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1 IN THE SENATE

BY THE SENATE SPECIAL COMMITTEE
ON INTERNATIONAL TRADE

2

CS FOR SENATE BILL NO. 64 (I.T)

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 and Export Authority; and providing for an effective
8 date."

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

10 * Section 1. AS 44.88.010 is amended to read:

11 Sec. 44.88.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-
12 lature finds, determines, and declares that

13 (1) there exist areas of the state in which seasonal and
14 nonseasonal unemployment exist;

15 (2) this unemployment is a serious menace to the health,
16 safety, and general welfare, not only to the people in those areas,
17 but also to the people of the entire state;

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

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

29 (5) the expansion of export trade is vital to the health

1 and growth of the state's economy;

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

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

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

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

1 the local furnishing of gas, facilities for water, facilities for
2 industrial parks, mass commuting vehicles, facilities for local dis-
3 trict heating or cooling, parking facilities, or a storage or training
4 facility relating to a plant or 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 and
20 Export Authority with the powers necessary to accomplish the
21 objectives stated in this paragraph, including the power to issue
22 taxable and tax-exempt bonds and to acquire ownership interests
23 in projects 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 small business, and business enterprises and the other facilities
5 referred to in (a) [(a)(5)] of this section by creating the Alaska
6 Industrial Development and Export Authority [PUBLIC CORPORATION] with
7 the powers [POWER], duties, and functions [AS] provided in this chap-
8 ter [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, 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 AND EXPORT AU-
20 THORITY REVOLVING FUND. The Alaska Industrial Development and Export
21 Authority revolving fund is established in the authority. The re-
22 volving fund consists of appropriations made to the revolving fund by
23 the legislature, money or other assets transferred to the revolving
24 fund by the authority, and unrestricted payments on loans made or
25 purchased by the authority. Amounts deposited in the revolving fund
26 may be pledged to the payment of bonds of the authority or expended
27 for the purposes of the authority 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, small
7 business, and business enterprises and the other facilities referred
8 to in AS 44.88.010(a) in [AS 44.88.010(a)(5) WITHIN] the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 submit the regulation adopted to the chairman of the Administrative
2 Regulation Review Committee under AS 24.20.400 - 24.20.460.

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

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

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

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

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

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

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

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

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

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

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

5 (1) determination of borrower eligibility;

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

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

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

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

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

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

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

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

29 (5) setting out the maximum aggregate amount of guaranteed

1 financing available to an exporter and the maximum amount of guaran-
2 teed financing available for a transaction eligible for guaranteed
3 financing;

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

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

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

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

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

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

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

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

27 (e) Before issuing bonds, the authority shall provide for con-
28 sideration at least sufficient, in the judgment of the authority, to
29 pay the principal of and interest on the bonds as they become due and

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

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

18 (g) The authority may not

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

24 (2) issue revenue bonds other than refunding bonds for a
25 project under AS 44.88.155 - 44.88.159, for a development project
26 under AS 44.88.172 - 44.88.177, or to provide money to finance,
27 guarantee, or insure an exporting transaction under AS 44.88.300 -
28 44.88.390, [THIS CHAPTER] in an amount greater than \$50,000,000 during
29 any 12-month period beginning after June 30, 1981, unless the issuance

1 is included separately in the estimates required in the report of the
2 authority under AS 44.88.210(b) and unless the legislature, by law,
3 approves the issuance.

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

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

10 * Sec. 17. AS 44.88.100 is amended to read:

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

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

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

29 (B) the fixing and collection of rents or other

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

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

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

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

1 project or facility and collecting rents or other consideration
2 and applying the same in accordance with the trust agreement;

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

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

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

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

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

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

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

8 * Sec. 20. AS 44.88.140 is amended to read:

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

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

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

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

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

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

28 (b) The authority may establish in the enterprise development
29 account [FUND] a small enterprise loan account, a loan insurance

1 account, and other accounts it considers appropriate.

