

S B

404

COMMITTEE REPORT  
SENATE

FURTHER: Finance

4/8/81

Date: 20 April, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 404

Alaska Industrial Development Authority

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for SB 404  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*Byrtice G. Johnson*  
*Robert D. ...*  
*Z. ...*  
*Bob Mulcahy*  
 \_\_\_\_\_  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_  
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 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Bob Mulcahy*  
 CHAIRMAN



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SECTIONAL ANALYSIS of CSSB 404

Section 1: Amends section defining the purpose of AIDA and expands the enterprises to whom AIDA may make loans; new language includes timber, agricultural, multi-family dwelling, and in (4) "the establishment, and expansion of industrial..." Elaboration of the declared policy of the State to create new economic growth.

Section 2: Establishes that a majority of the members constitute a quorum and provides for the transaction of business by conference phone (electronic media); further states that the authority conducting a meeting by electronic media has the same legal effect as a meeting in person if the public has the same right to participation. In the case of a tie vote, the motion or resolution shall be decided by the Governor, and if approved by him, shall be considered adopted by the Authority.

Section 3: Elaborates on the purpose of the Authority including the new language timber, agriculture, multi-family dwelling, which expands the enterprises covered by AIDA.

(12)

Section 4: AS 44.88.080 is amended by including the language timber, agriculture, multi-family dwellings as projects which AIDA may purchase or insure loans to finance the costs for.

Section 5: AS 44.86 05 is amended by adding a subsection (f): Allows the Authority to secure revenue bonds by creating a reserve fund. The reserve fund would receive a deposit of assets from the Authority which secures the indebtedness owed to bondholders. The Authority is not obligated to bondholders to request appropriations to replenish the reserve fund if it should become depleted.

Section 6: Permits the Authority to embark on a major program to

buy interests in loans made by private financial institutions. This would mitigate the restricted market that would result if the tax exempt status of industrial development bonds is withdrawn or severely limited by congress.

Section 7: AS 44.88.157 (a) is amended to establish a loan insurance account providing insurance of loans made or purchased by the Authority for projects. Without limitation, the Authority may enter into agreements as to the use of money in the account, the terms and conditions for payments from the account, separate subaccounts in the account for different categories of loans, and the payment and security for bonds issued by the authority.

Section 8: Establishes a project enterprises Loan Account composed of money or assets of the Authority, interest on investments and loans of the account. Further provides that the Authority may use these assets (loan account) to purchase loans made by others to project enterprises to pay for the costs of those projects. (refinancing provision)

Section 9: Loans purchased thru the loan account may not exceed:

- A. \$6 million for tourism, timber, agricultural, multi-family dwelling, and commercial fishing enterprises;
- B. \$1 million for a loan made to a mining or small business enterprise
- C. \$500,000 for each commercial fisherman in a commercial fishing enterprise if the loan is made to a commercial fishing enterprise.

Unless the loan is Federally insured, guaranteed, or insured by a qualified mortgage insuror, the loan may not exceed 75% of the cost of the project or, 75% of the appraised value of the project.

(3) The loan may not be made for a term longer than 3/4's of the Authority's estimate of the project life, or 25 years from the date the loan is made, which ever is earlier;

(4), (5), and (6) contain technical provisions presently in the statutes describing current provisions.

(7) New subsection requiring 10% participation from private lending sources.

Section 10: AS 44.88.158 (d) is amended to read: Authority may adopt

regulations for the administration of the loan account including provisions for application fees, loan commitments, servicing, and the origination of loans made by other lenders.

Section 11: Provides the Authority may enter into agreements for the use of the money in the loan account, and pledge, assign, or grant agreements necessary to provide for payment and security of the Authority bonds.

Section 12: The Authority may purchase agricultural enterprise loans made by the Alaska Rural Rehabilitation Corporation, with an interest rate not to exceed 8% to the borrower. Loans purchased may be secured by substitute collateral providing the loan does not exceed 75% of the value of the total collateral for the loan.

Section 13: The interest for loans purchased by AIDA with money from the loan account or proceeds from taxable bonds is set at one half of one percent more than the interest rate for a bond issue of the Authority which does not exceed \$1,000,000 in principal amount.

Section 14: If more than 2% of loans purchased from financial institutions become delinquent for 90 days or more, the Authority must discontinue purchasing loans from that institution until the delinquency is reduced to less than 2%.

Section 15: Defines business enterprise including new language for any purpose, other than on a non-profit basis.

Section 16: Defines project substituting the word means for (INCLUDES) and elaborates on commercial activity by the approved enterprises as defined in (12), (13), (14), (15), (16), (17), and (18) of AS44.88.220.

Section 17: Defines small business enterprise as a project applicant with annual profits before the payment of Taxes (GROSS INCOME) of \$10 million or less for its annual reporting period which ended immediately before the application to the Authority for a loan;

Section 18: Defines tourism enterprise

Section 19: Defines commercial fishing enterprise

Section 20: Defines mining enterprise

Section 21: Defines Agricultural enterprise, timber enterprise, and multi-family dwelling enterprise;

Section 22: Authorizes the Authority to issue up to \$400,000,000 in revenue bonds to provide financing for eligible projects.

Section 23: Repeals AS 44.88.158 (b) and (f) and Sec 9 (c), ch 120, SLA 1980.

Section 24: Act takes effect immediately



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### COMMITTEE MINUTES:

21 April, 1981

The Senate Committee on Labor and Commerce held a committee meeting on 20 April, 1981. The meeting was called to order by Senator Mulcahy and began with a background description of the origin of SB 404. Senator Mulcahy entertained a motion to address a proposed committee substitute for SB 404, which was seconded by Senator Fahrenkamp. Senator Mulcahy asked Buzz Hoffman, Executive Director of AIDA to provide the committee with a section by section analysis of CSSB 404.

Mr. Hoffman prefaced his analysis by saying that CSSB 404 closely approximates a bill drafted by the board of directors of AIDA, submitted to the Governor, which emerged as SB 404.

Mr. Hoffman began his sectional analysis, and Senator Mulcahy asked if Section 1 would grant AIDA the ability to refinance. Mr. Hoffman replied in the affirmative and Senator Fahrenkamp posed a question about the teleconference references in the bill and whether they would save money. Mr. Hoffman replied that they would both save money and facilitate the transaction of business.

