

**HOUSE BILL NO. 536**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY REPRESENTATIVE B.DAVIS**

**Introduced: 2/18/92**

**Referred: Labor & Commerce, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to business and industrial development corporations."**

**2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

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

**4 ARTICLE 7A. BUSINESS AND ECONOMIC DEVELOPMENT CORPORATION PROGRAM.**

**5 Sec. 44.88.600. BUSINESS AND ECONOMIC DEVELOPMENT CORPORATION**  
**6 FUND. The business and economic development corporation fund is established in the authority.**  
**7 The fund consists of appropriations made to the fund by the legislature, money or other assets**  
**8 transferred to the fund by the authority, and repayments of loans made under AS 44.88.600 -**  
**9 44.88.690.**

**10 Sec. 44.88.605. USE OF MONEY IN FUND. Subject to the requirements of**  
**11 AS 44.88.600 - 44.88.690, the authority shall use the money in the fund to make loans for the**  
**12 initial capitalization of business and economic development corporations incorporated under**  
**13 AS 10.10 and subject to AS 10.10.040(b).**

**14 Sec. 44.88.610. LOAN AMOUNTS. The amount of a loan may not be less than**

1 \$750,000 or more than \$3,000,000.

2 Sec. 44.88.615. APPLICATION FOR LOAN. An applicant for a loan shall submit an  
3 application to the authority on the form and containing the information that the authority requires  
4 by regulation.

5 Sec. 44.88.620. TERM OF LOANS. The term of a loan may not exceed 10 years.

6 Sec. 44.88.625. INTEREST ON LOANS. (a) The authority shall establish a loan interest  
7 rate that does not exceed the rate that results from taking the yield on 10-year United States  
8 treasury bonds, adding one percentage point to the yield, and rounding the result off to the  
9 nearest one-quarter of a percentage point. The rate shall be established as of the date the loan  
10 is made.

11 (b) The interest on a loan accrues on the principal of the loan, but the interest is not  
12 compounded.

13 Sec. 44.88.630. CAPITALIZATION REQUIREMENTS. (a) In order to receive a loan,  
14 the corporation shall sell at least \$250,000 of its shares for its initial capitalization and shall, at  
15 the time the loan is made, have received an additional initial capitalization in an amount that  
16 equals at least 50 percent of the amount of the loan.

17 (b) If the matching capitalization creates indebtedness of the corporation, the additional  
18 capitalization may have a maturity of less than 10 years and must satisfy the terms established  
19 by the authority.

20 (c) The matching capitalization shall be

21 (1) fully disbursed at closing; or

22 (2) may be phased in after the closing of the loan if

23 (A) the sources of the matching capitalization have irrevocably committed  
24 themselves to fully disburse the matching capitalization to the corporation;

25 (B) the schedule for the disbursement under (A) of this paragraph is  
26 established and all of the matching capitalization will be disbursed to the corporation  
27 within three years after the loan is made; and

28 (C) the corporation provides proof satisfactory to the authority that the  
29 sources of the matching capitalization will be able to fulfill their commitment under (A) -  
30 (B) of this paragraph.

31 (d) In this section, "matching capitalization" means the additional capitalization that is

1 required under (a) of this section to equal at least 50 percent of the loan.

2 Sec. 44.88.635. REPAYMENT OF LOANS. A corporation shall repay a loan and the  
3 interest on the loan in a lump sum 10 years after the loan is made.

4 Sec. 44.88.640. LOAN AGREEMENT. The loan agreement between the authority and  
5 the corporation must contain at least

6 (1) an authorization for the authority to be present at all meetings of the  
7 corporation's board and all shareholder meetings, to receive all corporation notices and  
8 information sent to the board or the shareholders, and to have the same access to corporation  
9 information as the directors and shareholders have;

10 (2) a prohibition against the corporation providing financial assistance to  
11 businesses that are located outside the state;

12 (3) if the corporation is a rural corporation, an agreement by the corporation to  
13 attempt to focus on providing financial assistance to business firms located in rural areas of the  
14 state;

