

Offered: 2/12/87  
Referred: International Trade and Finance

5-0377B

Original sponsors: Kelly, Kerttula,  
Faiks, et al.

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 64 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH 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 legis-  
11 lature 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,  
16 but also to the people of the entire state;

17 (3) the state lacks the basic manufacturing, industrial,  
18 export, entrepreneurial, small business, and business enterprises and  
19 the other facilities referred to in [(5) OF] this subsection necessary  
20 to permit adequate development of its natural resources and the bal-  
21 anced growth of its economy;

22 (4) the establishment and expansion of industrial, manu-  
23 facturing, export, entrepreneurial, small business, and business  
24 enterprises in Alaska and the other facilities referred to in [(5) OF]  
25 this subsection are essential to the development of the natural re-  
26 sources and the long-term economic growth of the state, and will  
27 directly and indirectly alleviate unemployment in the state;

28 (5) the expansion of export trade is vital to the health  
29 and growth of the state's economy;

1           (6) many Alaska businesses could benefit from additional  
2           financial and technical assistance with respect to the exportation of  
3           their products and services;

4           (7) the United States Export-Import Bank has been mandated  
5           by the Export-Import Bank Act Amendments of 1983 to provide technical  
6           assistance and export financing support to small businesses in coop-  
7           eration with state export finance agencies;

8           (8) Alaska-based exporters can be effectively assisted  
9           through the establishment, as part of the Alaska Industrial Develop-  
10          ment Authority, of an export financing program designed to work with  
11          the U.S. Export-Import Bank and other federal, state, and private  
12          institutions;

13          (9) the achievement of the goal of full employment, and of  
14          establishment and continuing operation and development of industrial,  
15          manufacturing, export, entrepreneurial, small business, and business  
16          enterprises in the state, including, without limitation, facilities  
17          for transportation, facilities for pollution control and waste dis-  
18          posal, facilities for the local furnishing of gas, facilities for  
19          water, facilities for industrial parks, mass commuting vehicles,  
20          facilities for local district heating or cooling, parking facilities,  
21          or a storage or training facility relating to a plant or facility,  
22          will be accelerated and facilitated by the creation of an instrumen-  
23          tality of the state with powers to incur debt, to own and operate  
24          facilities, to make and insure loans to finance, and to assist private  
25          lenders to make loans to finance, the establishment, operation, and  
26          development of industrial, manufacturing, export, entrepreneurial,  
27          small business, and business enterprises, including, without limita-  
28          tion, facilities for transportation, facilities for pollution control  
29          and waste disposal, facilities for the local furnishing of gas,

1 facilities for water, facilities for industrial parks, mass commuting  
2 vehicles, facilities for local district heating or cooling, parking  
3 facilities, or a storage or training facility relating to a plant or  
4 facility;

5 (10) [(6)] it is in the public interest to promote the  
6 prosperity and general welfare of all citizens of the state by

7 (A) stimulating commercial and industrial growth and  
8 expansion by encouraging an increase of private investment by  
9 banks, investment houses, insurance companies, and other finan-  
10 cial institutions, including pension and retirement funds, to  
11 help satisfy the need for economic expansion;

12 (B) encouraging the production of raw materials and  
13 goods for export, the expansion of exports of raw materials and  
14 goods, and the rendering of services abroad by residents of the  
15 state through the establishment of a program that provides finan-  
16 cial assistance in cooperation with federal, state, and private  
17 institutions for these purposes in the form provided in this  
18 chapter;

19 (C) creating the Alaska Industrial Development Author-  
20 ity with the powers necessary to accomplish the objectives stated  
21 in this paragraph, including the power to issue taxable and  
22 tax-exempt bonds and to acquire ownership interests in projects  
23 as provided in this chapter;

24 (11) [(7)] it is in the state's interest to import private  
25 capital to create new economic activity which would not otherwise take  
26 place in the state.

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

1 opportunities and otherwise to encourage the economic growth of the  
2 state, including the development of its natural resources, through the  
3 establishment and expansion of manufacturing, industrial, export,  
4 entrepreneurial, small business, and business enterprises and the  
5 other facilities referred to in (a) [(a)(5)] of this section by creat-  
6 ing the Alaska Industrial Development Authority [PUBLIC CORPORATION]  
7 with the powers [POWER], duties, and functions [AS] provided in this  
8 chapter [AS 44.88.010 - 44.88.220].

9 \* Sec. 2. AS 44.88.010 is amended by adding a new subsection to read:

10 (c) It is further declared to be the policy of the state, in the  
11 interests of promoting the health, security, and general welfare of  
12 all the people of the state, and a public purpose of the state, to  
13 accomplish the objectives set out in (b) of this section through the  
14 provision of financial support in cooperation with federal, state, and  
15 private institutions for the purpose of increasing the export of  
16 Alaska goods, entrepreneurial talent, raw materials, and services.

17 \* Sec. 3. AS 44.88 is amended by adding a new section to article 1 to  
18 read:

19 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY REVOLV-  
20 ING FUND. The Alaska Industrial Development Authority revolving fund  
21 is established in the authority. The revolving fund consists of  
22 appropriations made to the revolving fund by the legislature, money or  
23 other assets transferred to the revolving fund by the authority, and  
24 unrestricted payments on loans made or purchased by the authority.  
25 Amounts deposited in the revolving fund may be pledged to the payment  
26 of bonds of the authority or expended for the purposes of the au-  
27 thority under this chapter.

