

**CS FOR SENATE BILL NO. 410 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY THE SENATE STATE AFFAIRS COMMITTEE

**Offered: 3/6/92
Referred: L&C, Finance**

Sponsor(s): SENATORS RODEY, Pearce

A BILL

FOR AN ACT ENTITLED

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

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

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

**6 (1) eliminate a blanket prohibition against the Alaska Industrial Development and Export
7 Authority's ability to issue bonds, other than refunding bonds, without securing the prior approval of the
8 legislature and to restore a provision of law that, before January 1, 1992, gave the Authority the ability
9 to issue its bonds to assist in the financing of a development project without prior legislative approval
10 if the bond issue did not exceed \$10,000,000;**

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

14 (3) modify the interest rate restriction applicable to the loans guaranteed by the Alaska

1 **Industrial Development and Export Authority;**

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

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

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 AS 44.88.095(g) is repealed and reenacted to read:

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

12 * Sec. 3. AS 44.88.155(c) is amended to read:

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

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

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

22 (1) may not exceed \$10,000,000;

23 (2) may not be purchased unless

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

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

30 (3) may not be purchased if the loan to be purchased exceeds [EXCEED] the
31 cost of the project or 75 percent of the appraised value of the project, whichever is less, unless

1 the amount of the loan in excess of this limit is federally insured or guaranteed or is insured by
2 a qualified mortgage insurance company;

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

6 (5) [(4)] shall be made only if the participation in the loan to be purchased
7 contains [CONTAIN] amortization provisions; the amortization provisions

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

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

15 (6) [(5)] shall be made only if the participation in the loan to be purchased
16 is in the form and contains [CONTAIN] the terms and provisions with respect to insurance,
17 repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges,
18 default remedies, acceleration of maturity, secondary liens, and other matters the authority
19 prescribes; and

20 (7) [(6)] shall be made only if the participation in the loan to be purchased
21 is secured as to repayment by a mortgage or other security instrument in the manner the authority
22 determines is feasible to assure timely repayment under a loan agreement entered into with the
23 borrower [;

24 (7) MAY NOT BE MADE UNLESS

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

30 (B) WITH RESPECT TO THE LOAN, (i) AT LEAST 20 PERCENT OF
31 THE PRINCIPAL AMOUNT OF THE LOAN IS RETAINED BY THE LOAN

1 ORIGINATOR; OR (ii) 100 PERCENT OF THE PRINCIPAL AMOUNT OF THE
2 LOAN IS GUARANTEED BY THE UNITED STATES OR AN AGENCY OR
3 INSTRUMENTALITY OF THE UNITED STATES;

4 (8) MUST BE

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

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

8 * Sec. 5. AS 44.88.155(h) is amended to read:

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

11 * Sec. 6. AS 44.88.159(d) is amended to read:

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

14 * Sec. 7. AS 44.88.190(c) is amended to read:

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

19 * Sec. 8. AS 44.88.550 is amended to read:

20 Sec. 44.88.550. INTEREST ON GUARANTEED LOAN. The maximum interest rate
21 on a loan guaranteed by the authority is

22 (1) for a loan guarantee that exceeds 65 percent of the loan, one and one-half
23 percentage points above the prime rate [ON THE DAY THE LOAN GUARANTEE IS MADE];
24 and

25 (2) for a loan guarantee that is equal to or less than 65 percent of the loan, two
26 and three-quarters percentage points above the prime rate [ON THE DAY THE LOAN
27 GUARANTEE IS MADE].

28 * Sec. 9. AS 44.88.550 is amended by adding a new subsection to read:

29 (b) If provision is made in the loan guarantee agreement, the interest rate on a loan
30 guaranteed by the authority may increase or decrease in accordance with the changes in the prime
31 rate.

1 * Sec. 10. AS 44.88.900(9) is amended to read:

2 (9) "project" or "development project" means

3 (A) a plant or facility used or intended for use in connection with making,
4 processing, preparing, transporting, or producing in any manner, goods, products, or
5 substances of any kind or nature or in connection with developing or utilizing a natural
6 resource, or extracting, smelting, transporting, converting, assembling, or producing in any
7 manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and
8 materials, products, or substances of any kind or nature;

9 (B) subject to (E) of this paragraph, a plant or facility used or intended
10 for use in connection with a business enterprise;

11 (C) commercial activity by a small enterprise;

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

15 (E) a new tourism destination facility or the expansion of a tourism
16 destination facility if the new facility or expanded facility will not compete with an
17 existing hotel, motel, or restaurant;

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

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

21 * Sec. 12. Section 25, ch. 123, SLA 1990 is amended to read:

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

27 * Sec. 13. AS 44.88.900(4) is repealed.

28 * Sec. 14. This Act takes effect immediately under AS 01.10.070(c).