

Offered: 1/11/88

IN THE HOUSE -- Community & Regional
Affairs and Finance

IN THE SENATE -- Community & Regional
Affairs and Finance

EXECUTIVE ORDER NO. 69

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.08.210, I order the following:

* Section 1. FINDINGS. As governor, I find that it would be in the best interests of efficient administration and the state's efforts in the areas of rural assistance, economic development, and housing assistance to reassign to the Department of Community and Regional Affairs the functions of that department's division of housing assistance. This will facilitate exercise of the commissioner of the Department of Community and Regional Affairs' authority to designate subordinate department units as necessary under existing AS 44.17.010, 44.17.020, 44.17.040, and 44.17.070.

* Sec. 2. AS 18.55.997(a) is amended to read:

(a) In addition to the powers authorized to a regional housing authority under AS 18.55.996, a regional housing authority may, in accordance with procedures and policies adopted and approved by the [DIVISION OF HOUSING ASSISTANCE IN THE] Department of Community and Regional Affairs, make loans for the purchase or development of residential housing in rural areas of the state, other than in an area where the department [DIVISION OF HOUSING ASSISTANCE] has a loan office. A loan shall be secured by collateral in an amount acceptable to the [DIVISION OF HOUSING ASSISTANCE IN THE] Department of Community and Regional Affairs. The rate of interest on a loan authorized by this section may not exceed the interest rate on a loan originated or purchased under AS 44.47.370 [44.47.360] -- 44.47.560.

* Sec. 3. AS 44.47.370 is amended to read:

ARTICLE 8. [DIVISION OF] HOUSING ASSISTANCE.

Sec. 44.47.370. POWERS OF COMMISSIONER [DIRECTOR]. The commissioner [DIRECTOR] may

(1) adopt regulations in accordance with the Administrative

1 Procedure Act (AS 44.62) to implement AS 44.47.370 [44.47.360] --
2 44.47.560;

3 (2) make and execute agreements, contracts, and other instru-
4 ments necessary or convenient in the exercise of the commissioner's
5 [DIRECTOR'S] powers and functions under AS 44.47.370 [44.47.360] --
6 44.47.560;

7 (3) purchase or participate in the purchase of nonconforming and
8 rural housing mortgage loans in accordance with AS 44.47.370
9 [44.47.360] -- 44.47.560;

10 (4) purchase or participate in the purchase of loans for build-
11 ing materials for nonconforming and rural housing in accordance with
12 AS 44.47.370 [44.47.360] -- 44.47.560;

13 (5) procure insurance against loss in connection with the direc-
14 tor's functions under AS 44.47.370 [44.47.360] -- 44.47.560;

15 (6) acquire real or personal property, or an interest in real or
16 personal property, by purchase, transfer or foreclosure, when the
17 acquisition is necessary or appropriate to protect a loan in which the
18 department [DIVISION] has an interest; sell, transfer and convey that
19 property to a buyer; and, if the sale, transfer or conveyance cannot
20 be effected with reasonable promptness or at a reasonable price, rent
21 or lease the property to a tenant pending the sale, transfer or con-
22 veyance;

23 (7) do all acts necessary, convenient or desirable to carry out
24 the powers expressly granted or necessarily implied in AS 44.47.370
25 [44.47.360] -- 44.47.560;

26 (8) originate and service direct loans made to qualified buyers
27 in accordance with AS 44.47.370 [44.47.360] -- 44.47.560.

28 * Sec. 4. AS 44.47.380 is amended to read:

29 Sec. 44.47.380. HOUSING ASSISTANCE LOAN FUND. There is created

1 in the department, as a revolving loan fund, the housing assistance
2 loan fund consisting of money appropriated to it by the legislature
3 and repayments of principal and interest on loans made or purchased
4 from the assets of the fund. The commissioner [DIRECTOR] shall admin-
5 ister the housing assistance loan fund in accordance with AS 44.47.370
6 [44.47.360] -- 44.47.560 and shall use the money in the housing
7 assistance loan fund to originate, purchase, or participate in the
8 purchase, or

9 (1) nonconforming and rural housing mortgage loans;

10 (2) loans made for building materials for nonconforming and
11 rural housing;

12 (3) loans made for renovations or improvements to nonconforming
13 and rural housing;

14 (4) loans made for the construction of owner-occupied noncon-
15 forming and rural housing other than loans to builders or contractors
16 or loans that compensate an owner for the owner's labor or services in
17 constructing the owner's own housing.

