms of four [THREE] years, and they may  
2 be reappointed [SUBJECT TO CONFIRMATION BY A MAJORITY OF THE MEMBERS OF  
3 THE LEGISLATURE IN JOINT SESSION]. The terms of the public members  
4 [TERMS] shall be staggered so that no more than one term of a public  
5 member expires each year. [INITIAL TERMS FOR MEMBERS OTHER THAN THE  
6 COMMISSIONER OF REVENUE SHALL BE TWO MEMBERS SERVING FOR ONE YEAR, TWO  
7 MEMBERS SERVING FOR TWO YEARS, AND ONE MEMBER SERVING FOR THREE YEARS.]

8 \* Sec. 3. AS 37.13.070 is amended to read:

9 Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may  
10 for good cause remove a member of the board from office. [HOWEVER, THE  
11 REMOVAL OF A MEMBER OF THE BOARD IS SUBJECT TO DISAPPROVAL BY A VOTE OF  
12 A MAJORITY OF THE MEMBERS OF THE LEGISLATURE AT THE FIRST JOINT SESSION  
13 HELD 10 OR MORE DAYS AFTER THE LEGISLATURE RECEIVES NOTICE OF THE REMOVAL  
14 FROM THE GOVERNOR.] A removal by the governor shall be in writing and  
15 shall state the reason for the removal. A member who is removed by the  
16 governor may not participate in board business and may not be counted  
17 for purposes of establishing a quorum after [BETWEEN THE TIME] he re-  
18 ceives written notice of his removal from the governor [AND THE TIME  
19 THAT THE LEGISLATURE'S POWER TO DISAPPROVE THE REMOVAL UNDER THIS SUB-  
20 SECTION EXPIRES. IF THE LEGISLATURE DISAPPROVES THE REMOVAL OF A BOARD  
21 MEMBER, THE BOARD MEMBER SHALL BE REINSTATED].

22 (b) A vacancy on the board shall be promptly filled by appointment  
23 by the governor [AND CONFIRMATION BY A MAJORITY OF THE MEMBERS OF THE  
24 LEGISLATURE IN JOINT SESSION]. An appointee to a vacancy shall hold  
25 office for the balance of the term for which his predecessor on the  
26 board was appointed. [IF A VACANCY ARISES ON THE BOARD WHILE THE LEGIS-  
27 LATURE IS NOT IN SESSION, THE GOVERNOR MAY APPOINT AN INTERIM BOARD  
28 MEMBER WHO SHALL EXERCISE THE POWERS OF A BOARD MEMBER UNTIL THE LEGIS-  
29 LATURE FAILS TO CONFIRM THE APPOINTMENT OF THE INTERIM BOARD MEMBER.]

1 (c) A vacancy on the board does not impair the authority of a  
2 quorum of the board to exercise all the powers and perform all the  
3 duties of the board.

4 \* Sec. 4. AS 37.13.090 is amended to read:

5 Sec. 37.13.090. COMPENSATION OF BOARD MEMBERS. The board shall  
6 determine the compensation of the members of the board subject to ap-  
7 proval by the legislature in accordance with AS 37.07. Compensation for  
8 members of the board shall be requested as part of the operating budget  
9 of the board (AS 37.13.150). Members [PUBLIC MEMBERS OF THE BOARD RE-  
10 CEIVE AN HONORARIUM OF \$400 FOR EACH MEETING DAY IF THEY ATTEND THE  
11 MEETING. ALL MEMBERS] of the board are entitled to per diem and travel  
12 allowances as provided by law for members of state boards and commis-  
13 sions.

14 \* Sec. 5. AS 37.13.120(g) is amended to read:

15 (g) Subject to the limitations contained in [(h) AND (i) OF] this  
16 section, the board may invest corporation assets at such competitive  
17 national market rates or prices as are applicable to each investment  
18 only in

19 (1) obligations of, or obligations insured by or guaranteed  
20 by, the United States or agencies or instrumentalities of the United  
21 States;

22 (2) obligations secured by reserves paid in by the United  
23 States or agencies or instrumentalities of the United States or obliga-  
24 tions of corporations in which the United States is a shareholder or  
25 member;

26 (3) certificates of deposit and term deposits of [ISSUED BY]  
27 United States domestic banks which are members of the Federal Deposit  
28 Insurance Corporation and [FOR] which may be readily sold in a [GENERALLY  
29 RECOGNIZED] secondary market at prices reflecting fair value [EXISTS] or

1 which are fully secured at all times as to payment of principal and  
2 interest as [BY INVESTMENTS] described in (m) [(1), (2), (8) OR (12) -  
3 (16)] of this section [SUBSECTION; THE SECURITY PLEDGED UNDER THIS PARA-  
4 GRAPH SHALL BE AT LEAST EQUAL TO THE FACE VALUE OF THE DEPOSIT AND THE  
5 BOARD MAY REQUIRE SUBSTITUTION OF COLLATERAL];

