

CS FOR SENATE BILL NO. 226 (2d L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/8/92

Referred: Rules

Sponsor(s): SENATOR HALFORD

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the financing authority of the Alaska Industrial Development and
2 Export Authority and modifying the description of a project for which the legislature has
3 previously approved the Alaska Industrial Development and Export Authority's issuance of
4 bonds; and providing for an effective date."

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

6 * Section 1. PURPOSE. The purpose of this Act is to

7 (1) eliminate a blanket prohibition against the Alaska Industrial Development and Export
8 Authority's ability to issue bonds, other than refunding bonds, without securing the prior approval of the
9 legislature and to restore, until June 30, 1995, a provision of law giving the Authority the ability to issue
10 its bonds to assist in the financing of a development project without prior legislative approval if the
11 proposed bond issue does not exceed \$10,000,000;

12 (2) modify the requirements and restrictions imposed on the use of money in the Alaska
13 Industrial Development and Export Authority's enterprise development account to permit the Authority
14 to improve its capacity to serve as the primary source of secondary project financing in the state;

1 (3) eliminate the interest rate restriction applicable to the loans guaranteed by the Alaska
2 Industrial Development and Export Authority;

3 (4) improve the Alaska Industrial Development and Export Authority's ability to support
4 the state's expanding tourism industry; and

5 (5) modify the project approval given by sec. 25, ch. 123, SLA 1990 to express
6 legislative project approval for the Alaska Industrial Development and Export Authority's participation
7 in the financing of a more versatile aircraft facility at the Anchorage International Airport as presently
8 contemplated by the project's principal sponsor.

9 * Sec. 2. AS 44.88.095(g) is repealed and reenacted to read:

10 (g) Without prior legislative approval, the authority may not issue bonds in an amount
11 greater than \$10,000,000 to assist in the financing of a development project under AS 44.88.172 -
12 44.88.177.

13 * Sec. 3. AS 44.88.095(g) is repealed and reenacted to read:

14 (g) Without prior legislative approval, the authority may not issue bonds, except
15 refunding bonds.

16 * Sec. 4. AS 44.88.155(c) is amended to read:

17 (c) Money and other assets of the enterprise development account may be used to secure
18 bonds of the authority issued to finance the purchase of loans for projects or may [SHALL] be
19 used to purchase participation in the loans for projects.

20 * Sec. 5. AS 44.88.155(d) is amended to read:

21 (d) A loan participation purchased [IN WHOLE OR IN PART] by the authority with
22 assets of the enterprise development account or with proceeds of bonds secured by assets of the
23 enterprise development account [, OTHER THAN A LOAN WHICH IS FINANCED WITH THE
24 PROCEEDS OF BONDS OF THE AUTHORITY AND SECURED ONLY BY A PROJECT
25 APPLICANT OR A PROJECT,]

26 (1) may not exceed \$10,000,000 without prior legislative approval;

27 (2) may not be purchased unless

28 (A) the project applicant is not, or, if the applicant is not a single
29 proprietorship, all members of the business enterprise or enterprises constituting the
30 project applicant are not, in default on another loan made by the state or by a
31 public corporation of the state; and

1 (B) at least 20 percent of the principal amount of the loan is retained
2 by the loan originator;

3 (3) may not be purchased if the loan to be purchased exceeds [EXCEED] the
4 cost of the project or 75 percent of the appraised value of the project, whichever is less, unless
5 the amount of the loan in excess of this limit is federally insured or guaranteed or is insured by
6 a qualified mortgage insurance company;

7 (4) [(3)] may not be purchased if the participation in the loan to be purchased
8 is for a term longer than three-quarters of the authority's estimate of the life of the project or 25
9 years from the date the loan is made, whichever is earlier;

10 (5) [(4)] shall be made only if the participation in the loan to be purchased
11 contains [CONTAIN] amortization provisions; the amortization provisions

12 (A) must be complete and satisfactory to the authority and require periodic
13 payments by the borrower;

14 (B) may allow the loan originator to amortize the portion of the loan
15 retained by the loan originator using a shorter amortization schedule than the amortization
16 schedule for the portion of the loan held by the authority if (i) in the authority's opinion,
17 the project financed can support the increased debt service; and (ii) the accelerated
18 amortization schedule is required to induce the originator to make the loan;

19 (6) [(5)] shall be made only if the participation in the loan to be purchased
20 is in the form and contains [CONTAIN] the terms and provisions with respect to insurance,
21 repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges,
22 default remedies, acceleration of maturity, secondary liens, and other matters the authority
23 prescribes; and

24 (7) [(6)] shall be made only if the participation in the loan to be purchased
25 is secured as to repayment by a mortgage or other security instrument in the manner the authority
26 determines is feasible to assure timely repayment under a loan agreement entered into with the
27 borrower [;

28 (7) MAY NOT BE MADE UNLESS

29 (A) THE PROJECT APPLICANT IS NOT, OR, IF THE APPLICANT IS
30 NOT A SINGLE PROPRIETORSHIP, ALL MEMBERS OF THE BUSINESS
31 ENTERPRISE OR ENTERPRISES CONSTITUTING THE PROJECT APPLICANT ARE

1 NOT, IN DEFAULT ON ANOTHER LOAN MADE BY THE STATE OR BY A
2 PUBLIC CORPORATION OF THE STATE; AND

3 (B) WITH RESPECT TO THE LOAN, (i) AT LEAST 20 PERCENT OF
4 THE PRINCIPAL AMOUNT OF THE LOAN IS RETAINED BY THE LOAN
5 ORIGINATOR; OR (ii) 100 PERCENT OF THE PRINCIPAL AMOUNT OF THE
6 LOAN IS GUARANTEED BY THE UNITED STATES OR AN AGENCY OR
7 INSTRUMENTALITY OF THE UNITED STATES;

8 (8) MUST BE

9 (A) FINANCED FROM THE PROCEEDS OF BONDS; OR

10 (B) EXPECTED BY THE AUTHORITY TO BE FINANCED FROM THE
11 PROCEEDS OF BONDS].