The sectional analysis continued and in Section 9 Senator Ziegler asked if the amounts could be increased to 10 million dollars. Mr. Hoffman elaborated on the increases, and Senator Ziegler suggested, rather than by a motion, that we should increase the amount to 10 Million dollars. Senator Mulcahy asked why mining should be limited to 1 million, and Mr. Hoffman answered that maybe all programs should be treated equally. Senator Mulcahy asked if the loan ceilings were increased to 10 million dollars, how quickly would the fund be depleted and what fiscal impacts would there be to the State. Mr. Hoffman answered that AIDA could function with that ceiling, but again reminded the Committee on the "moral obligation" of the State. Senator asked what the pleasure of the committee was? Senator Ziegler mentioned that it would be necessary rewrite changes in language in the bill.

Senator Mulcahy addressed the deleted language on page 6, line 8; which was in turn clarified by Mr. Hoffman.

In Section 12, Mr. Hoffman explained the provisions which applied to the Alaska Rural Rehabilitation Corporation, and Senator Mulcahy asked if that section would require a separate appropriation to subsidize the interest. Senator Fahrenkamp asked whether they might be better to address their financial needs thru CFAE. Mr. Hoffman discussed AIDA interest rates and Senator Mulcahy asked what AIDA's present interest rates are.

Mr. Hoffman continued with a definition of small business, to which Senator Hohman asked if Co-ops (profit) would qualify for loans under that definition. Mr. Hoffman replied that Co-ops would come under the small business enterprise projects, and Senator Mulcahy commented that this would open up financing to many more people. Buzz Hoffman agreed and said that many more people would be eligible. Senator Hohman posed a question about tank farms and the problem at Aniak, asked about fish processing financing, hunting lodges, fishing camps and general tourism financing. Mr. Hoffman said they would be acceptable projects. Both Senator Ziegler and Senator Fahrenkamp commended Buzz Hoffman on a very fine presentation.

The next testimony came from John Fullenwilder who spoke about fire protection systems, relating to a House Bill and Senate Bill of last year which inadvertently prevented financing for prospective installation of these systems. Senator Mulcahy referred Mr. Fullenwilder (Deputy Fire Marshall, Municipality of Anchorage) to address Mr. Hoffman as to the specifics of the financing, and Mr. Fullenwilder thanked the committee for their assistance.

Sterling Gallagher testified next; addressing the issue of multi-family dwellings, changes in loan criteria if the ceiling on AIDA loans was increased to 10 million dollars, and the capital requirements for the bill. Mr. Gallagher entertained questions about multi-family dwellings, which were further elaborated on by Mr. Hoffman. He specifically addressed the 20% low to moderate income requirement explaining the ASHA subsidy for the rent.

Mr. Jim Clark testified in support of the bill, expounding on the perspective of the timber industry for whom he is employed as a lobbyist. The Chair entertained a motion to pass the CS from committee with individual recommendations. The meeting was adjourned.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

*own file*

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITAL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

April 6, 1981

RECEIVED  
ALASKA DEPARTMENT OF REVENUE

APR 7 1981

THE COMMISSIONER

### M E M O R A N D U M

To: Honorable Jay S. Hammond  
Governor

From: Wilson L. Condon  
Attorney General

Re: Attached bill relating to A.I.D.A.  
Our file: J-77-135-81

Attached is a bill requested by the members of the Alaska Industrial Development Authority. The bill was originally drafted by the law firm of Wohlforth and Flint, and has been redrafted by this department. The bill has been prepared for introduction in both houses.

The amount authorized for the issuance of revenue bonds was increased to \$400,000,000 from the original amount of \$250,000,000 contained in the draft submitted to this department by A.I.D.A. This was done at the request of Commissioner Williams of the Department of Revenue.

WLC:bjl:JLB

cc w/enc.: Honorable Thomas K. Williams  
Commissioner  
Department of Revenue

Buz Hoffman, Executive Director  
Alaska Industrial Development  
Authority  
601 W. 5th Ave.  
Suite 430  
Anchorage, Alaska 99501

Lee Coffman, Chairman  
Alaska Industrial Development  
Authority  
601 W. 5th Ave.  
Suite 430  
Anchorage, Alaska 99501

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which relates to the Alaska Industrial Development Authority (the authority).

Section 1 of the bill authorizes the authority to issue up to \$400,000,000 in revenue bonds to provide financing for projects which are eligible for assistance from the authority.

Section 2 of the bill repeals a condition enacted in ch. 120, SLA 1980, which requires the reversion to the general fund of \$166,000,000 in loans appropriated to the enterprise development fund administered by the authority if the loans aren't pledged as security for revenue bonds. Under amendments made in sec. 6 of the bill, money earned from these loans may be used by the authority to buy interests in loans made by private financial institutions to finance industrial development projects or for tourism, mining, commercial fishing or small business loans.

Section 4 of the bill allows the authority to meet and transact business by conference telephone. The authority meets each week to take action on loan applications. It is essential that the consistent participation of all members of the authority be assured without the inconvenience and loss of time resulting from constant travel from one meeting location to the next.

Section 5 of the bill allows the authority to secure revenue bonds by creating a reserve fund. The reserve fund would receive a deposit of assets from the authority which secures the indebtedness owed to bondholders. The authority is not obligated to bondholders to request appropriations to replenish the reserve fund if it should become depleted.

Section 6 of the bill permits the authority to embark on a major program to buy interests in loans made by private financial institutions. This would mitigate the restricted market that would result if the tax exempt status of industrial development bonds is withdrawn or severely limited by Congress.

Sections 7 -- 10 of the bill amend statutes relating to the small business, tourism, mining, and commercial fishing loan program. These amendments authorize the authority to buy interests in loans made by private financial institutions even if those loans are not financed with the proceeds earned from the sale of revenue bonds of the authority.

Section 11 of the bill requires the authority to stop purchasing loans from a financial institution if more than two percent of the loans purchased from the institution become delinquent for 90 days or more. This section expands existing law which imposes the same requirement but only for tourism, small business, commercial fishing, or mining loans purchased by the authority.

Section 12 of the bill specifies the interest rate for loans purchased by the authority with money in the small business, tourism, commercial fishing, and mining enterprise loan account or with proceeds of bonds with taxable interest. The rate of interest is set at one-half of one percent more than the interest rate set for a bond issue of the authority which does not exceed \$1,000,000 in principal amount.