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

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

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

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

15 (1) may not exceed

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

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

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

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

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

28 (5) shall be in the form and contain the terms and pro-
29 visions with respect to insurance, repairs, alterations, payment of

1 taxes and assessments, default reserves, delinquency charges, default
2 remedies, acceleration of maturity, secondary liens, and other matters
3 the authority prescribes;

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

8 (7) may not be made unless

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

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

14 (8) must be

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

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

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

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

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

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

28 (f) The authority may enter into agreements as to the use of the
29 money in the enterprise development account [FUND], including without

1 limitation, trust or custody arrangements with banks or trust com-
2 panies. It may also pledge, assign, or grant the agreement, interests
3 under an agreement, or interests in the enterprise development account
4 [FUND] as may be necessary or appropriate to provide for payment and
5 security for bonds of the authority issued to finance the purchase by
6 the authority of loans for projects.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (k) A loan may not be insured under this section [FROM A LOAN
29 INSURANCE ACCOUNT WITHIN THE ENTERPRISE DEVELOPMENT FUND] if the loan

1 is for a project the cost of which exceeds \$10,000,000.

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

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

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

9 Sec. 44.88.158. SMALL BUSINESS ENTERPRISE LOAN ACCOUNT. (a) A
10 small business enterprise loan account is established in the revolving
11 [ENTERPRISE DEVELOPMENT] fund. The account may be composed of money
12 or assets appropriated or transferred to the authority, interest on
13 investments and loans of the small business enterprise loan account,
14 the unpledged income of the revolving [ENTERPRISE DEVELOPMENT] fund,
15 and other money or assets deposited in it by the authority.

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

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

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

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

1 * Sec. 35. AS 44.88.172 is amended to read:

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

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

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

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

1 * Sec. 37. AS 44.88.220(1) is amended to read:

2 (1) "authority" means the Alaska Industrial Development and
3 Export Authority created by AS 44.88.010 - 44.88.220;

4 * Sec. 38. AS 44.88.220 is amended by adding new paragraphs to read:

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

12 (14) "revolving fund" means the Alaska Industrial Develop-
13 ment and Export Authority revolving fund created in AS 44.88.060.

14 * Sec. 39. AS 44.88 is amended by adding new sections to read:

15 ARTICLE 5. EXPORT ASSISTANCE.

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

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

24 (1) promotes the sale abroad of raw materials extracted in
25 the state, or goods whose final stage of production occurs in the
26 state, that constitutes 25 percent or more of the contract price;

27 (2) provides for the rendering of services abroad by a
28 business located in the state if 25 percent or more of the contract
29 price consists of wages or other payments made to persons normally

1 residing in the state;

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

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

7 (B) the business has a significant relationship with
8 the state based upon

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

11 (ii) the number of state residents employed by the
12 business;

13 (iii) the amount of business transacted in the
14 state; or

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

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

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

23 (b) The authority may not guarantee a loan under AS 44.88.300
24 unless the authority finds that the guarantee is reasonably necessary
25 to stimulate or facilitate the making of a loan for an eligible ex-
26 porting transaction.

27 Sec. 44.88.330. CREDIT OF EXPORTER. Before the authority may
28 guarantee a loan under AS 44.88.300, the participating financial
29 institution shall investigate the credit or sources of credit

1 available to the exporter to determine the economic benefits to be
2 derived from the guarantee, the prospects of repayment, and other
3 factors necessary to determine that the guaranteed funding is consis-
4 tent with the purposes of AS 44.88.300 - 44.88.390.

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

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

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

24 (b) In this section, "political loss" means a loss incurred as a
25 result of a political risk insured under an export credit insurance
26 umbrella policy, or a comparable policy or agreement, issued by the
27 Export-Import Bank of the United States.

28 Sec. 44.88.370. GUARANTEE NOT A GENERAL OBLIGATION OF THE STATE.
29 A guarantee under AS 44.88.300 is not a general obligation of the

1 state.

2 Sec. 44.88.380. PERSONAL LIABILITY. An officer, employee, or
3 agent of the authority may not be held personally liable in a civil
4 action for damages for an act done or omitted in good faith while
5 performing the functions of office, employment, or agency under this
6 chapter.

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

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

10 * Sec. 40. To be consistent with the change made by this Act, wherever
11 in the Alaska Statutes and in regulations adopted under those statutes
12 "Alaska Industrial Development Authority" is used, it shall be read as
13 referring to the Alaska Industrial Development and Export Authority. Under
14 AS 01.05.031 the revisor of statutes shall implement this section in the
15 statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall
16 implement this section in the administrative regulations.

17 * Sec. 41. AS 44.88.156, 44.88.158(c), and sec. 11, ch. 162, SLA 1984,
18 are repealed.

19 * Sec. 42. This Act takes effect immediately under AS 01.10.070(c).