12 * Sec. 6. AS 44.88.155(h) is amended to read:

13 (h) The provisions of this section apply only with respect to a loan participation
14 [LOANS] purchased [OR MADE] by the authority for projects under AS 44.88.155 - 44.88.159.

15 * Sec. 7. AS 44.88.159(d) is amended to read:

16 (d) The provisions of this section apply only to a loan participation purchased [LOANS
17 FINANCED] under AS 44.88.155 - 44.88.159.

18 * Sec. 8. AS 44.88.190(c) is amended to read:

19 (c) A loan participation purchased or financed by the authority [IN WHOLE OR IN
20 PART] is exempt from the provisions of AS 45.45.010. A guarantee extended under
21 AS 44.88.300 or insurance provided under AS 44.88.390 does not constitute insurance for the
22 purposes of AS 21.03.010.

23 * Sec. 9. AS 44.88.535(a) is amended to read:

24 (a) The authority may guarantee a loan under AS 44.88.500 - 44.88.599 if the

25 (1) loan

26 (A) is commercially reasonable;

27 (B) contains amortization provisions satisfactory to the authority;

28 (C) is secured by adequate collateral; however, the authority may waive
29 on a case-by-case basis the requirement of collateral for a loan guarantee of \$100,000
30 [\$50,000] or less for which the proposed loan amortization period does not exceed five
31 years, but the ability to waive the requirement of this subparagraph or the grant of a

1 waiver does not prevent the financial institution that holds the loan guaranteed by the
2 authority from requiring reasonable collateral for the loan;

3 (2) net cash flow from the borrower provides adequate coverage for the debt
4 service on the loan;

5 (3) term of the loan does not exceed 20 years;

6 (4) loan is originated with and serviced by a state chartered or federally chartered
7 financial institution;

8 (5) portion of the loan not guaranteed by the authority is held by the originating
9 financial institution or another financial institution approved by the authority;

10 (6) loan is made to a business with a majority interest held by state residents; and

11 (7) loan guarantee provides a benefit to the borrower.

12 * Sec. 10. AS 44.88.535(c) is amended to read:

13 (c) For a loan guaranteed under AS 44.88.500 - 44.88.599 that is also guaranteed by
14 the federal Small Business Administration, the authority may guarantee interest on the loan
15 and the fees and expenses attributable to the inception and servicing of the loan to the
16 extent authorized by the federal Small Business Administration. Except for those loan
17 guarantees, the [THE] authority may not guarantee the payment of interest on the guaranteed
18 portion of a loan.

19 * Sec. 11. AS 44.88.550 is repealed and reenacted to read:

20 Sec. 44.88.550. INTEREST ON GUARANTEED LOAN. If provision is made in the
21 loan guarantee agreement, the interest rate on a loan guaranteed by the authority may increase
22 or decrease in accordance with the changes in the prime rate.

23 * Sec. 12. AS 44.88.900(4) is amended to read:

24 (4) "development project" has the meaning given to "project" in (9)(A), (D), and
25 (E) of this section;

26 * Sec. 13. AS 44.88.900(9) is amended to read:

27 (9) "project" means

28 (A) a plant or facility used or intended for use in connection with making,
29 processing, preparing, transporting, or producing in any manner, goods, products, or
30 substances of any kind or nature or in connection with developing or utilizing a natural
31 resource, or extracting, smelting, transporting, converting, assembling, or producing in any

1 manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and
2 materials, products, or substances of any kind or nature;

3 (B) a plant or facility used or intended for use in connection with a
4 business enterprise;

5 (C) commercial activity by a small enterprise;

6 (D) a plant or facility demonstrating technological advances of new
7 methods and procedures and prototype commercial applications for the exploration,
8 development, production, transportation, conversion, and use of energy resources;

9 (E) a new tourism destination facility or the expansion of a tourism
10 destination facility;

11 * Sec. 14. AS 44.88.900 is amended by adding a new paragraph to read:

12 (15) "loan participation" means the purchase of a portion of an existing loan from
13 a bank.

14 * Sec. 15. Section 25, ch. 123, SLA 1990 is amended to read:

15 Sec. 25. The Alaska Industrial Development and Export Authority may issue bonds to
16 finance the acquisition, design, and construction of an [A MULTI-BAY] aircraft maintenance/air
17 cargo/air transport support facility located at Anchorage International Airport, to be owned by
18 the Authority. The principal amount of the bonds may not exceed \$50,000,000. This section
19 grants the legislative approval required by AS 44.88.095.

20 * Sec. 16. Section 3 of this Act takes effect July 1, 1995.

21 * Sec. 17. Except for sec. 3, this Act takes effect immediately under AS 01.10.070(c).