Sections 13 -- 18 make technical amendments to the definitions in existing law.

The repeal of AS 44.88.158(b) and (f), contained in sec. 19 of the bill, is included to remove provisions in existing law which would be superseded if secs. 11 and 12 become law.

Sincerely,

Jay S. Hammond  
Governor

(8) "revenues" means all fees, charges, money, profits, payments of principal of or interest on municipal bonds and other investments, gifts, grants, contributions, appropriations and all other income derived or to be derived by the bond bank authority under this chapter. (§ 1 ch 79 SLA 1975; am § 2 ch 48 SLA 1978; am §§ 1, 2 ch 23 SLA 1980)

Effect of amendments. — The 1978 amendment in paragraph (3), designated the former provisions of that paragraph as subparagraph (A), added "a general obligation bond which is" to the beginning of that subparagraph, inserted "to the extent permitted by law" in that paragraph, added "or" to the end of that subparagraph, and added subparagraphs (B) and (C).

The 1980 amendment in subparagraph (B) of paragraph (3), inserted "other than

diesel-powered generation" following "generation purposes," substituted "pledges" for "is a pledge of" following "a municipality which," inserted "and which is" following "capital improvement," substituted "the revenue of the revenue-producing capital improvement" for "unpledged revenue of the public facility for which the obligations are issued" at the end of the subparagraph; and added subparagraph (D) in paragraph (3).

Sec. 44.85.420. Short title. This chapter may be cited as the Alaska Municipal Bond Bank Authority Act or the Alaska Municipal Bond Bank Act. In transactions involving general obligation bonds of municipalities, the Alaska Municipal Bond Bank Authority created by this chapter may be referred to as the Alaska Municipal Bond Bank with the same legal effect as if the reference were to Alaska Municipal Bond Bank Authority. (§ 1 ch 79 SLA 1975; am § 3 ch 48 SLA 1978)

Effect of amendment. — The 1978 amendment added "or the Alaska Municipal Bond Bank Act" to the end of the first sentence and added the second sentence.

### Chapter 88. Alaska Industrial Development Authority.

#### Article

- 1. Creation and Organization (§§ 44.88.010 — 44.88.050)
- 2. Purpose and Powers (§§ 44.88.070 — 44.88.080)
- 3. Financial Provisions (§§ 44.88.090 — 44.88.158)
- 4. General Provisions (§§ 44.88.160 — 44.88.220)

#### Article 1. Creation and Organization.

##### Section

- 10. Legislative finding and policy
- 20. Creation of authority
- 30. Membership of authority

##### Section

- 40. Chairman and vice-chairman
- 50. Meetings, compensation, officers and employees

Sec. 44.88.010. Legislative finding and policy. (a) The legislature finds, determines and declares that

(1) there exist areas of the state in which seasonal and nonseasonal unemployment exists

(2) this unemployment is a serious menace to the health, safety and general welfare, not only to the people in those areas, but also to the people of the entire state;

(3) the state lacks the basic manufacturing, industrial, small business, tourism, mining, and commercial fishing enterprises and other facilities referred to in AS 44.88.010(a)(5) necessary to permit adequate development of its natural resources and the balanced growth of its economy;

(4) the establishment of industrial, manufacturing, small business, tourism, mining, and commercial fishing enterprises in Alaska, including facilities for air and water transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, and facilities for industrial parks, is essential to the development of the natural resources and the long-term economic growth of the state, and will directly and indirectly alleviate unemployment in the state;

(5) the achievement of the goal of full employment, and of establishment and continuing operation and development of industrial, manufacturing, small business, tourism, mining, and commercial fishing enterprises in the state, including facilities for air and water transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, and facilities for industrial parks, will be accelerated and facilitated by the creation of an instrumentality of the state with powers to incur debt and to make and insure loans to finance, and to assist private lenders to make loans to finance, the establishment, operation, and development of industrial, manufacturing, small business, tourism, mining, and commercial fishing enterprises, including facilities for air and water transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, and facilities for industrial parks, for private operation;

(6) it is in the public interest to promote the prosperity and general welfare of all citizens of the state by stimulating commercial and industrial growth and expansion by encouraging an increase of private investment by banks, investment houses, insurance companies, and other financial institutions, including pension and retirement funds, to help satisfy the need for economic expansion;

(7) it is in the state's interest to import private capital to create new economic activity which would not otherwise take place in the state.

(b) It is declared to be the policy of the state, in the interests of promoting the health, security and general welfare of all the people of the state, and a public purpose, to increase job opportunities and otherwise to encourage the economic growth of the state, including the development of its natural resources, through the establishment of manufacturing, industrial, small business, tourism, mining, and com-

44.88.010(a)(5) by creating the public corporation with power, duties and functions as provided in this chapter. (§ 1 ch 64 SLA 1967; am § 1 ch 64 SLA 1977; am §§ 44 — 48 ch 106 SLA 1980)

**Effect of amendments.** — The 1977 amendment inserted the language beginning "including facilities for air and water transportation" and ending "furnishing of electric energy or gas" in paragraph (4) and in two places in paragraph (5).

The 1980 amendment deleted "and" following "manufacturing" near the beginning of paragraph (3) of subsection (a), inserted "small business, tourism, mining, and commercial fishing" preceding "enterprises" near the middle of paragraph (3) of subsection (a), inserted "and other facilities referred to in AS 44.88.010(a)(5)" following "enterprises" near the middle of paragraph (3) of subsection (a), deleted "and" preceding "manufacturing" near the beginning of paragraph (4) of subsection (a), substituted "small business, tourism, mining, and commercial fishing enterprises" for "plants" preceding "in Alaska" near the beginning of paragraph (4) of subsection (a), inserted "facilities for" following "transportation" near the middle of paragraph (4) of subsection (a), substituted "facilities" for "and" following "water

disposal" near the middle of paragraph (4) of subsection (a), deleted "electric energy or" following "local furnishing of" near the middle of paragraph (4) of subsection (a), inserted "facilities for water, and facilities for industrial parks" preceding "is essential to" near the middle of paragraph (4) of subsection (a); rewrote paragraph (5) of subsection (a); added paragraphs (6) and (7) of subsection (a); deleted "and" preceding "industrial" near the middle of subsection (b), inserted "small business, tourism, mining, and commercial fishing" preceding "enterprises" near the middle of subsection (b), and inserted "and the other facilities referred to in AS 44.88.010(a)(5)" following "enterprises" near the end of subsection (b).