28 \* Sec. 4. AS 44.88.070 is amended to read:

29 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the

1 authority is to promote, develop, and advance the general prosperity  
2 and economic welfare of the people of Alaska, to relieve problems of  
3 unemployment, and to create additional employment by

4 (1) providing various means of financing and means of  
5 facilitating the financing, in cooperation with federal, state, and  
6 private institutions, of industrial, manufacturing, export, entrepre-  
7 neurial, small business, and business enterprises and the other facil-  
8 ities referred to in AS 44.88.010(a) in [AS 44.88.010(a)(5) WITHIN]  
9 the state;

10 (2) [, AND BY] owning and operating the enterprises and  
11 other facilities described in AS 44.88.172;

12 (3) fostering the expansion of exports of Alaska goods,  
13 services, and raw materials;

14 (4) cooperating and acting in conjunction with other orga-  
15 nizations, public and private, the objects of which are the promotion  
16 and advancement of export trade activities in the state;

17 (5) establishing a source of funding credit guarantees and  
18 insurance, not otherwise available, to support export development;

19 (6) providing and cooperating or participating with feder-  
20 al, state, and private institutions to provide actual and potential  
21 Alaska exporters, particularly small- and medium-sized exporters, with  
22 financial assistance in support of export transactions.

23 \* Sec. 5. AS 44.88.080(7) is amended to read:

24 (7) to issue bonds and otherwise to incur indebtedness, in  
25 accordance with AS 44.88.090, in order to pay the cost of a project or  
26 development projects or in order to provide money for the authority's  
27 purposes under this chapter; the authority may also [AND TO] secure  
28 payment of the bonds or other indebtedness as provided in this chap-  
29 ter;

1 \* Sec. 6. AS 44.88.080 is amended by adding new paragraphs to read:

2 (20) to participate with government or private industry in  
3 programs for technical assistance, loans, technology, transfer, or  
4 other programs related to the exportation of Alaska goods, services,  
5 or raw materials with respect to its financing activities;

6 (21) to provide export finance training for office staff and  
7 other individuals involved in export finance assistance, including the  
8 training sessions that may be provided by the United States Export-  
9 Import Bank or other organizations;

10 (22) to coordinate to the maximum extent possible its  
11 efforts to promote the export of Alaska goods, services, and raw  
12 materials with programs and goals of the United States Export-Import  
13 Bank, the International Trade Administration of the United States  
14 Department of Commerce, the Foreign Credit Insurance Association, and  
15 other private and public programs designed to provide export assis-  
16 tance and export-related financing;

17 (23) to guarantee loans related to qualified export trans-  
18 actions under regulations adopted by the authority;

19 (24) to provide financing assistance, in cooperation with  
20 federal, state, and private institutions, as provided in this chapter  
21 for entrepreneurial and small business enterprises.

22 \* Sec. 7. AS 44.88.085(a) is amended to read:

23 (a) Except for AS 44.62.310 and 44.62.312 regarding public  
24 meetings, and except for AS 44.62.320(a) regarding legislative review  
25 of regulations, the provisions of the Administrative Procedure Act  
26 regarding the adoption of regulations (AS 44.62.040 - 44.62.320) do  
27 not apply to the authority. The authority shall make available to  
28 members of the public copies of the regulations adopted under [(b) -  
29 (e) OF] this section. Within 45 days after adoption of a regulation

1 under [(b) - (e) OF] this section, the chairman of the authority shall  
2 submit the regulation adopted to the chairman of the Administrative  
3 Regulation Review Committee under AS 24.20.400 - 24.20.460.

4 \* Sec. 8. AS 44.88.085(c) is repealed and reenacted to read:

5 (c) The authority may adopt regulations to carry out the pur-  
6 poses of this chapter and shall adopt regulations as provided in (g)  
7 and (h) of this section.

8 \* Sec. 9. AS 44.88.085(d) is amended to read:

9 (d) Except as provided in (e) of this section, at least 15 days  
10 before the adoption, amendment, or repeal of a regulation [ON A SUB-  
11 JECT SPECIFIED IN (c) OF THIS SECTION], the authority shall give  
12 public notice of the proposed action by publishing the notice in at  
13 least three newspapers of general circulation in the state and by  
14 mailing a copy of the notice to every person who has filed a request  
15 for notice of proposed regulations with the authority. The public  
16 notice must include a statement of the time, place, and nature of the  
17 proceedings for the adoption, amendment, or repeal of the regulation  
18 and must include an informative summary of the subject of the proposed  
19 action. On the date and at the time and place designated in the  
20 notice, the authority shall give each interested person or an autho-  
21 rized representative of the person, or both, the opportunity to pre-  
22 sent statements, arguments, or contentions orally or in writing and  
23 shall give members of the public an opportunity to present oral state-  
24 ments, arguments, or contentions for a total period of at least one  
25 hour. The authority shall consider all relevant matter presented to  
26 it before taking the proposed action on the regulation. At a hearing  
27 under this subsection, the authority may continue or postpone the  
28 hearing to a time and place determined by the authority and announced  
29 at the hearing before taking the action to continue or postpone the

1 hearing. A regulation adopted, amended, or repealed by the authority  
2 may vary from the informative summary specified in this subsection if  
3 the subject matter of the action taken on the regulation remains the  
4 same and if the original notice of the proposed action was written so  
5 as to assure that members of the public are reasonably notified of the  
6 subject matter of the proposed action in order for them to determine  
7 whether their interests could be affected by the authority's proposed  
8 action on that subject.

