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1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 471 (Finance)

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 providing for an effective date."

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

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

11 ARTICLE 6A. BUSINESS ASSISTANCE PROGRAM.

12 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. (a) The business
13 assistance fund is established in the authority from money in the
14 authority's reserves designated by the authority for the purpose.
15 Subject to the requirements of AS 44.88.500 - 44.88.599, the authority
16 may use money in the fund

17 (1) to guarantee new loans; and

18 (2) to guarantee loans made to refinance existing loans.

19 (b) The holder of a debt instrument for a loan guaranteed by the
20 authority does not have recourse to the assets of the authority beyond
21 those designated by the authority from its reserves for the purpose.

22 Sec. 44.88.505. QUALIFICATIONS OF APPLICANT FOR NEW LOAN GUARAN-
23 TEE. (a) A business enterprise may apply for a new loan guarantee
24 under AS 44.88.500(a)(1).

25 (b) The authority may establish additional applicant qualifica-
26 tions by regulation. These qualifications may vary depending upon the
27 type of business the applicant is engaged in.

28 Sec. 44.88.510. APPLICATION FOR NEW LOAN GUARANTEE. An appli-
29 cant for a new loan guarantee shall provide information that the

1 authority may require by regulation. The authority may require sub-
2 mission of an economic benefit analysis prepared by a person accept-
3 able to the authority.

4 Sec. 44.88.515. QUALIFICATIONS OF APPLICANT FOR DEBT REFINANCING
5 GUARANTEE. A business enterprise may apply under AS 44.88.500(a)(2)
6 to guarantee the refinancing of existing debt.

7 Sec. 44.88.520. APPLICATION FOR DEBT REFINANCING GUARANTEE. An
8 applicant for a debt refinancing guarantee shall provide the informa-
9 tion that the authority may require by regulation.

10 Sec. 44.88.525. CONDITIONS OF DEBT REFINANCING GUARANTEE. The
11 authority may not guarantee refinanced debt

12 (1) unless the refinancing

13 (A) is necessary to extend substantial debt payments
14 over a longer period of time, thereby improving the applicant's
15 net cash flow and working capital position consistent with the
16 useful life of the assets being refinanced;

17 (B) assists with short-term debt or cash expenditures
18 when lenders will not extend reasonable longer terms to the
19 applicant; and

20 (C) creates additional economic opportunity or im-
21 proves the viability of the borrower rather than just reducing
22 the liability of the lender; or

23 (2) unless the refinancing is necessary to place a perma-
24 nent loan subsequent to an interim loan for financing construction of
25 the project.

26 Sec. 44.88.530. APPLICABILITY OF PROVISIONS. AS 44.88.535 -
27 44.88.560 apply to

28 (1) new loan guarantees under AS 44.88.500(a)(1); and

29 (2) debt refinancing guarantees under AS 44.88.500(a)(2).

1 Sec. 44.88.535. CONDITIONS OF LOAN GUARANTEE. (a) The author-
2 ity may guarantee a loan under AS 44.88.500 - 44.88.599 if the

3 (1) loan is commercially reasonable, contains amortization
4 provisions satisfactory to the authority, is secured by adequate
5 collateral, and the net cash flow from the borrower provides adequate
6 coverage for the debt service on the loan;

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

8 (3) loan is originated with and serviced by a state char-
9 tered or federally chartered financial institution;

10 (4) portion of the loan not guaranteed by the authority is
11 held by the originating financial institution or another financial
12 institution approved by the authority;

13 (5) loan is made to a business with a majority interest
14 held by state residents; and

15 (6) loan guarantee provides a benefit to the borrower.

16 (b) The authority may provide a guarantee from the fund for up
17 to 75 percent of a loan that qualifies under AS 44.88.500 - 44.88.599.
18 The ratio of the guarantee to the outstanding principal of the loan
19 may not increase over the term of the loan.

20 (c) The authority may not guarantee the payment of interest on
21 the guaranteed portion of a loan.

22 Sec. 44.88.540. LIMITATIONS OF GUARANTEES FROM THE FUND. The
23 authority may not guarantee

24 (1) a total of more than \$50,000,000 of loans;

25 (2) more than \$25,000,000 of loans in which the amount of
26 the loan guarantee exceeds \$500,000.

27 Sec. 44.88.545. LIMITATIONS OF GUARANTEES WITH RESPECT TO BOR-
28 ROWERS. The authority may not guarantee

29 (1) a loan of more than \$1,000,000;

1 (2) loans to an individual borrower that cumulatively
2 exceed \$1,000,000 of indebtedness.

3 Sec. 44.88.550. INTEREST ON GUARANTEED LOAN. The maximum inter-
4 est rate on a loan guaranteed by the authority is

5 (1) for a loan guarantee that exceeds 65 percent of the
6 loan, one and one-half percentage points above the prime rate on the
7 day the loan guarantee is made; and

8 (2) for a loan guarantee that is equal to or less than 65
9 percent of the loan, two and three-quarters percentage points above
10 the prime rate on the day the loan guarantee is made.

11 Sec. 44.88.555. SERVICING OF GUARANTEED LOANS. (a) The finan-
12 cial institution that holds a loan guaranteed by the authority under
13 AS 44.88.500 - 44.88.599 shall

14 (1) service the loan;

15 (2) exercise diligence in collecting amounts due under the
16 loan; and

17 (3) comply with all requirements of the loan guarantee
18 agreement.

19 (b) Amounts received toward satisfaction of a default on a loan
20 guaranteed under AS 44.88.500 - 44.88.599 shall be allocated between
21 the lender and the fund according to the guaranteed percentage of the
22 loan until the principal balance has been repaid.

23 Sec. 44.88.560. POWERS OF THE AUTHORITY. The authority may

24 (1) adopt regulations to implement AS 44.88.500 - 44.88.-
25 599;

26 (2) establish terms and conditions for loan guarantees and
27 refinancing agreements subject to the requirements of AS 44.88.500 -
28 44.88.599;

29 (3) make and execute contracts and other instruments to

1 implement AS 44.88.500 - 44.88.599;

2 (4) charge one percent of the amount guaranteed as a one
3 time fee for the service it provides under AS 44.88.500 - 44.88.599;

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

7 (6) exercise any other power necessary to implement AS 44.-
8 88.500 - 44.88.599.

9 Sec. 44.88.570. DISTRIBUTION OF LOANS. The authority shall
10 distribute guarantees of new loans and guarantees of loans made to
11 refinance existing loans under AS 44.88.500 - 44.88.599 to all regions
12 of the state in an equitable manner.

13 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599

14 (1) "fund" means the business assistance fund established
15 under AS 44.88.500;

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

18 * Sec. 2. PROCEDURES GOVERNING PROGRAM REVIEW. (a) AS 44.66.050 and
19 44.66.060 apply to AS 44.88.500 - 44.88.599 (Business Assistance Program of
20 the Alaska Industrial Development and Export Authority).

21 (b) The First Session of the Seventeenth Alaska State Legislature
22 shall conduct the legislative oversight proceedings required by (a) of this
23 section.

24 * Sec. 3. AS 44.88.500 - 44.88.599 are repealed July 1, 1991.

25 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).