**Former state development corporation law construed.** — See *DeArmond v. Alaska State Dev. Corp.*, Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962); *Walker v. Alaska State Mtg. Ass'n*, Sup. Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966); *City of Nome v. Block, No. 11, Lots 5, 6 & 7*, Sup. Ct. Op. No. 830 (File No. 1652), 502 P.2d 124 (1972).

**Sec. 44.88.020. Creation of authority.** There is created the Alaska Industrial Development Authority. The authority is a public corporation of the state and a body corporate and politic constituting a political subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence. (§ 1 ch 64 SLA 1967; am § 104 ch 218 SLA 1976)

**Effect of amendment.** — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Economic Development" in the second sentence.

**Editor's note.** — Section 42, ch. 106, SLA 1980 provides: "On the effective date of this section the Alaska State Development Corporation (AS 44.86.010) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). On the effective date of this section the Small Business

Development Corporation (AS 44.87.020) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). On the effective date of this section the Alaska Toll Bridge Authority (AS 44.84.010) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). The Alaska Industrial Development Authority is responsible for the management of the assets and liabilities transferred to it under this section."

**Sec. 44.88.030. Membership of authority.** (a) The membership of the authority consists of

(1) the commissioner of revenue and the commissioner of commerce and economic development;

(2) one other person appointed by the governor who serves as the head of a principal department of the executive branch; and

(3) two public members appointed by the governor.

(b) If a member described in (a)(1) or (a)(2) of this section is unable to attend a meeting of the authority, he may by an instrument in writing filed with the authority, designate his deputy or assistant to act in his place as a member at the meeting. For all purposes of this chapter, the designee is a member of the authority at the meeting.

(c) Members of the authority described in (a)(2) and (a)(3) of this section serve two-year terms. However, the initial appointment of one member described in (a)(3) of this section shall be for a one-year term.

(d) If a vacancy occurs in the membership of the authority, the governor shall immediately appoint a member for the unexpired portion of the term.

(e) [Effective on the effective date of the amendment to the Constitution proposed in 1980 Legislative Resolve No. 43] The appointment or reappointment of a member of the authority under (a)(2) or (a)(3) of this section is subject to confirmation by a majority vote of the members of the legislature in joint session. If the legislature fails to confirm the appointment of the head of a principal department of the executive branch as a member, the governor shall appoint the head of another principal department of the executive branch to serve as a member subject to confirmation under this subsection. A member appointed to fill a vacancy under (d) of this section is subject to confirmation under this subsection. (§ 1 ch 64 SLA 1967; am § 7 ch 207 SLA 1975; am § 2 ch 64 SLA 1977; am §§ 49, 50 ch 106 SLA 1980)

**Effect of amendments.** — The 1977 amendment added the third sentence of subsection (b) as it existed prior to the 1980 amendment.

Section 40, ch. 106, SLA 1980, rewrote the section. Section 50, ch. 106, SLA 1980, effective on the effective date of an amendment to the Alaska Constitution

which provides for confirmation by the legislature of appointments as provided in §§ 14 and 50 of ch. 106, added subsection (e). The amendment to the Constitution mentioned above is proposed in 1980 Legislative Resolve No. 43 to be submitted to the voters at the 1980 general election.

**Sec. 44.88.040. Chairman and vice-chairman.** The members of the authority shall elect a chairman from among themselves. A vice-chairman may be elected by the authority from among its other members. The vice-chairman presides over all meetings in the absence of the chairman and has other duties which the authority may direct. (§ 1 ch 64 SLA 1967; am § 105 ch 218 SLA 1976; am § 51 ch 106 SLA 1980)

**Effect of amendments.** — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of economic development"

in two places in this section as it existed prior to the 1980 amendment.

The 1980 amendment rewrote the section.

**Sec. 44.88.050. Meetings, compensation, officers and employees.** (a) A majority of the members of the authority constitutes a quorum for the transaction of business or the exercise of a power or function at a meeting of the authority. In case of a tie vote on a motion or resolution pending before the authority the motion or resolution shall be presented to the governor and if approved by him, is considered adopted by the authority.

(b) The public members of the authority receive \$100 compensation for each day spent on official business of the authority and may be reimbursed by the authority for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180.

(c) The authority may appoint persons as officers it considers advisable, including an executive director, and may employ professional advisors, counsel, technical experts, agents, and other employees it considers advisable. The executive director and employees of the authority are in the exempt service under AS 39.25. (§ 1 ch 64 SLA 1967; am §§ 52, 53 ch 106 SLA 1980)

**Effect of amendment.** — The 1980 amendment rewrote subsection (b), and in subsection (c), deleted "or executive vice-president" following "executive director" in the first sentence and added the second sentence.

## Article 2. Purpose and Powers.

### Section

70. Purpose of the authority

80. Powers of the authority

**Sec. 44.88.070. Purpose of the authority.** The purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment and to create additional employment by providing various means of financing and means of facilitating the financing of industrial, manufacturing, small business, tourism, mining, and commercial fishing enterprises and the other facilities referred to in AS 44.88.010(a)(5) within the state. (§ 1 ch 64 SLA 1967; am § 54 ch 106 SLA 1980)

**Effect of amendment.** — The 1980 amendment substituted "various" for "a" preceding "means of financing" near the middle of the section, inserted "means of facilitating the financing of" near the middle of the section, and substituted "small business, tourism, mining, and commercial fishing enterprises and the other facilities referred to in AS 44.88.010(a)(5) within the state" for "plant construction, conversion or expansion within the state, including the acquisition of real property, for lease or sale to business enterprises for industrial or manufacturing purposes" at the end of the section.