9 \* Sec. 10. AS 44.88.085(e) is amended to read:

10 (e) The adoption, amendment, or repeal of a regulation [ON A  
11 SUBJECT SPECIFIED IN (c) OF THIS SECTION] may be made as an emergency  
12 regulation if, in the order of adoption, the authority states the  
13 facts constituting the emergency and makes a finding that the adoption  
14 of the regulation is necessary for the immediate preservation of the  
15 orderly operation of the authority's [LOAN AND BONDING] programs. The  
16 requirements of (d) of this section do not apply to the initial adop-  
17 tion of an emergency regulation [COVERING A SUBJECT SPECIFIED IN (c)  
18 OF THIS SECTION]; however, upon adoption of an emergency regulation  
19 under this subsection, the authority shall, within 10 days after that  
20 adoption, publish notice of the adoption in accordance with the notice  
21 procedures specified in (d) of this section. An emergency regulation  
22 adopted under this subsection may not remain in effect for more than  
23 120 days unless, before the expiration of that period, the authority  
24 adopts that regulation as a permanent regulation in accordance with  
25 the procedures specified in (d) of this section.

26 \* Sec. 11. AS 44.88.085(f) is amended to read:

27 (f) A regulation adopted under [(b) - (e) OF] this section takes  
28 effect immediately upon its adoption by the authority or at another  
29 [SUCH OTHER] time [AS] specified by the authority in its order of

1 adoption.

2 \* Sec. 12. AS 44.88.085 is amended by adding new subsections to read:

3 (g) The authority shall adopt regulations necessary for the  
4 following purposes in connection with its programs for the financing  
5 of projects under AS 44.88.155 - 44.88.159:

6 (1) determination of borrower eligibility;

7 (2) loan guidelines and terms including, but not limited  
8 to, maximum loan amounts and required loan-to-value ratios, but ex-  
9 cluding loan interest rates;

10 (3) characteristics of projects eligible for loans or  
11 purchase of loans; and

12 (4) the qualifications of loan originators and servicers  
13 and the method of allocating amounts available for the purchase of  
14 loans.

15 (h) The authority shall adopt regulations necessary for the  
16 following purposes in connection with its program for encouraging the  
17 exportation of Alaska goods, services, and raw materials under AS 44.-  
18 88.300 - 44.88.390:

19 (1) establishing criteria for the eligibility of exporters  
20 and export transactions for the loan guarantees provided in AS 44.88.-  
21 300;

22 (2) setting out the minimum equity interest a borrower must  
23 have in the borrower's business to qualify for a loan guarantee under  
24 AS 44.88.300 - 44.88.390;

25 (3) adoption of collateral or security requirements to  
26 ensure the full repayment of loan guarantees and solvency of an insur-  
27 ance program established under AS 44.88.300 - 44.88.390;

28 (4) providing guidelines for extension of a loan guarantee  
29 under AS 44.88.300 - 44.88.390;

1           (5) setting out the maximum aggregate amount of guaranteed  
2 financing available to an exporter and the maximum amount of guaran-  
3 teed financing available for a transaction eligible for guaranteed  
4 financing;

5           (6) establishing the limits on the interest that may be  
6 charged for guaranteed financings, the maximum fees that a participat-  
7 ing financial institution may charge for making a loan that will be  
8 guaranteed under AS 44.88.300 - 44.88.390, and the terms of and proce-  
9 dures for repayment of a guaranteed financing; and

10           (7) establishing procedures for making a claim on the  
11 guarantee or insurance in the event of a default.

12 \* Sec. 13. AS 44.88.090(a) is amended to read:

13           (a) Subject to (g) of this section, the authority may borrow  
14 money and may issue bonds, including but not limited to bonds on which  
15 the principal and interest are payable[.]

16           (1) exclusively from the income and receipts or other money  
17 derived from the project or development project financed with the  
18 proceeds of the bonds or derived from the exporter or exporting trans-  
19 action financed, guaranteed, or insured with the proceeds of the  
20 bonds; [.]

21           (2) exclusively from the income and receipts or other money  
22 derived from designated projects or development projects or other  
23 sources whether or not they are financed, insured, or guaranteed in  
24 whole or in part with the proceeds of the bonds; [.] or

25           (3) from its income and receipts or other assets generally,  
26 or a designated part or parts of them.

27 \* Sec. 14. AS 44.88.090(e) is repealed and reenacted to read:

28           (e) Before issuing bonds, the authority shall provide for con-  
29 sideration at least sufficient, in the judgment of the authority, to

1 pay the principal of and interest on the bonds as they become due and  
2 to create and maintain the reserves for the payments that the authori-  
3 ty considers necessary or desirable, and to meet all obligations in  
4 connection with the lease or agreement and all costs necessary to  
5 service the bonds, unless the lease or agreement provides that the  
6 obligations are to be met or costs are to be paid by a party other  
7 than the authority. If the bonds are being issued to finance a  
8 project or projects under AS 44.88.155 - 44.88.159, then the con-  
9 sideration shall be provided by lease or other agreement regarding the  
10 project or projects. If the bonds are being issued to finance a  
11 development project or development projects under AS 44.88.172 -  
12 44.88.177, then the consideration shall be provided by lease or other  
13 agreement regarding the development project or development projects.  
14 If the bonds are being issued to provide money to finance, guarantee,  
15 or insure an exporting transaction under AS 44.88.300 - 44.88.390,  
16 then the consideration shall be provided by agreement with the ex-  
17 porter.