15 (4) if the corporation is a historically under utilized business corporation, an  
16 agreement by the corporation to attempt to focus on providing financial assistance to minority  
17 businesses and to businesses in distressed areas;

18 (5) a prohibition against the corporation repurchasing, or obligating itself to  
19 repurchase, the corporation's stock, unless the authority gives its prior approval;

20 (6) a prohibition against the corporation, within five years of the receipt of the  
21 loan, selling its stock or consenting to the transfer of its stock without the prior approval of the  
22 authority; and

23 (7) a prohibition against the corporation surrendering its license under AS 10.10  
24 unless the corporation is not viable and intends to liquidate.

25 Sec. 44.88.645. REDUCTION OF LOAN OBLIGATION. (a) The authority shall reduce  
26 the amount of a loan made to a rural corporation by giving the corporation credits for

27 (1) the jobs created by the corporation in the rural businesses to which the  
28 corporation provides financial assistance;

29 (2) the increased sales activity caused by the financial assistance provided by the  
30 corporation to rural businesses;

31 (3) sustaining the job or sales activity increase under (1) or (2) of this subsection.

1 (b) The authority shall reduce the amount of a loan to a historically under utilized  
2 business corporation by giving the corporation credits for

3 (1) the jobs created by the corporation in a minority business to which the  
4 corporation provides financial assistance;

5 (2) the jobs created by the loan recipient in a business to which it provides  
6 financial assistance and that is located in a distressed area;

7 (3) the increased sales activity in a historically under utilized business caused by  
8 the financial assistance provided by the corporation to the business;

9 (4) the increased sales activity in a business located in a distressed area if the  
10 activity is caused by the financial assistance provided by the corporation to the business;

11 (5) sustaining the job and sales activity increase under (1) - (4) of this subsection.

12 (c) For each job created under (a)(1), (b)(1), or (b)(2) of this section, the loan recipient  
13 shall receive a credit of between \$500 and \$2,500 calculated on a yearly basis.

14 (d) The credit for increased sales activity under (a)(2) of this section shall be calculated  
15 by multiplying the annual sales activity increase by a percentage, not to exceed five percent, that  
16 is determined by the authority to reflect how rural the area is where the rural business is located.  
17 A business located in the most rural area receives the highest percentage.

18 (e) The credit for increased sales activity under (b)(3) and (4) of this section shall be  
19 determined by multiplying the annual sales activity increase by a percentage not to exceed five  
20 percent that is determined by the authority to reflect how distressed the area is where the business  
21 that receives financial assistance from the corporation is located. A business located in the most  
22 distressed area receives the highest percentage.

23 (f) To receive a credit under this section, the corporation shall file an application with  
24 the authority each year. The application must be accompanied by a certification by the  
25 corporation that the credits were earned and affidavits certifying the jobs and sales data on which  
26 the application is based. The authority may deny the credits if it determines that the bases for  
27 the credit do not exist, that the loan on which the corporation bases the credit could have been  
28 obtained by the business from financial institutions that are not incorporated under AS 10.10, that  
29 the financial assistance provided by the corporation was not for a significant amount, or that the  
30 financial assistance provided by the corporation did not have a meaningful relation to the increase  
31 in jobs or sales.

1 (g) The credits under this section shall be applied first to the interest that has accrued on  
2 the loan and then to the principal of the loan.

3 Sec. 44.88.650. SUBSEQUENT LOANS. Unless a corporation has successfully repaid  
4 a loan, either in cash or by credits under AS 44.88.645, the corporation may not receive another  
5 loan under AS 44.88.600 - 44.88.690.

6 Sec. 44.88.655. DETERMINATION OF RURAL AND DISTRESSED AREAS. The  
7 authority shall determine which geographical areas in the state are rural or distressed and the  
8 degree to which the areas are rural or distressed. When determining whether an area is rural, the  
9 authority shall consider, among the other characteristics of the area, the population of the area  
10 and the access of the area to the state highway and marine highway systems. When determining  
11 whether an area is distressed, the authority shall consider, among the other characteristics of the  
12 area,

13 (1) the percentage of the population whose income is below poverty level; and

14 (2) whether the area is experiencing a population decline.

15 Sec. 44.88.690. DEFINITIONS. In AS 44.88.600 - 44.88.690, unless the context requires  
16 otherwise,

17 (1) "corporation" means a corporation incorporated under AS 10.10;

18 (2) "distressed area" means a geographical area, including an area within a  
19 municipality, that is determined by the authority under AS 44.88.655 to be distressed;

20 (3) "fund" means the business and industrial development fund created under  
21 AS 44.88.610;

22 (4) "historically under utilized business corporation" means a corporation that is  
23 owned, controlled, and operated by individuals who are members of a minority and in which  
24 more than 50 percent of the net profit or loss attributable to the corporation accrues to  
25 shareholders who are members of a minority;

26 (5) "loan" means a loan made under AS 44.88.600 - 44.88.690;

27 (6) "minority business" means a business that is at least 50 percent owned,  
28 controlled, and managed by persons who are black, Hispanic, oriental, Eskimo, or American  
29 Indian;

30 (7) "rural area" means an area, including an area within a municipality, of the  
31 state that is determined by the authority under AS 44.88.655 to be rural;

1 (8) "rural business" means a business whose principal office is located in a rural  
2 area;

3 (9) "rural corporation" means a corporation whose main business office is located  
4 in a rural area.

5 \* Sec. 2. AS 10.10.030(c) is amended to read:

6 (c) [THE COMMISSIONER MAY NOT APPROVE ARTICLES OF INCORPORATION  
7 FOR A CORPORATION ORGANIZED UNDER THIS CHAPTER UNTIL A TOTAL OF AT  
8 LEAST SEVEN FINANCIAL INSTITUTIONS AUTHORIZED TO DO BUSINESS WITHIN  
9 THIS STATE HAVE AGREED IN WRITING TO BECOME MEMBERS OF THE  
10 CORPORATION, AND THE AGREEMENT IN WRITING IS FILED WITH THE  
11 COMMISSIONER TOGETHER WITH THE ARTICLES OF INCORPORATION.] When the  
12 articles of incorporation have been filed in the office of the commissioner and approved, the  
13 commissioner shall

- 14 (1) endorse on each duplicate original the word "filed," and the date of the filing;  
15 (2) file one duplicate original in the commissioner's office;  
16 (3) issue a certificate of incorporation and affix the other duplicate original to it;  
17 (4) return to the incorporators or their representative the certificate of  
18 incorporation, together with the duplicate original of the articles of incorporation affixed.

19 \* Sec. 3. AS 10.10.040 is amended by adding a new paragraph to read:

20 (10) to do all things necessary or appropriate to satisfy the requirements of  
21 AS 44.88.600 - 44.88.690 for receiving a loan and for repaying the loan or otherwise eliminating  
22 the indebtedness under AS 44.88.645.

23 \* Sec. 4. AS 10.10.040 is amended by adding a new subsection to read:

24 (b) A corporation may not engage in a business other than the business of providing  
25 financial and management assistance to businesses.

26 \* Sec. 5. AS 44.88.070 is amended by adding a new paragraph to read:

27 (7) making loans under AS 44.88.600 - 44.88.690 to business and economic  
28 development corporations incorporated under AS 10.10.

29 \* Sec. 6. AS 44.88.080 is amended by adding a new paragraph to read:

30 (26) implement the business and economic development corporation loan program  
31 under AS 44.88.600 - 44.88.690.

1 \* Sec. 7. AS 44.88.085 is amended by adding a new subsection to read:

2 (i) The authority shall adopt regulations necessary to implement AS 44.88.600 -  
3 44.88.690.

4 \* Sec. 8. AS 10.10.040(b), added by sec. 4 of this Act, applies to a corporation that is incorporated  
5 under AS 10.10

6 (1) on or after the effective date of this Act; and

7 (2) before the effective date of this Act if the corporation amends its articles to indicate  
8 that AS 10.10.040(b) applies to the corporation.