

BY HALFORD, FAIKS, UEHLING,
JOSEPHSON, STURGULEWSKI AND
ABOOD

1 IN THE SENATE

2 SENATE BILL NO. 471

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a program in the Alaska Indus-
7 trial Development and Export Authority to guarantee
8 business loans and to refinance debt; and providing
9 for an effective date."

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

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

12 ARTICLE 6A. BUSINESS ASSISTANCE PROGRAM.

13 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. The business assis-
14 tance fund is established in the authority from appropriations for the
15 purpose. Subject to the requirements of AS 44.88.500 - 44.88.599, the
16 authority may use money in the fund

17 (1) to guarantee loans to businesses that qualify under
18 AS 44.88.510(a) and apply under AS 44.88.520(a); and

19 (2) to refinance the debt of businesses that qualify under
20 AS 44.88.510(b) and apply under AS 44.88.520(b).

21 Sec. 44.88.510. APPLICANT QUALIFICATIONS. (a) A business
22 enterprise may apply for a loan guarantee under AS 44.88.500 - 44.88.-
23 599. The authority may establish additional applicant qualifications
24 by regulation and these qualifications may vary depending upon the
25 type of business the applicant is engaged in.

26 (b) A business enterprise may apply under AS 44.88.500 -
27 44.88.599 to refinance existing debt. The authority may approve a
28 refinancing of existing debt if the authority finds that

29 (1) the refinancing involves a viable project; and

1 (2) the refinancing will save existing jobs.

2 Sec. 44.88.520. APPLICATION. (a) An applicant for a loan
3 guarantee shall provide an economic benefit analysis prepared by a
4 person acceptable to the authority together with other information
5 that the authority may require by regulation.

6 (b) An applicant for refinancing of existing debt shall provide
7 the information that the authority may require by regulation.

8 Sec. 44.88.530. POWERS OF THE AUTHORITY. The authority may

9 (1) designate agents and delegate powers necessary to
10 implement AS 44.88.500 - 44.88.599;

11 (2) adopt regulations to implement AS 44.88.500 - 44.88.-
12 599;

13 (3) establish terms and conditions for loan guarantees and
14 refinancing agreements subject to the requirements of AS 44.88.500 -
15 44.88.599;

16 (4) make and execute contracts and other instruments to
17 implement AS 44.88.500 - 44.88.599;

18 (5) acquire real or personal property by purchase, trans-
19 fer, or foreclosure when the acquisition is necessary to protect an
20 interest in the fund; and

21 (6) exercise any other power necessary to implement AS 44.-
22 88.500 - 44.88.599.

23 Sec. 44.88.540. CONDITIONS OF LOAN GUARANTEES. (a) The author-
24 ity may guarantee a loan under AS 44.88.500 - 44.88.599 if the

25 (1) loan is commercially reasonable, secured by adequate
26 collateral, and the net cash flow from the borrower provides adequate
27 coverage for the debt service on the loan;

28 (2) term of the loan does not exceed 20 years;

29 (3) loan is originated with and serviced by a state

1 chartered or federally chartered financial institution;

2 (4) portion of the loan not guaranteed by the authority is
3 held by the originating financial institution or another financial
4 institution approved by the authority; and

5 (5) loan is made to a business with a majority interest
6 held by state residents.

7 (b) The authority may provide a guarantee from the fund for up
8 to 90 percent of a loan that qualifies under AS 44.88.550 - 44.88.560.
9 The ratio of the guarantee to the outstanding principal of the loan
10 shall remain the same over the term of the loan.

11 (c) The authority may not guarantee

12 (1) the payment of interest on the guaranteed portion of a
13 loan; or

14 (2) more than \$1,000,000 per loan.

15 Sec. 44.88.550. CONDITIONS OF DEBT REFINANCING. The authority
16 may not refinance debt unless the refinancing

17 (1) is necessary to extend substantial debt payments over a
18 longer period of time, thereby improving the applicant's net cash flow
19 and working capital position consistent with the useful life of the
20 assets being refinanced;

21 (2) assists with short-term debt or cash expenditures when
22 lenders will not extend reasonable longer terms to the applicant; or

23 (3) is necessary to place a permanent loan subsequent to an
24 interim loan for financing construction of the project.

25 Sec. 44.88.560. INTEREST. The maximum interest rate on a loan
26 guaranteed by the authority is

27 (1) for a loan guarantee that equals or exceeds 80 percent
28 of the loan, one and one-half percentage points above the prime rate
29 on the day the loan guarantee is made; and

1 (2) for a loan guarantee that is less than 80 percent of
2 the loan, two and three-quarters percentage points above the prime
3 rate on the day the loan guarantee is made.

4 Sec. 44.88.570. DEFAULT OR FORECLOSURE. (a) Payments received
5 toward satisfaction of a default on a loan guaranteed under AS 44.88.-
6 500 - 44.88.599 shall be allocated between the lender and the fund
7 according to the guaranteed percentage of the loan until the principal
8 balance has been repaid.

9 (b) The authority shall dispose of property acquired through
10 default or foreclosure of a loan guaranteed or refinanced under
11 AS 44.88.500 - 44.88.599. Disposal shall be in a manner that serves
12 the best interest of the state and may include the amortization of
13 payments over a period of years.

14 Sec. 44.88.580. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the fund the foreclosure
16 expense account. The account is established as a reserve from fund
17 equity.

18 (b) The authority may expend money credited to the foreclosure
19 expense account when necessary to protect the state's security inter-
20 est in collateral on loans guaranteed or refinanced under AS 44.88.-
21 500 - 44.88.599 or to defray expenses incurred during a foreclosure
22 proceeding after a default.

23 Sec. 44.88.590. PREREQUISITE FOR OTHER LOANS. Notwithstanding
24 other provisions of law, a business enterprise that qualifies under
25 AS 44.88.510(a) to apply for a loan guarantee under AS 44.88.500 -
26 44.88.599 shall apply for a loan guarantee before it may apply for a
27 direct loan of state money under any other state loan program. Only
28 after an application for the guarantee of a loan to be used for a
29 particular purpose is rejected under AS 44.88.500 - 44.88.599 may a

1 business enterprise apply for a direct state loan for that purpose.

2 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599,

3 (1) "fund" means the business assistance fund established
4 under AS 44.88.500;

5 (2) "prime rate" means the lowest money center prime rate
6 of interest that is published in the Wall Street Journal.

7 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).