18 \* Sec. 15. AS 44.88.090(g) is amended to read:

19 (g) The authority may not

20 (1) issue bonds, other than refunding bonds, in any 12-  
21 month period beginning after June 30, 1982, in an amount that exceeds  
22 the amount of bonds authorized to be issued during the preceding  
23 12-month period, unless a different amount is authorized by the legis-  
24 lature; or

25 (2) issue revenue bonds other than refunding bonds for a  
26 project under AS 44.88.155 - 44.88.159, for a development project  
27 under AS 44.88.172 - 44.88.177, or to provide money to finance,  
28 guarantee, or insure an exporting transaction under AS 44.88.300 -  
29 44.88.390, [THIS CHAPTER] in an amount greater than \$50,000,000 during

1 any 12-month period beginning after June 30, 1981, unless the issuance  
2 is included separately in the estimates required in the report of the  
3 authority under AS 44.88.210(b) and unless the legislature, by law,  
4 approves the issuance.

5 \* Sec. 16. AS 44.88.090(h) is amended to read:

6 (h) The authority may combine, for the purposes of a single  
7 offering, bonds financing more than one project or development project  
8 under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, and bonds  
9 issued to provide money to finance, guarantee, or insure an exporting  
10 transaction under AS 44.88.300 - 44.88.390 [AS 44.88.010 - 44.88.220].

11 \* Sec. 17. AS 44.88.100 is amended to read:

12 Sec. 44.88.100. TRUST INDENTURES AND TRUST AGREEMENTS. In the  
13 discretion of the authority, an issue of bonds may be secured by a  
14 trust indenture or trust agreement between the authority and a corpo-  
15 rate trustee (which may be a trust company, bank, or national banking  
16 association, with corporate trust powers, located inside or outside  
17 the state) or by a secured loan agreement or other instrument or under  
18 a resolution giving powers to a corporate trustee (hereinafter in this  
19 section referred to as "trust agreement") by means of which the auth-  
20 ority may:

21 (1) make and enter into any and all the covenants and  
22 agreements with the trustee or the holders of the bonds which the  
23 authority may determine to be necessary or desirable, including,  
24 without limitation, covenants, provisions, limitations and agreements  
25 as to

26 (A) the application, investment, deposit, use and  
27 disposition of the proceeds of bonds of the authority or of money  
28 or other property of the authority or in which it has an inter-  
29 est;

1 (B) the fixing and collection of rents or other con-  
2 sideration for, and the other terms to be incorporated in, a  
3 lease or contract of sale of a project or development project  
4 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,  
5 or of a facility that is part of an exporting transaction fi-  
6 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390;

7 (C) the assignment by the authority of its rights in  
8 the lease or contract of sale of a project or development project  
9 financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177,  
10 or of a facility that is part of an exporting transaction fi-  
11 nanced, guaranteed, or insured under AS 44.88.300 - 44.88.390 or  
12 in a mortgage or other security interest created with respect to  
13 a project or development project financed under AS 44.88.155 -  
14 44.88.159 or 44.88.172 - 44.88.177, or with respect to a facility  
15 that is part of an exporting transaction financed, guaranteed, or  
16 insured under AS 44.88.300 - 44.88.390 to a trustee for the  
17 benefit of the bondholders;

18 (D) the terms and conditions upon which additional  
19 bonds of the authority may be issued;

20 (E) the vesting in a trustee of rights, powers,  
21 duties, funds or property in trust for the benefit of bond-  
22 holders, including, without limitation, the right to enforce  
23 payment, performance and all other rights of the authority or of  
24 the bondholders [,] under a lease, contract of sale, mortgage,  
25 security agreement, or trust agreement with respect to a project  
26 or development project financed under AS 44.88.155 - 44.88.159 or  
27 44.88.172 - 44.88.177, or with respect to a facility that is part  
28 of an exporting transaction financed, guaranteed, or insured  
29 under AS 44.88.300 - 44.88.390 by mandamus or other proceeding or

1 by taking possession of by agent or otherwise and operating a  
2 project or facility and collecting rents or other consideration  
3 and applying the same in accordance with the trust agreement;

4 (2) pledge, mortgage or assign money, leases, agreements,  
5 property or other assets of the authority either presently in hand or  
6 to be received in the future, or both; and

7 (3) provide for any other matters of like or different  
8 character which in any way affect the security or protection of the  
9 bonds.

10 \* Sec. 18. AS 44.88.105(f) is amended to read:

11 (f) The authority may not establish a capital reserve fund to  
12 secure an issue of bonds in an amount in excess of \$1,000,000 unless  
13 at least 20 percent of the principal amount of the loan for the proj-  
14 ect or development project being financed under AS 44.88.155 -  
15 44.88.159 or 44.88.172 - 44.88.177, or of the loan to finance, guaran-  
16 tee, or insure an exporting transaction under AS 44.88.300 - 44.88.390  
17 is retained by a federal or state chartered financial institution or  
18 the Alaska Commercial Fishing and Agriculture Bank.

19 \* Sec. 19. AS 44.88.130 is amended to read:

20 Sec. 44.88.130. PLEDGE OF THE STATE. The state pledges to and  
21 agrees with the holders of bonds issued under this chapter and with  
22 the federal agency that lends [WHICH LOANS] or contributes funds in  
23 respect to a project or development project financed under AS 44.88.-  
24 155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an export-  
25 ing transaction financed, guaranteed, or insured under AS 44.88.300 -  
26 44.88.390 [,] that the state will not limit or alter the rights and  
27 powers vested in the authority by this chapter to fulfill the terms of  
28 a contract made by the authority with the holders or federal agency  
29 and that the state will not [, OR] in any way impair the rights and

1 remedies of the holders until the bonds, together with the interest on  
2 them with interest on unpaid installments of interest, and all costs  
3 and expenses in connection with an action or proceeding by or on  
4 behalf of the holders [,] are fully met and discharged. The authority  
5 is authorized to include this pledge and agreement of the state,  
6 insofar as it refers to holders of bonds of the authority, in a con-  
7 tract with the holders [,] and, insofar as it relates to a federal  
8 agency, in a contract with the federal agency.

9 \* Sec. 20. AS 44.88.140 is amended to read:

10 Sec. 44.88.140. EXEMPTION FROM TAXATION. (a) The real and  
11 personal property of the authority and its assets, income, and re-  
12 cepts are declared to be the property of a political subdivision of  
13 the state and, together with any project or development project fi-  
14 nanced under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, [THIS  
15 CHAPTER] and a leasehold interest created in a project or development  
16 project financed [APPLICANT OR OTHER PERSON] under AS 44.88.155 -  
17 44.88.159 or 44.88.172 - 44.88.177 [THIS CHAPTER], devoted to an  
18 essential public and governmental function and purpose, and the  
19 property, assets, income, receipts, project, development project, and  
20 leasehold interests shall be exempt from all taxes and special assess-  
21 ments of the state or a political subdivision of the state, including,  
22 without limitation, all boroughs, cities, municipalities, school  
23 districts, public utility districts and other taxing units. All bonds  
24 of the authority are declared to be issued by a political subdivision  
25 of the state and for an essential public and governmental purpose and  
26 to be a public instrumentality, and the bonds, and the interest on  
27 them, the income from them and the transfer of the bonds, and all  
28 assets, income and receipts pledged to pay or secure the payments  
29 [PAYMENT] of the bonds, or interest on them, shall at all times be

1 exempt from taxation by or under the authority of the state, except  
2 for inheritance and estate taxes and taxes on transfers by or in  
3 contemplation of death. Nothing in this section affects or limits an  
4 exemption from license fees, property taxes, or excise, income or any  
5 other taxes, provided under any other law, nor does it create a tax  
6 exemption with respect to the interest of any business enterprise or  
7 other person, other than the authority, in any property, assets,  
8 income, receipts, project, development project, or lease whether or  
9 not financed under this chapter.

10 (b) The authority may enter into agreements with an applicant or  
11 [A] proposed [PROJECT] applicant under this chapter [OR PROJECT APPLI-  
12 CANT] providing for payments, computed on a formula basis or otherwise  
13 [.] in lieu of taxes, which the authority may consider appropriate.  
14 The agreement may provide that the payments be made to the political  
15 subdivision of the state in which a project or development project is  
16 or is to be located or to any other taxing unit of the state includ-  
17 ing, without limitation, a borough, city, municipality, school dis-  
18 trict or public utility district, the area of which is coterminous in  
19 whole or in part with that of the political subdivision.

20 \* Sec. 21. AS 44.88.155(a) is amended to read:

21 Sec. 44.88.155. ENTERPRISE DEVELOPMENT ACCOUNT [FUND]. (a) The  
22 enterprise development account [FUND] is established in the revolving  
23 fund [AUTHORITY]. The enterprise development account [FUND] is a  
24 trust fund for the uses and purposes of this chapter [AS 44.88.010 -  
25 44.88.220]. The enterprise development account [FUND] consists of  
26 money or assets appropriated or transferred to the authority and other  
27 money or assets deposited in it by the authority.

28 \* Sec. 22. AS 44.88.155(b) is amended to read:

29 (b) The authority may establish in the enterprise development

1 account [FUND] a small enterprise loan account, a loan insurance  
2 account, and other accounts it considers appropriate.

3 \* Sec. 23. AS 44.88.155(c) is amended to read:

4 (c) Money and other assets of the enterprise development account  
5 [FUND] may be used to secure bonds of the authority issued to finance  
6 the purchase of loans for projects [,] and shall be held and invested  
7 by the authority in the types of investments described in AS 37.10.-  
8 070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase  
9 loans for projects [AS DEFINED IN AS 44.88.220].

10 \* Sec. 24. AS 44.88.155(d) is amended to read:

11 (d) A loan purchased in whole or in part by the authority with  
12 assets of the enterprise development account or with proceeds of bonds  
13 secured by assets of the enterprise development account, other than a  
14 loan which is financed with the proceeds of bonds of the authority and  
15 secured only by a project applicant or a project,

16 (1) may not exceed

17 (A) \$10,000,000; or

18 (B) \$500,000 if the loan is purchased under AS 44.88.-  
19 158;

20 (2) may not exceed the cost of the project or 75 percent of  
21 the appraised value of the project, whichever is less, unless the  
22 amount of the loan in excess of this limit is federally insured or  
23 guaranteed or is insured by a qualified mortgage insurance company;

24 (3) may not be for a term longer than three-quarters of the  
25 authority's estimate of the life of the project or 25 years from the  
26 date the loan is made, whichever is earlier;

27 (4) shall contain complete amortization provisions satis-  
28 factory to the authority requiring periodic payments by the borrower;

29 (5) shall be in the form and contain the terms and

1 provisions with respect to insurance, repairs, alterations, payment of  
2 taxes and assessments, default reserves, delinquency charges, default  
3 remedies, acceleration of maturity, secondary liens, and other matters  
4 the authority prescribes;

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

9 (7) may not be made unless

10 (A) at least 10 percent of the principal amount of the  
11 loan is retained by the originator of the loan; or

12 (B) 100 percent of the principal amount of the loan is  
13 guaranteed by the United States or an agency or instrumentality  
14 of the United States;

15 (8) must be

16 (A) at least partially guaranteed by the United States  
17 or an agency or instrumentality of the United States, subject to  
18 the provisions of AS 44.88.158; [OR]

19 (B) financed from the proceeds of bonds; or

20 (C) expected by the authority to be financed from the  
21 proceeds of bonds.

22 \* Sec. 25. AS 44.88.155(e) is amended to read:

23 (e) The authority may adopt regulations for the administration  
24 of the enterprise development account including [FUND WHICH MAY IN-  
25 CLUDE], without limitation, provisions for fees and agreements re-  
26 lating to application, loan commitment, servicing, and origination of  
27 loans by other lenders.

28 \* Sec. 26. AS 44.88.155(f) is amended to read:

29 (f) The authority may enter into agreements as to the use of the

1 money in the enterprise development account [FUND], including without  
2 limitation, trust or custody arrangements with banks or trust com-  
3 panies. It may also pledge, assign, or grant the agreement, interests  
4 under an agreement, or interests in the enterprise development account  
5 [FUND] as may be necessary or appropriate to provide for payment and  
6 security for bonds of the authority issued to finance the purchase by  
7 the authority of loans for projects.

8 \* Sec. 27. AS 44.88.155 is amended by adding a new subsection to read:

9 (h) The provisions of this section apply only with respect to  
10 loans purchased or made by the authority for projects under AS 44.88.-  
11 155 - 44.88.159.

12 \* Sec. 28. AS 44.88.157(a) is amended to read:

13 (a) The loan insurance account is established in the revolving  
14 fund. The purpose of the loan insurance account is to provide insur-  
15 ance of mortgage loans and other loans made or purchased by the au-  
16 thority under AS 44.88.155, or made by others and approved for insur-  
17 ance by the authority, for a project. The authority may enter into  
18 agreements as to the use of money in the loan insurance account and  
19 may pledge, assign, or grant interests in the loan insurance account  
20 as provided in this section. The authority may adopt regulations and  
21 enter into agreements with respect to the exercise of any power or  
22 approval relating to the loan insurance account under this section,  
23 including, without limitation, agreements as to the use of money in  
24 the loan insurance account, agreements with respect to the terms and  
25 conditions upon which payments from the loan insurance account will be  
26 made with respect to a loan insured under this section, agreements as  
27 to separate subaccounts in the loan insurance account for different  
28 categories of loans or as to loans made by the authority or any other  
29 person, and agreements regarding the payment of and security for bonds

1 issued by the authority. An agreement, the rights of the authority  
2 under an agreement, or payments received or to be received under an  
3 agreement may be pledged or assigned by the authority for the benefit  
4 of the holders of bonds issued by the authority.

5 \* Sec. 29. AS 44.88.157(b) is amended to read:

6 (b) The authority may, upon application of a borrower or pro-  
7 posed borrower, insure and make advance commitments to insure loan  
8 repayments required under the terms of a loan made by it or by another  
9 lender with respect to a project, upon the terms and conditions the  
10 authority prescribes. To be eligible for insurance under this section  
11 [AS 44.88.010 - 44.88.220], a loan for a project

12 (1) shall be held by the authority or by a lender approved  
13 by the authority as responsible and able to service the loan;

14 (2) may not exceed \$10,000,000 for a project, or 90 percent  
15 of the cost of the project or 90 percent of the appraised value of the  
16 project, whichever is less;

17 (3) may not be made for a term longer than three-quarters  
18 of the authority's estimate of the life of the project or 25 years  
19 from the date of issuance of the insurance, whichever is earlier;

20 (4) shall contain complete amortization provisions satis-  
21 factory to the authority requiring periodic payments by the borrower;  
22 and

23 (5) shall be in the form and contain the terms with respect  
24 to insurance, repairs, alterations, payment of taxes and assessments,  
25 default reserves, delinquency charges, default remedies, acceleration  
26 of maturity, additional and secondary liens, and other matters that  
27 the authority prescribes.

28 \* Sec. 30. AS 44.88.157(k) is amended to read:

29 (k) A loan may not be insured under this section [FROM A LOAN

1 INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan  
2 is for a project the cost of which exceeds \$10,000,000.

3 \* Sec. 31. AS 44.88.157(1) is amended to read:

4 (1) A loan in excess of \$1,000,000 may not be insured under this  
5 section [FROM A LOAN INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOP-  
6 MENT FUND] unless at least 20 percent of the principal amount of the  
7 loan is retained by a federal or state chartered financial institution  
8 or the Alaska Commercial Fishing and Agriculture Bank.

9 \* Sec. 32. AS 44.88.158(a) is amended to read:

10 Sec. 44.88.158. ENTREPRENEURIAL AND SMALL BUSINESS ENTERPRISE  
11 LOAN ACCOUNT. (a) An entrepreneurial and [A] small business enter-  
12 prise loan account is established in the revolving [ENTERPRISE DE-  
13 VELOPMENT] fund. The account may be composed of money or assets  
14 appropriated or transferred to the authority, interest on investments  
15 and loans of the entrepreneurial and small business enterprise loan  
16 account, the unpledged income of the revolving [ENTERPRISE DEVELOP-  
17 MENT] fund, and other money or assets deposited in it by the authori-  
18 ty.

19 \* Sec. 33. AS 44.88.158(b) is amended to read:

20 (b) The authority may use money in the entrepreneurial and small  
21 business enterprise loan account to purchase or participate in the  
22 purchase of loans to entrepreneurial and small business enterprises  
23 and to purchase the guaranteed portion of a loan made by a private  
24 financial institution after June 30, 1981, to an entrepreneurial or  
25 [A] small business enterprise to pay the cost of a project or ex-  
26 porting transaction [, AS DEFINED IN AS 44.88.220], if the loan is  
27 guaranteed by the United States or an agency or instrumentality of the  
28 United States, including, but not limited to, the Small Business  
29 Administration, the National Marine Fisheries Service, and the Farmers

1 Home Administration.

2 \* Sec. 34. AS 44.88.159 is amended by adding a new subsection to read:

3 (d) The provisions of this section apply only to loans financed  
4 under AS 44.88.155 - 44.88.159.

5 \* Sec. 35. AS 44.88.172 is amended to read:

6 Sec. 44.88.172. ECONOMIC DEVELOPMENT ACCOUNT [FUND]. (a) The  
7 economic development account [FUND] is established in the revolving  
8 fund [AUTHORITY]. The account [FUND] consists of money or assets  
9 appropriated, loaned, or transferred to the authority, and other money  
10 or assets deposited in the account [FUND] by the authority. The  
11 account [FUND] may [ONLY] be used only to finance, acquire, manage,  
12 and operate development projects that the authority intends to own and  
13 operate. The term "operate" includes operation directly by the au-  
14 thority, or by an agent of the authority.

15 (b) If a development project is financed or developed through  
16 use of the assets of the economic development account [FUND], the  
17 authority may not pledge or use [OTHER] assets of the enterprise de-  
18 velopment account established in AS 44.88.155 [AUTHORITY] to assist in  
19 the financing, development, or operation of the development project.  
20 However, whether or not the authority uses the economic development  
21 account [FUND], it may issue bonds to finance a development project  
22 and may secure the bonds with a mortgage, pledge, or assignment of the  
23 development project or of revenues, money, or agreements attributable  
24 to the development project or the bonds. Financing assistance pro-  
25 vided with respect to a development project under this section shall,  
26 to the maximum extent reasonable under the circumstances, be made in  
27 the form of a loan to the project [AS PROVIDED IN SEC. 10 OF THIS  
28 ACT].

29 \* Sec. 36. AS 44.88.190 is amended by adding a new subsection to read:

1 (c) A loan purchased or financed by the authority in whole or in  
2 part is exempt from the provisions of AS 45.45.010. A guarantee  
3 extended under AS 44.88.300 or insurance provided under AS 44.88.390  
4 does not constitute insurance for the purposes of AS 21.03.010.

5 \* Sec. 37. AS 44.88.220 is amended by adding new paragraphs to read:

6 (13) "development project" means a plant or facility used or  
7 intended for use in connection with making, processing, preparing, or  
8 producing goods, products, or substances, or in connection with de-  
9 veloping or utilizing a natural resource, or extracting, smelting,  
10 transporting, converting, assembling, or producing minerals, raw  
11 materials, chemicals, compounds, alloys, fibers, commodities and  
12 materials, products, or substances;

13 (14) "entrepreneurial enterprise" means an enterprise in  
14 which one or more individuals have an ownership interest in an innova-  
15 tive venture or ventures;

16 (15) "revolving fund" means the Alaska Industrial Develop-  
17 ment Authority revolving fund created in AS 44.88.060.

18 \* Sec. 38. AS 44.88 is amended by adding new sections to read:

19 ARTICLE 5. EXPORT ASSISTANCE.

20 Sec. 44.88.300. GUARANTEED FUNDING FOR EXPORT TRANSACTIONS. The  
21 authority may provide guaranteed funding, through a participating  
22 banking organization, for an export transaction that the authority  
23 determines is eligible under AS 44.88.310.

24 Sec. 44.88.310. ELIGIBILITY OF EXPORT TRANSACTIONS. An export-  
25 ing contract is a transaction eligible for guaranteed funding under  
26 AS 44.88.300 - 44.88.390 if, in the judgment of the authority, it will  
27 create or maintain employment in the state and it

28 (1) promotes the sale abroad of raw materials extracted in  
29 the state, or goods whose final stage of production occurs in the

1 state, that constitutes 25 percent or more of the contract price;

2 (2) provides for the rendering of services abroad by a  
3 business located in the state if 25 percent or more of the contract  
4 price consists of wages or other payments made to persons normally  
5 residing in the state;

6 (3) promotes the sale abroad of raw materials or goods  
7 distributed by a business located in the state if

8 (A) 25 percent or more of the contract price consists  
9 of wages or other payments made to persons or businesses normally  
10 residing or located in the state; or

11 (B) the business has a significant relationship with  
12 the state based upon

13 (i) the amount of capital investments it has that  
14 are located in the state;

15 (ii) the number of state residents employed by the  
16 business;

17 (iii) the amount of business transacted in the  
18 state; or

19 (iv) a combination of (i) - (iii); or

20 (4) provides both for the sale abroad of raw materials  
21 extracted in the state or goods whose final stage of production occurs  
22 in the state, and for the rendering of services abroad by state resi-  
23 dents, the aggregate value of which is 25 percent or more of the  
24 contract price.

25 Sec. 44.88.320. LIMITATIONS ON GUARANTEES. (a) The authority  
26 may not guarantee more than 90 percent of a loan under AS 44.88.300.

27 (b) The authority may not guarantee a loan under AS 44.88.300  
28 unless the authority finds that the guarantee is reasonably necessary  
29 to stimulate or facilitate the making of a loan for an eligible

1 exporting transaction.

2           Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may  
3 guarantee a loan under AS 44.88.300, the participating financial  
4 institution shall investigate the credit or sources of credit avail-  
5 able to the exporter to determine the economic benefits to be derived  
6 from the guarantee, the prospects of repayment, and other factors  
7 necessary to determine that the guaranteed funding is consistent with  
8 the purposes of AS 44.88.300 - 44.88.390.

9           Sec. 44.88.340. CONFIDENTIALITY OF INFORMATION. Information  
10 submitted to or compiled by the authority regarding the identity,  
11 background, finances, marketing plans, trade secrets, or other commer-  
12 cially sensitive affairs of the exporter is confidential, unless the  
13 exporter consents to its disclosure.

14           Sec. 44.88.350. FEES CHARGED. The authority shall, by regula-  
15 tion, establish fees to be charged to a participating financial insti-  
16 tution for providing a guarantee under AS 44.88.300. The fees must be  
17 sufficient to cover the costs of administering the guarantee program  
18 under AS 44.88.300 - 44.88.390 and any premium the authority pays for  
19 insuring its risks.

20           Sec. 44.88.360. EFFECT OF GUARANTEE. (a) A guarantee under  
21 AS 44.88.300 shall guarantee against political or commercial loss, in  
22 whole or in part, of principal and interest on an eligible export  
23 transaction. The guarantee may include, without limitation, insurance  
24 against loss up to a stated amount. A guarantee under AS 44.88.300  
25 may not be terminated, canceled, or revoked, except under its terms.  
26 A guarantee held by a participating financial institution is presumed  
27 to be valid.

28           (b) In this section, "political loss" means a loss incurred as a  
29 result of a political risk insured under an export credit insurance

1 umbrella policy, or a comparable policy or agreement, issued by the  
2 Export-Import Bank of the United States.

3 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.  
4 A guarantee under AS 44.88.300 is not a general obligation of the  
5 state.

6 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or  
7 agent of the authority may not be held personally liable on a contract  
8 or agreement entered into with respect to a guarantee under AS 44.88.-  
9 300, or for damage or injury resulting from the performance of duties  
10 under AS 44.88.300 - 44.88.390.

11 Sec. 44.88.390. EXPORT INSURANCE ACCOUNT. (a) The export  
12 insurance account is established in the revolving fund. The account  
13 consists of money appropriated to it by the legislature and other  
14 money and assets, including bond proceeds, deposited in it by the  
15 authority. The account shall be held as security for the holders of  
16 bonds issued by the authority for the purposes of AS 44.88.300 -  
17 44.88.390. The authority may enter into trust agreements with respect  
18 to the use of money in the account, including the use of that money to  
19 discharge a guarantee obligation of the authority. The trust agree-  
20 ments may contain provisions and limitations concerning the investment  
21 and disbursement of money in the account, the payment of expenses of  
22 the account, the appointment, resignation and discharge of trustees,  
23 the delegation of enforcement and collection powers under the insur-  
24 ance agreements to the trustee, the duties of the trustees, amendments  
25 of the trust agreements, and other lawful provisions and limitations  
26 the authority considers appropriate. The trust agreements may pledge  
27 premiums and other money that may be deposited in the account. The  
28 pledge shall be valid and binding from the time the pledge is made.  
29 The premiums and other money pledged and thereafter received by the

1 account, or by the trustees in its behalf, shall immediately be sub-  
2 ject to the lien of the pledge. The pledge shall be valid and binding  
3 against parties having claims against the account, irrespective of  
4 whether the parties have notice of the pledge.

5 (b) The authority may use proceeds of bonds issued for the  
6 purposes of AS 44.88.300 - 44.88.390 to purchase insurance, which may  
7 be pledged for the security of the holders of the bonds. If insurance  
8 is pledged as security, whether obtained through the export insurance  
9 account or purchased with bond proceeds, a description of the insur-  
10 ance shall expressly indicate the limitation of the liability of the  
11 authority and that neither the credit nor the taxing power of the  
12 state or a political subdivision of the state is available to satisfy  
13 obligations with respect to the insurance.

14 \* Sec. 39. AS 44.88.156, 44.88.158(c), and secs. 10 and 11, ch. 162,  
15 SLA 1984, are repealed.

16 \* Sec. 40. This Act takes effect immediately under AS 01.10.070(c).