

Introduced: 1/29/86
Referred: House Special Committee on
State Loans, Labor & Commerce and
Finance

BY SUND, TAYLOR AND
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1 IN THE HOUSE

2 HOUSE BILL NO. 523

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Small Business Loan Guarante
7 tee Program; and providing for an effective date."

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

9 * Section 1. AS 44.88 is amended by adding new sections to read:

10 ARTICLE 5. SMALL BUSINESS LOAN GUARANTEE PROGRAM.

11 Sec. 44.88.310. SMALL BUSINESS LOAN GUARANTEE FUND. The small
12 business loan guarantee fund is established in the authority from
13 appropriations for the purpose. Subject to requirements of AS 44.88.-
14 310 - 44.88.380, the authority may use money in the fund to guarantee
15 loans to small businesses.

16 Sec. 44.88.320. APPLICANT QUALIFICATIONS. (a) To qualify to
17 apply for a loan guarantee under AS 44.88.310 - 44.88.380 an applicant
18 must be a single proprietorship, corporation, firm, partnership, or
19 other association organized in any manner for any business purposes,
20 other than on a nonprofit basis, with a gross income of \$10,000,000 or
21 less for its annual reporting period ending immediately before the
22 date of application for the loan guarantee. The authority may estab-
23 lish additional applicant qualifications by regulation and these
24 qualifications may vary depending upon the type of business the appli-
25 cant is engaged in.

26 (b) To apply for a loan guarantee an applicant must provide an
27 economic and financial feasibility analysis prepared by a person
28 acceptable to the authority together with other information required
29 by the authority.

1 Sec. 44.88.330. POWERS OF THE AUTHORITY. The authority may
2 (1) designate agents and delegate powers necessary to
3 implement AS 44.88.310 - 44.88.380;
4 (2) adopt regulations to implement AS 44.88.310 - 44.88.-
5 380;
6 (3) establish terms and conditions for loan guarantees
7 subject to the requirements of AS 44.88.310 - 44.88.380;
8 (4) make and execute contracts and other instruments to
9 implement AS 44.88.310 - 44.88.380;
10 (5) acquire real or personal property by purchase, trans-
11 fer, or foreclosure when the acquisition is necessary to protect an
12 interest in the fund; and
13 (6) exercise any other power necessary to implement AS 44.-
14 88.310 - 44.88.380.

15 Sec. 44.88.340. CONDITIONS OF LOAN GUARANTEES. (a) The author-
16 ity may guarantee a loan under AS 44.88.310 - 44.88.380 if the
17 (1) loan is commercially reasonable, secured by adequate
18 collateral, and the net cash flow from the borrower provides adequate
19 coverage for the debt service on the loan;
20 (2) term of the loan does not exceed 25 years;
21 (3) loan is originated with and serviced by a state or
22 federally chartered financial institution;
23 (4) portion of the loan not guaranteed by the authority is
24 held by the originating financial institution or another financial
25 institution approved by the authority; and
26 (5) loan is made to a small business with a majority inter-
27 est held by state residents.

28 (b) The authority may provide a guarantee from the fund for up
29 to 90 percent of a loan that does not exceed \$500,000 and for up to 70

1 percent of a loan that is greater than \$500,000. The ratio of the
2 guarantee to the outstanding principal of the loan shall remain the
3 same over the term of the loan.

4 (c) The authority may not guarantee

5 (1) a loan that is used to refinance existing debt;

6 (2) the payment of interest on the guaranteed portion of a
7 loan;

8 (3) a loan that exceeds \$2,000,000; or

9 (4) loans to a borrower that cumulatively exceed \$2,000,000
10 in principal outstanding at any time.

11 (d) At the inception of a loan guaranteed under AS 44.88.310 -
12 44.88.380 the authority shall charge the borrower a fee not to exceed
13 one percent of the principal amount of the guaranteed portion of the
14 loan.

15 Sec. 44.88.350. DEFAULT OR FORECLOSURE. (a) Payments received
16 toward satisfaction of a default on a loan guaranteed under AS 44.88.-
17 310 - 44.88.380 shall be allocated between the lender and the fund
18 according to the guaranteed percentage of the loan until the principal
19 balance has been repaid.

20 (b) The authority shall dispose of property acquired through
21 default or foreclosure of a loan guaranteed under AS 44.88.310 -
22 44.88.380. Disposal shall be made in a manner that serves the best
23 interest of the state, and may include the amortization of payments
24 over a period of years.

25 Sec. 44.88.360. SPECIAL ACCOUNT ESTABLISHED. (a) There is
26 established as a special account within the fund the foreclosure
27 expense account. This account is established as a reserve from fund
28 equity.

29 (b) The authority may expend money credited to the foreclosure

1 expense account when necessary to protect the state's security inter-
2 est in collateral on loans guaranteed under AS 44.88.310 - 44.88.380
3 or to defray expenses incurred during a foreclosure proceeding after a
4 default.

5 Sec. 44.88.370. PREREQUISITE FOR OTHER LOANS. Notwithstanding
6 other provisions of law, a small business that qualifies under AS 44.-
7 88.320 to receive a loan guarantee under AS 44.88.310 - 44.88.380 is
8 required to apply for a loan guarantee before it may apply for a
9 direct loan of state money under any other state loan program. Only
10 after an application for the guarantee of a loan to be used for a
11 particular purpose is rejected may a small business apply for a direct
12 state loan for that purpose.

13 Sec. 44.88.380. DEFINITION. In AS 44.88.310 - 44.88.380, "fund"
14 means the small business loan guarantee fund established under AS 44.-
15 88.310.

16 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).