

Introduced: 2/9/82
Referred: Labor & Commerce
and Finance

1 IN THE SENATE

BY DANKWORTH

2 SENATE BILL NO. 729

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 certain state loan, refund, and
7 grant programs; and providing for an effective date."

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

9 * Section 1. AS 26.15.040(a)(1) is repealed and reenacted to read:

10 (1) Home improvement and energy conservation loans may be
11 made in amounts that may not exceed \$10,000. Loans made under this
12 paragraph shall be secured by acceptable collateral. The interest rate
13 on a loan made under this paragraph may not exceed nine and one-half
14 percent.

15 * Sec. 2. AS 45 is amended by adding a new chapter to read:

16 CHAPTER 92. HOME IMPROVEMENT AND ENERGY
17 CONSERVATION LOANS.

18 Sec. 45.92.010. HOME IMPROVEMENT AND ENERGY CONSERVATION REVOLVING
19 LOAN FUND. (a) The home improvement and energy conservation revolving
20 loan fund is established in the Department of Commerce and Economic
21 Development. The fund consists of appropriations made to it by the
22 legislature and repayments of principal and interest on loans made from
23 the fund.

24 (b) Loans may be made from the fund for improvement, renovation,
25 or rehabilitation of owner-occupied single family and duplex dwellings.

26 Sec. 45.92.020. DUTIES OF THE DEPARTMENT. The department shall

27 (1) make loans from the fund to carry out the purposes of
28 this chapter; and

29 (2) adopt regulations necessary to carry out the provisions

1 of this chapter.

2 Sec. 45.92.030. INELIGIBILITY FOR LOAN. A person who has received
3 a home improvement loan under AS 18.56.098 or AS 26.15.040, and who has
4 an outstanding balance on that loan, is not eligible for a loan under
5 this chapter.

6 Sec. 45.92.040. LOAN TERMS. (a) A home improvement loan made
7 under this chapter may not exceed \$10,000.

8 (b) The interest rate on a loan made under this chapter shall be
9 10 percent unless the loan is made for home improvements that have been
10 recommended by a certified energy audit as energy conservation measures,
11 in which case the interest rate shall be 9 percent.

12 (c) The term of a loan made under this chapter may not exceed 10
13 years.

14 (d) A loan made under this chapter shall be secured by a first or
15 subordinated mortgage or deed of trust on the property that is to be
16 improved from the proceeds of the loan.

17 Sec. 45.92.050. SALE OR TRANSFER OF MORTGAGES AND NOTES. The
18 department may sell or transfer the mortgages and deeds of trust it
19 holds as security for loans made under this chapter at par value or at a
20 premium or discount to a bank or other private purchaser for cash or
21 other consideration.

22 Sec. 45.92.090. DEFINITIONS. In this chapter

23 (1) "department" means the Department of Commerce and Economic
24 Development;

25 (2) "energy audit" means an audit performed under AS 46.11;
26 and

27 (3) "fund" means the home improvement and energy conservation
28 revolving loan fund established under AS 45.92.010.

29 * Sec. 3. AS 45 is amended by adding a new chapter to read:

1 CHAPTER 94. NONCONFORMING HOUSING LOANS.

2 Sec. 45.94.010. NONCONFORMING HOUSING LOAN FUND. The nonconforming
3 housing loan fund is established in the Department of Commerce and
4 Economic Development, consisting of money appropriated to it by the
5 legislature. The department shall administer the nonconforming housing
6 loan fund in accordance with this chapter and shall use the money in the
7 nonconforming housing loan fund to originate, purchase, or participate
8 in the purchase of

- 9 (1) nonconforming housing mortgage loans;
- 10 (2) loans made for building materials for nonconforming
11 housing;
- 12 (3) loans made for renovations or improvements to nonconform-
13 ing housing;
- 14 (4) loans made for the construction of owner-occupied noncon-
15 forming housing other than loans to builders or contractors or loans
16 that compensate an owner for his labor or services in constructing his
17 own housing.