18 * Sec. 5. AS 44.47.382 is amended to read:

19 Sec. 44.47.382. HOME OWNERSHIP ASSISTANCE FUND. (a) There is
20 created in the Department of Community and Regional Affairs, the home
21 ownership assistance fund consisting of money appropriated to it by
22 the legislature. Money in the fund shall be used solely to assist
23 persons of lower and moderate income to purchase or construct sin-
24 gle-family homes financed under AS 44.47.370 [44.47.360] -- 44.47.560
25 by providing a subsidy to those persons.

26 (b) The subsidy provided by this section may not exceed the
27 amount that is necessary to reduce the annual interest rate paid on
28 the mortgage loan to six percent.

29 (c) A mortgage loan that is subsidized from the home ownership

1 assistance fund may not exceed \$120,000.

2 (d) The department [DIVISION] shall adopt regulations that
3 establish maximum income-to-loan payment ratios for persons who apply
4 for a subsidy under this section.

5 (e) In this section, "persons of lower and moderate income"
6 means individuals considered by the department [DIVISION] to require
7 assistance under this section because of inadequate income or other
8 limited personal financial resources, taking into consideration

9 (1) the amount of total income available for housing needs;

10 (2) the size of the family;

11 (3) the cost and condition of available housing;

12 (4) standards established in various federal programs for
13 determining eligibility based on income;

14 (5) the ability to enter the private housing market and to
15 pay market amounts for decent, safe, and sanitary housing; and

16 (6) other factors considered relevant by the department
17 [DIVISION].

18 * Sec. 6. AS 44.47.390 is amended to read:

19 Sec. 44.47.390. LIMITATIONS ON USE OF HOUSING ASSISTANCE LOAN
20 FUND. The commissioner [DIRECTOR] may not use the money in the hous-
21 ing assistance loan fund to

22 (1) originate a direct loan or purchase or participate in
23 the purchase of a nonconforming or rural housing mortgage loan that
24 exceeds the limitations on mortgage loans purchased by the Federal
25 National Mortgage Association as to principal amount or loan-to-value
26 ratio;

27 (2) originate a direct loan or purchase or participate in
28 the purchase of a loan made for building materials for nonconforming
29 or rural housing

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

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

(ii) 90 percent of the value of other property that is pledged as security for the loan and that is satisfactory to the commissioner [DIRECTOR] as collateral;

(B) unless the terms of the loan agreement require inspections and certifications, as required by regulations of the commissioner [DIRECTOR], at the expense of the borrower; and

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

(3) originate direct loans or purchase or participate in the purchase of a nonconforming or rural housing mortgage loan that is secured by real property the marketable title to which is shown in accordance with AS 44.47.420(b)(2) if the total amount of outstanding nonconforming and rural housing mortgage loans held by the department [DIVISION] exceeds 10 times the amount of money in the restricted title loss reserve account (AS 44.47.430);

(4) originate a direct loan for nonconforming or rural housing or purchase or participate in the purchase of a nonconforming or rural housing mortgage loan, other than a loan for the repair, remodeling, rehabilitation, or expansion of an existing owner-occupied residence, if the borrower has an outstanding housing loan made under a state loan program, other than a loan for nonowner-occupied housing under AS 44.47.520, that bears interest at a rate that was less than the prevailing market interest rate for similar housing loans at the time the loan was made;

1 (5) originate a direct mortgage loan or purchase or partic-
2 ipate in the purchase of a mortgage loan for rental housing unless the
3 borrower agrees not to discriminate against tenants or prospective
4 tenants because of sex, marital status, changes in marital status,
5 pregnancy, parenthood, race, religion, color, national origin, or
6 status as a student;

7 (6) originate, purchase, or participate in a loan to a
8 person who has a past due child support obligation established by
9 court order or by the child support enforcement division under
10 AS 47.23.160 -- 47.23.220 at the time of application.

11 * Sec. 7. AS 44.47.395(a) is amended to read:

12 (a) There is established an operating loss reserve account for
13 the purpose of meeting legal expenses incurred through the foreclosure
14 of properties acquired by the commissioner [DIRECTOR] under
15 AS 44.47.370(6) and making repairs to these properties so that they
16 may be sold to new buyers.