**Sec. 44.88.080. Powers of the authority.** In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers:

- (1) to sue and be sued;
- (2) to have a seal and alter it at pleasure;
- (3) to make and alter bylaws for its organization and internal management;
- (4) to adopt regulations governing the exercise of its corporate powers;
- (5) to acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift or lease;
- (6) to lease to others a project acquired by it for the rentals and upon the terms and conditions the authority may consider advisable, including, without limitation, provisions for options to purchase or renew;
- (7) to issue bonds, in accordance with AS 44.88.090, to pay the cost of a project and to secure payment of the bonds as provided in this chapter;
- (8) to sell, by installment sale or otherwise, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other security interest, real or personal property owned by it, or in which it has an interest, including a project, when, in the judgment of the authority, the action is in furtherance of its corporate purposes;
- (9) to accept gifts, grants or loans from, and enter into contracts or other transactions regarding them, with a federal agency or an agency or instrumentality of the state, a municipality, private organization or other source;
- (10) to deposit or invest its funds, subject to agreements with bondholders;
- (11) to enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter;
- (12) to purchase or insure loans to finance the costs of manufacturing, industrial, small business, tourism, mining, and commercial fishing enterprise projects;
- (13) to enter into loan agreements with respect to one or more projects upon the terms and conditions the authority considers advisable;
- (14) to acquire, manage, and operate a project when it becomes necessary or desirable to do so to safeguard the authority from losses;
- (15) to assist private lenders to make loans to finance the costs of projects through loan commitments, short-term financing, or otherwise;
- (16) to accept gifts, grants, or loans from a federal agency, from an agency or instrumentality of the state or of a municipality, or from any other source;

(17) to enter into contracts or other transactions with a federal agency, with an agency or instrumentality of the state or of a municipality, or with a private organization or other entity consistent with the exercise of any power under this chapter;

(18) to facilitate the expansion of a secondary market for the resale of federally or commercially insured loans held by commercial banks in Alaska. (§ 1 ch 64 SLA 1967; am §§ 55 — 59 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment substituted "adopt" for "make rules and" at the beginning of paragraph 41, rewrote paragraph (6), inserted "in accordance with AS 44.88.090" following "to issue bonds" near the beginning of paragraph (7), deleted "acquiring by construction, purchase or lease or improving and equipping" following "the cost of" near the middle of paragraph (7), inserted "by installment sale or otherwise" following "to sell" at the beginning of paragraph (8), inserted "including a project" following "has an interest" near the middle of paragraph (8), and added paragraphs (12) through (18).

Article 3. Financial Provisions.

Section	Section
90. Bonds of the authority	150. Bonds legal investments for fiduciaries
100. Trust indentures and trust agreements	155. Enterprise development fund
105. Capital reserve funds and capital reserve fund requirement	157. Loan insurance and loan insurance account
110. Validity of pledge	158. Small business, tourism, mining, and commercial fishing enterprises loan account
120. Nonliability on bonds	
130. Pledge of the state	
140. Exemption from taxation	

Sec. 44.88.090. Bonds of the authority. (a) Subject to (g) of this section, the authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable, (1) exclusively from the income and receipts or other money derived from the project financed with the proceeds of the bonds, (2) exclusively from the income and receipts or other money derived from designated projects whether or not they are financed in whole or in part with the proceeds of the bonds, or (3) from its income and receipts or other assets generally, or a designated part or parts of them.

(b) Bonds shall be authorized by resolution of the authority, and be dated and shall mature as the resolution may provide, except that no bond may mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

(d) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the authority may determine.

(e) Before the issuance of any bonds, the authority shall make provision by lease or other agreement regarding the project or projects being financed by the issue of the bonds for rentals or other considerations at least sufficient, in the judgment of the authority, to pay the principal of and interest on the bonds as they become due and to create and maintain the reserves therefor as the authority considers necessary or desirable and to meet all obligations in connection with the lease or other agreement and all costs necessary to service the bonds unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(f) The superior court shall have jurisdiction to hear and determine suits, actions or proceedings relating to the authority, including suits, actions or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment or security interest or brought by or for the benefit or security of a holder of its bonds or by a trustee for or other representative of the holders.

(g) The authority may not

(1) issue bonds other than refunding bonds during any 12-month period beginning after June 30, 1981, in an amount that exceeds the amount approved by law for that 12-month period; or

(2) issue revenue bonds other than refunding bonds for a project under this chapter in an amount greater than \$50,000,000 during any 12-month period beginning after June 30, 1981, unless the issuance is included separately in the estimates required in the report of the authority under AS 44.88.210(b) and unless the legislature, by law, approves the issuance.

(h) The authority may combine, for the purposes of a single offering, bonds financing more than one project under this chapter. (§ 1 ch 64 SLA 1967; am §§ 60, 61 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment substituted "Subject to (g) of this section, the" for "The" at the beginning of subsection (a), deleted "therefor" following "may issue bonds" near the beginning of subsection (a), and added subsections (g) and (h).

Sec. 44.88.100. Trust indentures and trust agreements. In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee (hereinafter in this section referred to as "trust agreement") by means of which the authority may:

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations, and agreements...

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

(B) the fixing and collection of rents or other consideration for, and the other terms to be incorporated in a lease or contract of sale of a project;

(C) the assignment by the authority of its rights in the lease or contract of sale of a project or in a mortgage or other security interest created with respect to a project to a trustee for the benefit of bondholders;

(D) the terms and conditions upon which additional bonds of the authority may be issued;

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance and all other rights of the authority or of the bondholders, under a lease, contract of sale, mortgage, security agreement, or trust agreement with respect to a project by mandamus or other proceeding or by taking possession of by agent or otherwise and operating a project and collecting rents or other consideration and applying the same in accordance with the trust agreement;

(2) pledge, mortgage or assign money, leases, agreements, property or other assets of the authority either presently in hand or to be received in the future, or both; and

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds. (§ 1 ch 64 SLA 1967)

**Sec. 44.88.105. Capital reserve funds and capital reserve fund requirement.**

(a) For the purpose of securing one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and other money which may be made available to the authority from other sources for the purposes of the capital reserve funds. A capital reserve fund may be established only if the authority determines that the establishment of the fund would enhance the marketability of the bonds. Money in a capital reserve fund, except as provided in this section, may be used as required only for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds; (2) the purchase or redemption of the bonds; or (3) the payment of a redemption premium required to be paid when the bonds are redeemed before maturity. However, money in a capital reserve fund may not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve requirement, except for the purpose of making payment, when due, of principal, interest, redemption premiums on the bonds, and sinking fund payments when

other money of the authority is not available for the payments. Income or interest earned by, or increment to, a capital reserve fund, from the investment of all or part of the fund, may be transferred by the authority to other funds or accounts of the authority if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the capital reserve fund requirement, unless the authority, at the time of issuance of the bonds, deposits in the capital reserve fund from the proceeds of the bonds to be issued or from other sources, an amount which, together with the amount then in the fund, is not less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the fund is invested shall be valued by a reasonable method established by the authority by resolution. Valuation shall include the amount of interest earned or accrued as of the date of the valuation.

(d) The chairman of the authority shall annually, no later than January 2, certify in writing to the governor and the legislature the amount, if any, required to restore a capital reserve fund to the capital reserve fund requirement. The legislature may appropriate to the authority the amount certified by the chairman of the authority. The authority shall deposit the amounts appropriated under this subsection during a fiscal year in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

(e) In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation as determined by resolution of the authority. (§ 62 ch 106 SLA 1980)

**Sec. 44.88.110. Validity of pledge.** It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties. (§ 1 ch 64 SLA 1967)

**Sec. 44.88.120. Nonliability on bonds.** (a) Neither the members of the authority nor a person executing the bonds are liable personally on the bonds or are subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state (except the authority) to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 64 SLA 1967)

**Sec. 44.88.130. Pledge of the state.** The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders, and insofar as it relates to a federal agency, in a contract with the federal agency. (§ 1 ch 64 SLA 1967)

**Sec. 44.88.140. Exemption from taxation.** (a) The real and personal property of the authority and its assets, income and receipts are declared to be the property of a political subdivision of the state and, together with any project financed under this chapter and a household interest created in a project applicant or other person under this chapter, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project and household interests shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing units. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income or any other taxes, provided under any other law, nor

does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project or lease whether or not financed under this chapter.

(b) The authority may enter into agreements with a proposed project applicant or project applicant providing for payments, computed on a formula basis or otherwise, in lieu of taxes, which the authority may consider appropriate. The agreement may provide that the payments be made to the political subdivision of the state in which a project is or is to be located or to any other taxing unit of the state including, without limitation, a borough, city, municipality, school district or public utility district, the area of which is coterminous in whole or in part with that of the political subdivision.

(c) For the purposes of AS 14.17 relating to the computation of the required local effort by a district as defined in AS 14.17.250(3), all property exempted from taxation by this chapter shall be considered taxable real and personal property. (§ 1 ch 64 SLA 1967; am § 3 ch 64 SLA 1977; am §§ 63, 64 ch 106 SLA 1980)

**Effect of amendments.** -- The 1977 amendment in the third sentence of subsection (a), substituted "affects or limits" for "shall affect or limit" and added the language beginning "nor does it create a tax exemption" to the end. The 1980 amendment substituted "applicant" for "occupant" following "project" near the middle of the first sentence in subsection (a) and twice near the beginning of subsection (b). Cited in *City of Nome v. Block No. 11, Lots 5, 6 & 7*, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

**Sec. 44.88.150. Bonds legal investments for fiduciaries.** The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized. (§ 1 ch 64 SLA 1967)

**Sec. 44.88.155. Enterprise development fund.** (a) There is established in the authority the enterprise development fund. The en-

enterprise development fund is a trust fund for the uses and purposes of this chapter. Money may be paid into and out of the enterprise development fund only as provided in this chapter. The enterprise development fund may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the enterprise development fund, and other money deposited in it by the authority.

(b) The authority shall establish within the enterprise development fund a loan insurance account, a small business, tourism, mining, and commercial fishing enterprises loan account and other accounts it considers appropriate. Amounts in the enterprise development fund including, without limitation, repayments of loan principal and interest, may be pledged to the payment of bonds of the authority and shall be held and invested by the authority in investments authorized under AS 37.10.070(a) or as may be authorized in agreements with bondholders respecting amounts in the loan insurance account, the small business, tourism, mining, and commercial fishing enterprises loan account, and other accounts within the enterprise development fund.

(c) Repayments of loan principal and interest may be deposited in the accounts of the enterprise development fund. The amount in the enterprise development fund at the end of each fiscal year beginning after June 30, 1981, including, but not limited to, repayments of loan principal and interest, which, in the opinion of the authority, is in excess of the amount required to be held in the enterprise development fund under agreements with bondholders and the amount necessary for loan commitments, lapses into the general fund. (§ 65 ch 106 SLA 1980)

**Sec. 44.88.157. Loan insurance and loan insurance account.**

(a) The purpose of the loan insurance account is to provide insurance of mortgage loans and other loans made or purchased by the authority, or made by others and approved for insurance by the authority, for a project. The authority may enter into agreements as to the use of money in the loan insurance account and may pledge, assign, or grant interests in the loan insurance account as provided in this section. The authority may adopt regulations and enter into agreements with respect to the exercise of any power or approval relating to the loan insurance account under this section, including, without limitation, agreements as to the use of money in the loan insurance account, agreements with respect to the terms and conditions upon which payments from the loan insurance account will be made with respect to a loan insured under this section, agreements as to separate subaccounts in the loan insurance account for different categories of loans or as to loans made by the authority or any other person, and agreements regarding the payment of and security for bonds issued by the authority. An agreement, the rights of the authority under an

agreement, or payments received or to be received under an agreement may be pledged or assigned by the authority for the benefit of the holders of bonds issued by the authority.

(b) The authority may, upon application of a borrower or proposed borrower, insure and make advance commitments to insure loan repayments required under the terms of a loan made by it or by another lender with respect to a project, upon the terms and conditions the authority prescribes. To be eligible for insurance under this chapter, a loan for a project

(1) shall be held by the authority or by a lender approved by the authority as responsible and able to service the loan;

(2) may not exceed \$10,000,000 for a project, or 90 percent of the cost of the project or 90 percent of the appraised value of the project, whichever is less;

(3) may not be made for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date of issuance of the insurance, whichever is earlier;

(4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower; and

(5) shall be in the form and contain the terms with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, additional and secondary liens, and other matters that the authority prescribes.

(c) In addition to other fees which the authority may charge on loans, the authority may collect or cause to be collected on loans insured under this section, either a loan insurance commitment fee or a loan insurance premium or both. Loan insurance fees and loan insurance premiums are not required to be uniform among the various loans insured. Loan insurance commitment fees and loan insurance premiums shall be deposited in the insurance account by the loan borrower, trustee, or agent designated by the authority to receive them.

(d) If, at any time after receipt by the authority of a payment from the loan insurance account with respect to a loan, the authority recovers an amount on the loan or portion of it from a source other than the loan insurance account, the authority shall apply the amount recovered in the following order: first, to repay the general fund of the state for appropriations made under (g) of this section, and second, to repay the loan insurance account.

(e) Loans may be insured only when the amount either in the loan insurance account insuring the loans or a subaccount in the loan insurance account insuring the loans, as a percentage of the sum of the loans to be insured and all unpaid principal on loans insured by the loan insurance account or the subaccount, equals or exceeds the fund requirement. The fund requirement is calculated as a percentage which the authority determines is actuarially sound for amortization of

(f) When the authority determines what is actuarially sound with respect to the operation of the loan insurance account or a subaccount in the loan insurance account, it shall consider means of providing sufficient revenue for the operation of the account or subaccount, without regard to amounts which may have been or may, after the date of determination of actuarial soundness, be appropriated under (g) of this section. The authority shall also consider factors including, without limitation, estimates of future defaults and losses of loans insured under this section based on actual default and loss experience on those loans or on similar loans in the state or elsewhere, estimates of recoveries on defaulted or foreclosed loans based on actual default and foreclosure experience on those loans or similar loans in the state or elsewhere, the terms and conditions of the loans insured under this section, estimates of earnings and income of amounts on deposit in the loan insurance account, and other appropriate factors.

(g) On December 1 of each year the authority shall determine the amount on deposit in the loan insurance account and in each subaccount in the loan insurance account. If the amount in the loan insurance account or the amount in a subaccount in the loan insurance account is less than the fund requirement for the account or for the subaccount, the authority shall transfer the amount necessary to restore the loan insurance account or the subaccount to the fund requirement. The transfer shall be made from available money which is not encumbered or restricted for other use under the terms of contracts with bondholders or others. If sufficient money is not available for transfer, the chairman of the authority shall, no later than January 2 of the following year, certify in writing to the governor and to the legislature the amount, if any, required to restore the account or subaccount to the fund requirement. The legislature may appropriate the amount certified and the authority shall deposit in the account or proper subaccount the amounts appropriated by the legislature for the purposes of this subsection during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state.

(h) A contract of insurance executed by the authority under this section is conclusive evidence of eligibility for the insurance. The validity of a contract of insurance executed by the authority or of an advance commitment to insure is incontestable from the date of the execution of the contract or commitment, except for fraud or misrepresentation on the part of the insured or, as to commitments to insure, noncompliance with the terms of the advance commitment or authority regulations in force at the time of issuance of the advance commitment.

(i) In this section:

(1) "loan insurance commitment fee" means a fee which is a percentage of the principal amount of a loan to be insured under this section determined by the authority to be actuarially sound for the

(2) "loan insurance premium" means an annual insurance premium which is a percentage of the portion of the unpaid principal amount of a loan insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account or any subaccount. (§ 65 ch 106 SLA 1980)

**Sec. 44.88.158. Small business, tourism, mining, and commercial fishing enterprises loan account.** (a) The authority may use the assets of the small business, tourism, mining, and commercial fishing enterprises loan account to purchase loans made by others to small business enterprises, tourism enterprises, mining enterprises, and commercial fishing enterprises to pay the costs of projects, as defined in AS 44.88.220, which have been or which the authority anticipates will be financed with the proceeds of bonds.

(b) The interest rate on a loan purchased with money in the small business, tourism, mining, and commercial fishing enterprises loan account must equal the interest rate which the authority estimates would be payable on bonds issued by the authority to provide money to make the loan.

(c) A loan purchased with money in the small business, tourism, mining, and commercial fishing enterprises loan account

(1) may not exceed

(A) \$6,000,000 if the loan is made to a tourism enterprise;

(B) \$1,000,000 if the loan is made to a mining enterprise or to a small business enterprise that is not a tourism enterprise or a commercial fishing enterprise; or

(C) \$500,000 for each individual commercial fisherman in the commercial fishing enterprise if the loan is made to a commercial fishing enterprise;

(2) may not exceed 75 percent of the cost of the project or 75 percent of the appraised value of the project, whichever is less, unless the amount of the loan in excess of those limits is federally insured or guaranteed or is insured by a qualified mortgage insurance company;

(3) may not be made for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date the loan is made, whichever is earlier;

(4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower;

(5) shall be in the form and contain the terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, secondary liens and other matters the authority prescribes; and

(6) shall be secured as to repayment by a mortgage or other security instrument in the manner the authority determines is feasible to assure timely repayment under a loan agreement entered into with the

(d) The authority may adopt regulations for the administration of the small business, tourism, mining, and commercial fishing enterprises loan account which may include, without limitation, provisions for fees and agreements relating to application, loan commitment, servicing, and origination of loans by other lenders.

(e) The authority may enter into agreements as to the use of the money in the small business, tourism, mining, and commercial fishing enterprises loan account, including without limitation, trust or custody arrangements with banks or trust companies. It may also pledge, assign, or grant the agreement, interests under an agreement, or interests in the small business, tourism, mining, and commercial fishing enterprises loan account as may be necessary or appropriate to provide for payment and security for bonds of the authority.

(f) If more than two percent of the total amount of the loans purchased from a financial institution under this section becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than two percent. (§ 65 ch 106 SLA 1980)

Article 4. General Provisions.

Section	Section
160. Findings of the authority	200. Annual audit
170. Purchase of project and leases	205. Operating budget
185. Conflicts of interest	210. Reports and publications
190. Operation of certain statutes excepted	220. Definitions

Sec. 44.88.100. Findings of the authority. Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project for which bonds are agreed to be issued by the authority in an amount in excess of \$6,000,000, or before approving insurance or a commitment to insure a loan as provided in AS 44.88.157(b) with a principal amount in excess of \$6,000,000, there must have been filed with the authority a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location (which consent need only refer to the general nature of the project ultimately to be acquired as set out in a request of the proposed project applicant). Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project, the authority must find, on the basis of all information reasonably available to it, that

(1) the project and its development under this chapter will be economically advantageous to the state and the general public welfare and will contribute to the economic growth of the state;

- (2) the project applicant is financially responsible;
- (3) provision to meet increased demand upon public facilities that might result from the project is reasonably assured;
- (4) the project will provide or retain employment reasonably related to the amount of the financing by the authority considering the amount of investment per employee for comparable facilities and other relevant factors; and
- (5) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state. (§ 1 ch 64 SLA 1967; am § 66 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment divided the former section into two sentences by deleting "and"; in the present first sentence, inserted "as provided in AS 44.88.090(e)" near the beginning, substituted the language beginning "for which bonds are agreed to be issued" and ending "principal amount in excess of \$6,000,000" for "as mentioned in AS 44.88.090(e)" near the middle, and substituted "applicant" for "occupant" at the end; and in the second sentence, added "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project" to the beginning, substituted "applicant" for "occupant" in paragraph (2), deleted "and" from the end of paragraph (2), and added paragraphs (4) and (5).

Sec. 44.88.170. Purchase of project and leases. (a) No provision of this chapter may prevent the inclusion in a lease or other agreement relating to a project of a provision granting the right to purchase the project, or to renew or extend the lease or agreement, upon the terms and conditions which may be provided for in the lease or agreement. (b) A lease with respect to a project may provide for two or more lessees with the legal relationship between themselves and the authority which the authority may approve, including without limitation, provisions to the effect that the obligations of the lessees under the lease for payment of rental or otherwise between themselves and the authority are several, joint, or joint and several and that the lessees lease the project as tenants-in-common, or otherwise. (§ 1 ch 64 SLA 1967)

Sec. 44.88.180. Conflicts of interest. (a) No member of the authority may vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if he is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation or association which may be a party to the contract or lease. If a person may not vote because of this prohibition, for all purposes regarding action of the authority relating to adoption of the resolution, the position of the persons as a member shall be transferred to the first one of the following state officers who is not then acting as a member and would not be prohibited from voting on the resolution because of the same prohibition: commissioner of administration, attorney general, commissioner of revenue, commissioner of health and welfare, commissioner of labor, commissioner of public works, commissioner of public safety.

erty is attached to or connected with real property, if the owner has agreed not to remove the tangible personal property permanently from the state for the period the authority sets; "plant" or "facility" does not include work in process or stock in trade;

(7) Deleted;

(8) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by the authority to be necessary to finance the construction or acquisition of a project, including without limitation the cost of acquiring real or tangible personal property, and, in connection with real property, the cost of constructing buildings and improvements, the cost of constructing means of access to and from the project, the cost of constructing extensions of utility systems to the site of the project; the cost of a project includes, without limitation, the cost of financing the project, interest charges before, during or after construction or acquisition of the project, costs related to the determination of the feasibility, planning, design or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation of the project and expenses of installation, replacement or rehabilitation, and all other costs, charges, fees and expenses which may be determined by the authority to be necessary to finance the construction or acquisition;

(9) "project applicant" means a business enterprise or enterprises proposing to

- (A) use or occupy a project; or
- (B) agree to permit others to use or occupy a project;

(10) "real property" means land and rights and interests in land, including, without limitation, interests less than full title such as easements, uses, leases, and licenses;

(11) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;

(12) "small business enterprise" means a business enterprise with annual gross income of \$10,000,000 or less;

(13) "tourism enterprise" means a business enterprise which is directly involved in the tourist industry;

(14) "commercial fishing enterprise" means one or more individual commercial fishermen who are residents of the state who jointly apply for and receive a commercial fishing loan from a private financial institution in the state or from a state or federal loan program;

(15) "mining enterprise" means a business enterprise which is directly involved in the mining industry. (§ 1 ch 64 SLA 1967; am §§ 4, 5 ch 64 SLA 1977; am § 70 ch 106 SLA 1980)

Effect of amendments. — The 1977 amendment added the language beginning "any plant or facility used or intended for use" to the end of paragraph (5) and deleted "and the reasonable aggregate project cost of which to be financed by the authority under this chapter will exceed, in the opinion of the authority, \$500,000" from the end of paragraph (7).

The 1980 amendment, in paragraph (2), inserted "single proprietorship" and substituted "which is not organized on a nonprofit basis" for "or a single proprietorship"; in paragraph (4), deleted "borough" preceding "assembly" and

added "or a unified municipality" to the end; so changed paragraphs (5), (6), and (9) as to make a detailed comparison impracticable; deleted former paragraph (7), which defined "project"; in paragraph (8), substituted "or tangible personal property, and, in connection with real property" for "property" and "the cost of a project includes, without limitation, the cost of financing the project" for "the cost of financing the project, including, without limitation"; in paragraph (11), deleted "real" preceding "property" in two places; and added paragraphs (12)-(15).

## Part 9. Miscellaneous Provisions.

### Chapter

99. Miscellaneous Provisions (§§ 44.99.001 — 44.99.010)

### Chapter 99. Miscellaneous Provisions.

Section	Section
1. Administration of highway safety program	6. Agreement for an Alaska Maritime Academy
2. Employment of radio stations	7. Emergency transfer of seat of government
3. Qualifications of radio station	8. Validity of official action
4. Prescribing proof of capacity and suitability of station and of service and allotment of radio time	9. Governor as prime sponsor
5. Cost of radio service	10. Alaska Manpower Services Council

**Sec. 44.99.001. Administration of highway safety program.** The governor may contract and do all other things necessary on behalf of this state under the Federal Highway Safety Act of 1966, and may cooperate with federal and state agencies, private and corporate agencies, interested corporations, and individuals, to effectuate the purposes of that Act. The governor is the official in this state having the ultimate responsibility for dealing with the federal government with respect to programs and activities under the Federal Highway Safety Act of 1966. He shall coordinate the activities of state departments, agencies and subdivisions. (§ 1 ch 19 SLA 1967)

Editor's note. — This section derives from AS 44.19.025 and was renumbered by the revisor under AS 01.06.031.

**Sec. 44.99.002. Employment of radio stations.** The governor may employ one or more radio stations, located south of the Gulf of Alaska and suitable for distribution of news, executive proclamations and inquiries, information concerning the state, general information and other matters suitable for broadcasting which the governor prescribes