18 Sec. 45.94.020. POWERS OF THE DEPARTMENT. The department may

- 19 (1) adopt regulations in accordance with the Administrative
20 Procedure Act (AS 44.62) to implement this chapter;
- 21 (2) make and execute agreements, contracts, and other instru-
22 ments necessary or convenient in the exercise of his powers and func-
23 tions under this chapter;
- 24 (3) purchase or participate in the purchase of nonconforming
25 housing mortgage loans in accordance with this chapter;
- 26 (4) purchase or participate in the purchase of loans for
27 building materials for nonconforming housing in accordance with this
28 chapter;
- 29 (5) procure insurance against loss in connection with his

1 functions under this chapter;

2 (6) acquire real or personal property, or an interest in real
3 or personal property, by purchase, transfer or foreclosure, when the
4 acquisition is necessary or appropriate to protect a loan made from the
5 fund; sell, transfer, and convey that property to a buyer; and, if the
6 sale, transfer, or conveyance cannot be effected with reasonable prompt-
7 ness or at a reasonable price, rent or lease the property to a tenant
8 pending the sale, transfer, or conveyance;

9 (7) do all acts necessary, convenient, or desirable to carry
10 out the powers expressly granted or necessarily implied in this chapter;
11 and

12 (8) originate and service direct loans made to qualified
13 buyers in accordance with this chapter.

14 Sec. 45.94.030. ELIGIBLE LOCATIONS. (a) The department may make
15 loans from the nonconforming housing loan fund only for nonconforming
16 housing loans to qualified buyers for nonconforming housing.

17 (b) Not more than 20 percent of the total principal amount of
18 loans made for nonconforming housing may be made in cities of organized
19 boroughs and service areas of unified municipalities where the popula-
20 tion of the city or service area exceeds 3,500.

21 (c) For purposes of (b) of this section, population shall be
22 determined with reference to the 1980 preliminary census report as
23 published in "Alaska 1980 Population" and released January 1, 1981, by
24 the Department of Labor.

25 (d) In allocating money under (b) of this section, if a home
26 proposed for financing is in more than one service area, that home shall
27 be considered to be in the service area with the smallest population.

28 Sec. 45.94.040. LIMITATIONS ON USE OF NONCONFORMING HOUSING LOAN
29 FUND. The department may not use money in the nonconforming housing

1 loan fund to

2 (1) originate a direct loan or purchase or participate in the
3 purchase of a nonconforming housing mortgage loan that exceeds the
4 limitations on mortgage loans purchased by the Federal National Mortgage
5 Association as to principal amount or loan-to-value ratio;

6 (2) originate a direct loan or purchase or participate in the
7 purchase of a loan made for building materials for nonconforming housing

8 (A) that exceeds \$45,000 or exceeds

9 (i) 80 percent of the appraised value of the work
10 completed on the nonconforming housing for which the loan is
11 made if the nonconforming housing is pledged as collateral for
12 the loan; or

13 (ii) 90 percent of the value of other property that
14 is pledged as security for the loan and that is satisfactory
15 to the director as collateral;

16 (B) unless the terms of the loan agreement require
17 inspections and certifications, as required by regulations of the
18 department, at the expense of the borrower; and

19 (C) unless the period of time allowed for repayment of
20 the loan is equal to or less than 15 years;

21 (3) originate direct loans or purchase or participate in the
22 purchase of a nonconforming housing mortgage loan that is secured by
23 real property the marketable title to which is shown in accordance with
24 AS 45.94.070(b)(2) if the total amount of outstanding nonconforming
25 housing mortgage loans held by the department exceeds 10 times the
26 amount of money in the restricted title loss reserve account (AS 45.94.-
27 080).

28 Sec. 45.94.050. SECURITY FOR LOANS. (a) The department shall
29 adopt regulations in accordance with the Administrative Procedure Act

1 (AS 44.62) establishing acceptable security for loans originated or
2 purchased in whole or in part under AS 45.94.010.

