

**CS FOR SENATE BILL NO. 226 (RULES) am**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RULES COMMITTEE**

**Amended: 4/23/92**  
**Offered: 4/13/92**

**Sponsor(s): SENATORS HALFORD, Collins, Rodey, Pearce, Jones, Craft**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to the financing authority of the Alaska Industrial Development and**  
**2 Export Authority; and providing for an effective date."**

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

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

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

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

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

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

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

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 AS 44.88.095(g) is repealed and reenacted to read:

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

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 AS 44.88.095(g) is repealed and reenacted to read:

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

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

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

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

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

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

25 (2) may not be purchased unless

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

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

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

5                   **(4)** [(3)] may not be **purchased if the participation in the loan to be purchased**  
6 **is** for a term longer than three-quarters of the authority's estimate of the life of the project or 25  
7 years from the date the loan is made, whichever is earlier;

8                   **(5)** [(4)] shall **be made only if the participation in the loan to be purchased**  
9 **contains** [CONTAIN] amortization provisions; the amortization provisions

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

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

17                   **(6)** [(5)] shall be **made only if the participation in the loan to be purchased**  
18 **is** in the form and **contains** [CONTAIN] the terms and provisions with respect to insurance,  
19 repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges,  
20 default remedies, acceleration of maturity, secondary liens, and other matters the authority  
21 prescribes; **and**

22                   **(7)** [(6)] shall be **made only if the participation in the loan to be purchased**  
23 **is** secured as to repayment by a mortgage or other security instrument in the manner the authority  
24 determines is feasible to assure timely repayment under a loan agreement entered into with the  
25 borrower [;

26                   (7) MAY NOT BE MADE UNLESS

27                   (A) THE PROJECT APPLICANT IS NOT, OR, IF THE APPLICANT IS  
28 NOT A SINGLE PROPRIETORSHIP, ALL MEMBERS OF THE BUSINESS  
29 ENTERPRISE OR ENTERPRISES CONSTITUTING THE PROJECT APPLICANT ARE  
30 NOT, IN DEFAULT ON ANOTHER LOAN MADE BY THE STATE OR BY A  
31 PUBLIC CORPORATION OF THE STATE; AND

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

6 (8) MUST BE

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

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

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

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

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

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

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

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

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

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

23 (1) loan

24 (A) is commercially reasonable;

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

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

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

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

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

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

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

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

10 \* Sec. 10. AS 44.88.550 is repealed and reenacted to read:

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

14 \* Sec. 11. AS 44.88.900(4) is amended to read:

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

17 \* Sec. 12. AS 44.88.900(9) is amended to read:

18 (9) "project" means

19 (A) a plant or facility used or intended for use in connection with making,  
20 processing, preparing, transporting, or producing in any manner, goods, products, or  
21 substances of any kind or nature or in connection with developing or utilizing a natural  
22 resource, or extracting, smelting, transporting, converting, assembling, or producing in any  
23 manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and  
24 materials, products, or substances of any kind or nature;

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

27 (C) commercial activity by a small enterprise;

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

31 (E) infrastructure for a new tourism destination facility or for the

1            **expansion of a tourism destination facility:**

2    \* Sec. 13. AS 44.88.900 is amended by adding a new paragraph to read:

3                    (15) "loan participation" means the purchase of a portion of an existing loan from  
4            a bank if the bank approved the loan to the borrower after the effective date of this paragraph  
5            and if the bank has obtained from the corporation a prior commitment to participate in the  
6            making of that loan before the loan to the borrower is closed.

7    \* Sec. 14. Section 3 of this Act takes effect July 1, 1995.

8    \* Sec. 15. Except for sec. 3, this Act takes effect immediately under AS 01.10.070(c).