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1 IN THE SENATE  
2 HOUSE CS FOR CS FOR SENATE BILL NO. 471 (L&C)  
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 limiting the Authority's ability  
9 to issue bonds; and providing for an effective date."  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
11 \* Section 1. AS 44.88.090 is amended by adding a new subsection to  
12 read:  
13 (i) After January 1, 1990, the authority may not issue bonds,  
14 other than refunding bonds, without securing the prior approval of the  
15 legislature.  
16 \* Sec. 2. AS 44.88 is amended by adding new sections to read:  
17 ARTICLE 6A. BUSINESS ASSISTANCE PROGRAM.  
18 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. (a) The business  
19 assistance fund is established in the authority from money in the  
20 authority's reserves designated by the authority for the purpose.  
21 Subject to the requirements of AS 44.88.500 - 44.88.599, the authority  
22 may use money in the fund  
23 (1) to guarantee new loans; and  
24 (2) to guarantee loans made to refinance existing loans.  
25 (b) The holder of a debt instrument for a loan guaranteed by the  
26 authority does not have recourse to the assets of the authority beyond  
27 those designated by the authority from its reserves for the purpose.  
28 Sec. 44.88.505. QUALIFICATIONS OF APPLICANT FOR NEW LOAN GUARAN-  
29 TEE. (a) A business enterprise may apply for a new loan guarantee

1 under AS 44.88.500(a)(1).

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

5 Sec. 44.88.510. APPLICATION FOR NEW LOAN GUARANTEE. An appli-  
6 cant for a new loan guarantee shall provide information that the  
7 authority may require by regulation. The authority may require sub-  
8 mission of an economic benefit analysis prepared by a person accept-  
9 able to the authority.

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

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

16 Sec. 44.88.525. CONDITIONS OF DEBT REFINANCING GUARANTEE. The  
17 authority may not guarantee refinanced debt

18 (1) unless the refinancing

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

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

26 (C) creates additional economic opportunity or im-  
27 proves the viability of the borrower rather than just reducing  
28 the liability of the lender; or

29 (2) unless the refinancing is necessary to place a

1 permanent loan subsequent to an interim loan for financing  
2 construction of the project.

3 Sec. 44.88.530. APPLICABILITY OF PROVISIONS. AS 44.88.535 -  
4 44.88.560 apply to

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

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

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

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

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

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

16 (4) portion of the loan not guaranteed by the authority is  
17 held by the originating financial institution or another financial  
18 institution approved by the authority;

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

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

22 (b) The authority may provide a guarantee from the fund for up  
23 to 70 percent of a loan that qualifies under AS 44.88.500 - 44.88.599.

24 The ratio of the guarantee to the outstanding principal of the loan  
25 may not increase over the term of the loan.

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

28 Sec. 44.88.540. LIMITATIONS OF GUARANTEES FROM THE FUND. The  
29 authority may not guarantee

- 1 (1) a total of more than \$50,000,000 of loans;  
2 (2) more than \$25,000,000 of loans in which the amount of  
3 the loan guarantee exceeds \$500,000.

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

- 6 (1) a loan of more than \$1,000,000;  
7 (2) loans to an individual borrower that cumulatively  
8 exceed \$1,000,000 of indebtedness.

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

- 11 (1) for a loan guarantee that exceeds 65 percent of the  
12 loan, one and one-half percentage points above the prime rate on the  
13 day the loan guarantee is made; and  
14 (2) for a loan guarantee that is equal to or less than 65  
15 percent of the loan, two and three-quarters percentage points above  
16 the prime rate on the day the loan guarantee is made.

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

- 20 (1) service the loan;  
21 (2) exercise diligence in collecting amounts due under the  
22 loan; and  
23 (3) comply with all requirements of the loan guarantee  
24 agreement.

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

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

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

3 (2) establish terms and conditions for loan guarantees and  
4 refinancing agreements subject to the requirements of AS 44.88.500 -  
5 44.88.599;

6 (3) make and execute contracts and other instruments to  
7 implement AS 44.88.500 - 44.88.599;

8 (4) charge

9 (i) one percent of the amount guaranteed as a one  
10 time fee for the service it provides under AS 44.88.500 -  
11 44.88.599; and

12 (ii) any other reasonable fee that the authority  
13 may establish by regulation;

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

17 (6) exercise any other power necessary to implement AS 44.-  
18 88.500 - 44.88.599.

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

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

24 (1) "fund" means the business assistance fund established  
25 under AS 44.88.500;

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

28 \* Sec. 3. PROCEDURES GOVERNING PROGRAM REVIEW. (a) AS 44.66.050 and  
29 44.66.060 apply to AS 44.88.500 - 44.88.599 (Business Assistance Program of

1 the Alaska Industrial Development and Export Authority).

2 (b) The Second Session of the Sixteenth Alaska State Legislature  
3 shall conduct the legislative oversight proceedings required by (a) of this  
4 section.

5 \* Sec. 4. AS 44.88.500 - 44.88.599 are repealed July 1, 1991.

6 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).