6 (4) certificates of deposit and term deposits [SHARES] of  
7 federally chartered savings and loan [LOANS] associations in Alaska  
8 which may be readily sold in a secondary market at prices reflecting  
9 fair value or which are fully secured at all times as to payments of  
10 principal and interest as [BY INVESTMENTS] described in (m) [(1), (2)]  
11 of this section [SUBSECTION];

12 (5) [SAVINGS] certificates of deposit and term deposits of  
13 [ISSUED BY] state chartered savings and loan associations in Alaska  
14 which may be readily sold in a secondary market at prices reflecting  
15 fair value or which are fully secured at all times as to payments of  
16 principal and interest as [BY INVESTMENTS] described in (m) [(1), (2)]  
17 of this section [SUBSECTION];

18 (6) certificates of deposit and term deposits of [DEPOSITS  
19 WITH] mutual savings banks in Alaska which may be readily sold in a  
20 secondary market at prices reflecting fair value or which are fully  
21 secured at all times as to payments of principal and interest as [BY  
22 INVESTMENTS] described in (m) [(1), (2)] of this section [SUBSECTION];

23 (7) fixed-term certificates of indebtedness of federally in-  
24 sured credit unions in Alaska which may be readily sold in a secondary  
25 market at prices reflecting fair value or which are fully secured at all  
26 times as to payments of principal and interest as [BY INVESTMENTS] de-  
27 scribed in (m) [(1), (2)] of this section [SUBSECTION];

28 (8) corporate debt securities which are rated AA or better by  
29 a nationally recognized rating service;

1 (9) short-term corporate promissory notes of the highest  
2 ratings assigned by a nationally recognized rating service;

3 (10) bankers' acceptances drawn on and accepted by United  
4 States banks each of which have a combined capital and surplus aggregating at least \$200,000,000;

5 (11) repurchase agreements, the securities underlying the  
6 agreements being any of the items in (1) - (3) and (8) - (10) of this  
7 subsection;

8 (12) the guaranteed portion of Federal Small Business Administration  
9 loans;

10 (13) the portion of first lien real estate mortgages guaranteed  
11 by the Federal Veterans Administration [ASSOCIATION];

12 (14) the portions of business and industrial loans made under  
13 the Rural Development Act of 1972 which are guaranteed by the Farmer's  
14 Home Administration;

15 (15) the guaranteed portion of Farmer's Home Administration  
16 loans;

17 (16) notes secured by mortgages granting a first lien on commercial or [OF] residential real estate improved by completed buildings  
18 if the mortgages are insured by a private mortgage insurance corporation  
19 which is authorized to do business in Alaska and has combined capital  
20 and [,] surplus [AND RESERVES] aggregating at least \$20,000,000, and if  
21 loan-to-value ratios do not exceed 75 percent for commercial mortgages  
22 and 90 percent for residential mortgages; however, [THE MINIMUM COVERAGE  
23 SHALL BE 10 PERCENT FOR LOANS HAVING A LOAN-TO-VALUE RATIO OF LESS THAN  
24 90 PERCENT, AND THE MINIMUM COVERAGE SHALL BE 20 PERCENT FOR LOANS  
25 HAVING A LOAN-TO-VALUE RATIO OF 90 PERCENT OR MORE.]

26 (A) no mortgage insurance is necessary for commercial  
27 loans having loan-to-value ratios of less than 50 percent and the  
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1 minimum coverage of other commercial loans shall be 10 percent for  
2 those having a loan-to-value ratio of 50 - 60 percent and 15 percent  
3 for those having a loan-to-value ratio greater than 60 percent but  
4 no more than 75 percent, and

5 (B) no mortgage insurance is necessary for residential  
6 loans having a loan-to-value ratio of less than 70 percent and the  
7 minimum coverage of other residential loans shall be 10 percent for  
8 those having a loan-to-value ratio greater than 70 percent but less  
9 than 90 percent and 20 percent for those having a loan-to-value  
10 ratio of 90 percent;

11 (17) notes secured by mortgages granting a first lien on com-  
12 mercial real estate improved by completed buildings if the originating  
13 financial institution retains at least 25 percent of the mortgage until  
14 maturity;

15 (18) certificates of deposit, term deposits, or bankers' accep-  
16 tances, which are issued by a United States bank or trust company located  
17 in a foreign country and are denominated in either United States or  
18 foreign currency, if either (A) they may be readily sold in a secondary  
19 market at prices reflecting fair value, or (B) the issuing bank or trust  
20 company has capital and surplus at the date of issue equalling at least  
21 \$500,000,000; investments made under this paragraph are not subject to  
22 the collateral requirements for domestic certificates under (m) of this  
23 section;

24 (19) equity interests in, and debt obligations secured by  
25 mortgages granting a first lien on, real estate improved by completed  
26 and substantially rented buildings and located in the United States, if  
27 these investments are made

28 (A) in a corporation, partnership, trust, or other  
29 entity in which, at the conclusion of each investment transaction,

1 at least 60 percent of the beneficial ownership interests are held  
2 by other institutional investors, and which is organized and  
3 operated for the purpose of making real estate investments by a  
4 bank, insurance company, or other manager of institutional funds  
5 which has had at least five years of experience in the management  
6 of real estate investments of institutional investors; or

7 (B) in conjunction with and on substantially the same  
8 terms as an entity described in (A) of this paragraph.