3 (b) A person may pledge as security for the repayment of a loan
4 originated or purchased in whole or in part under AS 45.94.010 a prefer-
5 ence right he holds to receive title to land he occupies as a primary
6 place of residence, primary place of business, subsistence campsite, or
7 as headquarters for reindeer husbandry. The preference right must be
8 conveyed to the person by the Native corporation to which the land was
9 granted under section 14 of the Alaska Native Claims Settlement Act (85
10 Stat. 688, 43 U.S.C. secs. 1601 - 1626, as amended by P.L. 94-204)
11 before it may be pledged as security under this subsection. The commis-
12 sioner shall prescribe procedures and standard forms for establishing,
13 pledging, and appraising the value of a preference right held by a
14 person to secure the repayment of a loan originated or purchased in
15 whole or in part under AS 45.94.010.

16 Sec. 45.94.060. INTEREST ON LOANS. The interest rate on a mortgage
17 loan originated or purchased in whole or in part under AS 45.94.010 is
18 equal to the interest rate, as determined under AS 18.56.098(g)(1) -
19 (4), on a mortgage loan purchased under AS 18.56.098(g) from the pro-
20 ceeds of the most recent applicable issue of taxable bonds before the
21 origination or purchase of the mortgage loan originated or purchased
22 under AS 45.94.010.

23 Sec. 45.94.070. TITLE. (a) Before the department originates or
24 purchases a nonconforming housing mortgage loan in whole or in part, the
25 commissioner may require a borrower to show marketable title to real
26 property offered as security for the loan to be purchased.

27 (b) A borrower may show marketable title to real property for the
28 purposes of (a) of this section

29 (1) by purchasing title insurance from a title insurance

1 company authorized to do business in the state; or

2 (2) by delivering to the commissioner a copy of a letter of
3 intent signed by an authorized representative of the United States
4 Department of the Interior which shows the transfer of title to the
5 property from the United States government to the borrower if

6 (A) the borrower is an Alaska Native; and

7 (B) title to the property was originally transferred
8 from the United States government, directly or indirectly, to the
9 borrower under federal law.

10 (c) For the purposes of this section, a deed that federal law
11 prohibits or limits the power to transfer or encumber and that would
12 otherwise constitute marketable title to real property is considered
13 marketable title to real property if the United States Bureau of Indian
14 Affairs or another appropriate federal agency waives immunity under the
15 federal law from foreclosure or other alienation of the real property.

16 Sec. 45.94.080. RESTRICTED TITLE LOSS RESERVE ACCOUNT. (a) There
17 is established in the department the restricted title loss reserve
18 account. The restricted title loss reserve account consists of money
19 appropriated to it by the legislature and shall be administered by the
20 department.

21 (b) The department may withdraw money from the restricted title
22 loss reserve account in an amount equal to the loss to the department on
23 a nonconforming housing mortgage loan originated or purchased in whole
24 or in part by the department if marketable title to the real property
25 used to secure the loan was shown in accordance with AS 45.94.070(b)(2).
26 Money withdrawn from the restricted title loss reserve account under
27 this section shall be deposited in the nonconforming housing loan fund.

28 Sec. 45.94.090. FIRE INSURANCE. Before purchasing or participat-
29 ing in the purchase of a nonconforming housing mortgage loan, the depart-

1 ment may require the borrower to agree to purchase and maintain fire
2 insurance for the real property for which the loan is made in an amount
3 not less than the outstanding principal balance of the loan.

4 Sec. 45.94.100. LOAN ORIGINATION AND SERVICING. (a) Before
5 purchasing or participating in the purchase of a loan, the department
6 shall enter into a loan servicing agreement with the private financial
7 institution from which the loan is to be purchased.

8 (b) The department may execute service agreements with private
9 lending institutions to service loans originated by the department.

10 (c) Under the servicing agreement, the private financial institu-
11 tion shall administer the loan and may charge the department a negotiated
12 origination or servicing fee on the department's share of the loan.
13 When appropriate, the private financial institution may also charge the
14 borrower a reasonable originator fee not to exceed one percent.

15 (d) Loan origination and servicing agreements entered into under
16 this section may provide for higher fees for loans made for nonconform-
17 ing housing located outside of cities of organized boroughs and service
18 areas of unified municipalities that have a population in excess of
19 3,500, than for other loans made for nonconforming housing. The depart-
20 ment may pay a portion of the higher fees.

21 Sec. 45.94.110. APPRAISALS. Before originating or purchasing or
22 participating in the purchase of a nonconforming housing mortgage loan,
23 the department may have or may require the borrower to have an appraisal
24 made of the fair market value of the real property, including structures
25 on the real property, for which the loan is made. In conducting an
26 appraisal under this section, the appraiser shall give full value to
27 insulation and other features of construction in structures on the real
28 property that add to the energy efficiency of the structures.

29 Sec. 45.94.120. ENERGY AUDIT EXEMPTION. In making loans under

1 this chapter, the department is exempt from the requirements of AS 46.-
2 11.050(b).

3 Sec. 45.94.130. TOLL-FREE TELEPHONE NUMBER. The commissioner
4 shall arrange for and maintain a toll-free telephone number so that
5 private financial institutions and their borrowers may obtain informa-
6 tion about nonconforming housing loans from any location in the state by
7 telephone without a toll charge.

8 Sec. 45.94.140. ASSISTANCE OF DEPARTMENT PERSONNEL. (a) The
9 commissioner may establish field offices to assist borrowers and lending
10 institutions, may hire one or more lending officers, and may contract
11 for the services of

12 (1) real property appraisers who are familiar with rural
13 construction; and

14 (2) engineers who are familiar with engineering problems in
15 arctic and subarctic regions.

16 (b) The personnel described in (a) of this section may make visits
17 to the regions established under AS 45.94.160(a) to provide preconstruc-
18 tion and post-construction inspections of real property for which loans
19 are originated or purchased by the department in whole or in part under
20 AS 45.94.010 and to provide assistance to private financial institutions
21 and their borrowers in the regions. Authority for final approval of
22 loans may not be exercised by the personnel described in this section.

23 Sec. 45.94.150. DEMONSTRATION PROJECTS AND INFORMATION. The
24 commissioner may enter into agreements with public and private agencies
25 to provide demonstration projects and information concerning housing
26 construction in each of the regions established under AS 45.94.160(a).

27 Sec. 45.94.160. REGIONAL ALLOCATION. (a) The commissioner, by
28 regulations adopted in accordance with the Administrative Procedure Act
29 (AS 44.62), shall establish and may amend the boundaries of reasonably

1 compact and contiguous regions in the state.

2 (b) Unless otherwise required by an appropriation, the department
3 shall allocate the money in the nonconforming housing loan fund among
4 the regions established under (a) of this section for the purpose of
5 originating or purchasing each type of loan described in AS 45.94.010.
6 In making an allocation under this subsection, the department shall
7 consider the past and potential lending activity of private financial
8 institutions in the region as well as the need for loans in the region.
9 The department may reallocate the money among the regions as is con-
10 sidered necessary.

11 Sec. 45.94.170. DEFINITIONS. In this chapter

12 (1) "commissioner" means the commissioner of commerce and
13 economic development;

14 (2) "department" means the Department of Commerce and Economic
15 Development;

16 (3) "housing" means owner-occupied, single-family housing and
17 owner-occupied duplexes; and

18 (4) "nonconforming housing" means housing that does not
19 conform to minimum building standards under any state or federal program
20 that provides loans for housing purchases.

21 * Sec. 4. The following laws are repealed: AS 44.33.240 - 44.33.275,
22 44.33.320 - 44.33.380; AS 44.47.360 - 44.47.560; AS 45.89; and AS 46.11.-
23 030(a)(3), (b), (c), (d), and (e).

24 * Sec. 5. The money and other assets of the funds repealed by this Act
25 lapse into the general fund.

26 * Sec. 6. This Act takes effect July 1, 1982.
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