17 * Sec. 8. AS 44.47.400(a) is amended to read:

18 (a) The commissioner [DIRECTOR] shall adopt regulations in
19 accordance with the Administrative Procedure Act (AS 44.62) establish-
20 ing acceptable security for loans originated or purchased in whole or
21 in part under AS 44.47.380.

22 * Sec. 9. AS 44.47.420 is amended to read:

23 Sec. 44.47.420. TITLE. (a) Before the commissioner [DIRECTOR]
24 originates or purchases a nonconforming or rural housing mortgage loan
25 in whole or in part, the commissioner [DIRECTOR] may require a borrow-
26 er to show marketable title to real property offered as security for
the loan to be purchased.

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

1 (1) by purchasing title insurance from a title insurance
2 company authorized to do business in the state; or

3 (2) by delivering to the commissioner [DIRECTOR] a copy of
4 a letter of intent signed by an authorized representative of the
5 United States Department of the Interior which shows the transfer of
6 title to the property from the United States government to the borrow-
7 er if

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

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

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

19 * Sec. 10. AS 44.47.430 is amended to read:

20 Sec. 44.47.430. RESTRICTED TITLE LOSS RESERVE ACCOUNT. (a)
21 There is established in the department [DIVISION] the restricted title
22 loss reserve account. The restricted title loss reserve account
23 consists of money appropriated to it by the legislature and shall be
24 administered by the commissioner [DIRECTOR].

25 (b) The commissioner [DIRECTOR] may withdraw money from the
26 restricted title loss reserve account in an amount equal to the loss
27 to the department [DIVISION] on a nonconforming or rural housing
28 mortgage loan originated or purchased in whole or in part by the
29 department [DIVISION] if marketable title to the real property used to

1 secure the loan was shown in accordance with AS 44.47.420(b)(2).
2 Money withdrawn from the restricted title loss reserve account under
3 this section shall be deposited in the housing assistance loan fund.

4 * Sec. 11. AS 44.47.440 is amended to read:

5 Sec. 44.47.440. FIRE INSURANCE. Before purchasing or partic-
6 ipating in the purchase of a nonconforming or rural housing mortgage
7 loan, the commissioner [DIRECTOR] may require the borrower to agree to
8 purchase and maintain fire insurance for the real property for which
9 the loan is made in an amount not less than the outstanding principal
10 balance of the loan.

11 * Sec. 12. AS 44.47.460 is amended to read:

12 Sec. 44.47.460. LOAN ORIGINATION AND SERVICING. (a) Before
13 purchasing or participating in the purchase of a loan, the commission-
14 er [DIRECTOR] shall enter into a loan servicing agreement with the
15 private financial institution from which the loan is to be purchased.

16 (b) The commissioner [DIRECTOR] may execute service agreements
17 with private lending institutions or with regional native housing
18 authorities established under AS 18.55.996 to service loans originated
19 by the department [DIVISION] or loans originated under AS 18.55.997.

20 (c) Under the servicing agreement, the private financial insti-
21 tution or the regional native housing authority shall administer the
22 loan and may charge the department [DIVISION] a negotiated origination
23 or servicing fee on the division's share of the loan. When appropri-
24 ate, the private financial institution or the regional native housing
25 authority may also charge the borrower a reasonable originator fee not
26 to exceed one percent.

27 (d) [Repealed, sec. 5 ch 100 SLA 1985.]

28 * Sec. 13. AS 44.47.470 is amended to read:

29 Sec. 44.47.470. APPRAISALS. Before originating or purchasing or

1 participating in the purchase of a nonconforming or rural housing
2 mortgage loan, the commissioner [DIRECTOR] may have or may require the
3 borrower to have an appraisal made of the fair market value of the
4 real property, including structures on the real property, for which
5 the loan is made. In conducting an appraisal under this section, the
6 appraiser shall give full value to insulation and other features of
7 construction in structures on the real property that add to the energy
8 efficiency of the structures.

9 * Sec. 14. AS 44.47.475 is amended to read:

10 Sec. 44.47.475. ENERGY AUDIT EXEMPTION. In making loans under
11 this chapter, the department [DIVISION] is exempt from the require-
12 ments of AS 46.11.050(b).