9 \* Sec. 6. AS 37.13.120(1) is repealed and reenacted to read:

10 (i) At the time of each investment, the aggregate investment of  
11 the Alaska permanent fund in each stated category of investment may not  
12 exceed the following stated percentage of the total investments of the  
13 fund: mortgages under (g)(16) of this section, 15 percent; real estate  
14 investments under (g)(19) of this section, 15 percent; foreign certifi-  
15 cates of deposit or the equivalent under (g)(18) of this section, 20  
16 percent; corporate stocks and debt securities under (g)(8) and (9) of  
17 this section, 50 percent. The Alaska permanent fund may at no time own  
18 more than five percent of the voting stock of a corporation. Domestic  
19 stocks, except for bank and insurance company stocks, must be listed at  
20 the date of purchase on an exchange registered with the Securities and  
21 Exchange Commission.

22 \* Sec. 7. AS 37.13.120 is amended by adding a new subsection to read:

23 (m) Certificates of deposit or the equivalent instruments which  
24 are not of a quality that may be readily sold in a secondary market at  
25 prices reflecting fair value must be secured by a pledge as collateral  
26 of investments authorized for the Alaska permanent fund under (g)(1),  
27 (2), (8), or (12) - (17) of this section, which investments have value  
28 at least equal to the face value of the certificate of deposit. The  
29 board may require substitution of collateral in order to ensure continued

1 satisfaction of the requirements set out in this subsection.

2 \* Sec. 8. AS 37.13.140 is repealed and reenacted to read:

3 Sec. 37.13.140. INCOME. Net income of the corporation must be  
4 computed annually as of the last day of the fiscal year in accordance  
5 with generally accepted accounting principles, excluding any unrealized  
6 gains or losses. Income available for distribution equals the average  
7 net income of the corporation for the last five fiscal years, including  
8 the fiscal year just ended, but may not exceed net income of the corpora-  
9 tion for the fiscal year just ended plus the balance in the undistributed  
10 income account described in AS 37.13.145.

11 \* Sec. 9. AS 37.13 is amended by adding a new section to read:

12 Sec. 37.13.145. DISPOSITION OF INCOME. At the end of each fiscal  
13 year, an amount equal to 50 percent of net income as defined in AS 37.-  
14 13.140, excluding any income on the undistributed income account in the  
15 Alaska permanent fund, shall be transferred to principal of the fund for  
16 reinvestment. The other 50 percent of the net income shall be trans-  
17 ferred to the undistributed income account. Money in the undistributed  
18 income account shall be invested in investments authorized under AS 37.-  
19 13.120. Income from the investment of the undistributed income account  
20 shall be treated as an addition to that account.

21 \* Sec. 10. AS 37.13.150 is amended to read:

22 Sec. 37.13.150. CORPORATION [BOARD] BUDGET. The revenues genera-  
23 ted by the corporation's investments must be identified as the source  
24 of the operating budget of the corporation in the state's operating  
25 budget under [BOARD IS FROM THE GENERAL FUND AND IS SUBJECT TO] the  
26 Executive Budget Act (AS 37.07.010 - 37.07.130). The unexpended bal-  
27 ance of the corporation's annual operating budget does not lapse at  
28 the end of the fiscal year but shall be treated as income under AS 37.-  
29 13.140.

1 \* Sec. 11. AS 37.13.160 is amended to read:

2           Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Commit-  
3           tee may [SHALL] provide for an annual post audit and annual operational  
4           and performance evaluations of the corporation's investments and invest-  
5           ment programs.

6 \* Sec. 12. AS 37.13 is amended by adding a new section to read:

7           Sec. 37.13.205. REGULATIONS. The board may adopt regulations  
8           under the Administrative Procedure Act (AS 44.62) to interpret and  
9           implement this chapter.

10 \* Sec. 13. AS 37.13.130 is repealed.

11 \* Sec. 14. Transition to four-year terms for members of the Board of  
12 Trustees of the Alaska Permanent Fund Corporation as provided in AS 37.13.060  
13 as amended in sec. 2 of this Act shall be implemented as follows: at the  
14 expiration of the present term of each public member, the governor shall  
15 appoint a replacement, or reappoint the present member, for a term of four  
16 years. Within 90 days after the effective date of this Act, the governor  
17 shall appoint a public member to replace one of the two present heads of  
18 principal departments other than the commissioner of revenue, to serve for a  
19 term of four years or less which term expires in a year when no other public  
20 member's term expires. The head of a principal department who is to be re-  
21 placed shall continue to serve on the board until the appointment of a re-  
22 placement.

23 \* Sec. 15. This Act takes effect July 1, 1982.

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