13 * Sec. 15. AS 44.47.480 is amended to read:

14 Sec. 44.47.480. TOLL-FREE TELEPHONE NUMBER. The commissioner
15 [DIRECTOR] shall arrange for and maintain a toll-free telephone number
16 for the department [DIVISION] so that private financial institutions
17 and their borrowers may contact the department [DIVISION] from any
18 location in the state by telephone without a toll charge.

19 * Sec. 16. AS 44.47.490 is amended to read:

20 Sec. 44.47.490. ASSISTANCE BY DIVISION PERSONNEL. (a) The
21 commissioner [DIRECTOR] may establish field offices under this chap-
22 ter, may hire one or more lending officers, and, under AS 36.30 (State
23 Procurement Code), may contract for the services of

24 (1) real property appraisers who are familiar with rural
25 construction; and

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

28 (b) The personnel described in (a) of this section may make
29 visits to the regions established under AS 44.47.510(a) to provide

1 preconstruction and post-construction inspections of real property for
2 which loans are originated or purchased by the department [DIVISION]
3 in whole or in part under AS 44.47.380 and to provide assistance to
4 private financial institutions and their borrowers in the regions.
5 Authority for final approval of loans may not be exercised by the
6 personnel described in this section.

7 * Sec. 17. AS 44.47.500 is amended to read:

8 Sec. 44.47.500. DEMONSTRATION PROJECTS AND INFORMATION. The
9 commissioner [DIRECTOR] may enter into agreements with public and
10 private agencies to provide demonstration projects and information
11 concerning housing construction in each of the regions established
12 under AS 44.47.510(a).

13 * Sec. 18. AS 44.47.510(b) is amended to read:

14 (b) Unless otherwise required by an appropriation, the commis-
15 sioner [DIRECTOR] shall allocate the money in the housing assistance
16 loan fund among the regions established under (a) of this section for
17 the purpose of originating or purchasing each type of loan described
18 in AS 44.47.380. In making an allocation under this subsection, the
19 commissioner [DIRECTOR] shall consider the past and potential lending
20 activity of private financial institutions in the region as well as
21 the need for loans in the region. The commissioner [DIRECTOR] may
22 reallocate the money among the regions as the commissioner [DIRECTOR]
23 considers necessary.

24 * Sec. 19. AS 44.47.520 is amended to read:

25 Sec. 44.47.520. LOANS FOR NON-OWNER OCCUPIED HOUSING. (a) In
26 addition to the powers authorized by AS 44.47.370 the commissioner
27 [DIRECTOR] may adopt regulations allowing the use of money in the
28 housing assistance loan fund to make loans for the purchase or devel-
29 opment of non-owner occupied housing in rural areas of the state.

1 (b) The rate of interest on a loan authorized by this section
2 may not exceed 10-1/2 percent.

3 (c) The principal amount of loans made for non-owner occupied
4 housing under this section may not exceed 20 percent of the total
5 principal amount of loans made for nonconforming and rural housing
6 under AS 44.47.370 [44.47.360] -- 44.47.560.

7 (d) In this section

8 (1) "development" means the construction of a new residence
9 or the repair, remodeling, rehabilitation, or expansion of an existing
10 residence;

11 (2) "non-owner occupied housing" means a single-family
12 residence or a multi-family residence having up to eight dwelling
13 units, that is not nonconforming housing, and is not occupied by the
14 owner; the commissioner [DIRECTOR] may modify this definition if the
15 commissioner [DIRECTOR] determines that there is a special need for
16 non-owner occupied housing and that a change in the definition is
17 necessary to enable the department [DIVISION] to meet that need.

18 * Sec. 20. AS 44.47.530 is amended to read:

19 Sec. 44.47.530. ANNUAL REPORT. To further ensure effective
20 budgetary decision making by the legislature, the department [DIVI-
21 SION] shall present a complete accounting of the housing assistance
22 revolving fund to the legislature by January 10 of each year. The
23 accounting shall be audited by an independent outside auditor and
24 shall include a full description of all mortgage loan interest and
25 principal repayments and program receipts, including mortgage loan
26 commitment fees, received by or accrued to the department [DIVISION]
27 during the preceding fiscal year, and all income earned on assets of
the department [DIVISION] during that period.

28 * Sec. 21. AS 44.47.560 is amended to read:

