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Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 609; Comments from the Ombudsman, Jack Chenowith;

SB 609 was drafted in response to a situation concerning the flow of information from AHFC to the public. During September and October, interest rates jumped from 10% to 12%, and after members of the public began making inquiries of AHFC, the ombudsman received many complaints. The complaints referred to the mechanics of making administrative changes in AHFC, and the ombudsman began to research the issue.

Apparantly AHFC uses a seller services manual as a guideline for administrative actions, and senior staff members have made changes to the manual without the benefit of a public hearing or board sanctions. Public inquiry revealed that AHFC staff were referencing unwritten guidelines, creating further confusion to the public, and the bill was drafted as an effort to alleviate confusion and misinformation.



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SUMMARY SB 609:

Amends AS 18.56.088 by adding a new sub-section: The board shall adopt regulations affecting:

- 1) Loan Standards
- 2) Practices or rules that effect borrower eligibility
- 3) loan service charges
- 4) Characteristics of housing eligible for loans

Sec. 18.56.052. Executive director. The corporation shall employ an executive director, who may not be a member of the board. The executive director shall be appointed by the board of directors and serves at the pleasure of the board. (§ 3 ch 167 SLA 1978)

Sec. 18.56.060. Employment of personnel. The board may appoint other officers and engage professional and technical advisors as independent contractors. The executive director may hire employees of the corporation and, subject to the approval of the board, engage professional and technical advisors under contract with the corporation. The board shall prescribe the duties and compensation of corporation personnel, including the executive director. (§ 1 ch 107 SLA 1971; am § 4 ch 167 SLA 1978; am § 16 ch 106 SLA 1980)

Effect of amendments. — The 1978 amendment rewrote this section. The 1980 amendment added "including the executive director" at the end of the section.

Sec. 18.56.070. Personnel exempt from state Personnel Act. The personnel of the corporation are exempt from AS 39.25.010 — 39.25.220. (§ 1 ch 107 SLA 1971; am § 17 ch 106 SLA 1980)

Effect of amendments. — The 1980 amendment deleted "to the same extent as the personnel of the Alaska State Housing Authority" at the end of the section.

Sec. 18.56.080. Interdepartmental cooperation. All departments, agencies and public corporations of the state may provide information, services, facilities and loans to the corporation upon its request. The corporation shall, upon request, reimburse departments, agencies and public corporations of the state for services or facilities provided, loans advanced or expenses incurred on the corporation's behalf at the request of the corporation. (§ 1 ch 107 SLA 1971; am § 18 ch 106 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "shall, upon request" for "may" following "The corporation" near the beginning of the second sentence, inserted "services or facilities provided" preceding "loans advanced" near the middle of the second sentence, deleted "for" preceding "expenses" near the middle of the second sentence, and added "at the request of the corporation" at the end of the section.

Sec. 18.56.085. Investment of state surplus.
Repealed by § 77 ch 106 SLA 1980.

Editor's notes. — The repealed section derived from § 2 ch. 81 SLA 1972.

Sec. 18.56.088. Administrative procedure. (a) Except for AS 44.62.310 and 44.62.312, regarding public meetings, and AS

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44.62.320(a) regarding legislative review of regulations, the Administrative Procedure Act (AS 44.62.010 — 44.62.650) does not apply to AS 18.56.010 — 18.56.210. The corporation shall make available to members of the public copies of the regulations adopted under (b) — (e) of this section. Within 45 days after adoption, the chairman of the board shall submit a regulation adopted under (b) — (e) of this section to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 — 24.20.460. The provisions of AS 44.62.320(a) apply to regulations adopted under (b) — (e) of this section.

(b) The board may adopt regulations by motion or by resolution or in any other manner permitted by its bylaws.

(c) The board may adopt regulations to carry out the purposes of AS 18.56.010 — 18.56.210, and shall adopt regulations necessary for the following purposes:

(1) determination of borrower eligibility including, but not limited to, income limitations and the determination of remote, underdeveloped or blighted areas of the state;

(2) loan guidelines and terms including but not limited to maximum loan amounts and required loan-to-value ratios, but excluding mortgage loan interest rates;

(3) characteristics of housing eligible for loans or purchase of loans; and

(4) the qualifications of loan originators and servicers and the method of allocating amounts available for the purchase of loans.

(d) Except as provided in (e) of this section, at least 15 days before the adoption, amendment, or repeal of a regulation on a subject specified in (c) (1) — (4) of this section, the board shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the board or the corporation. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and must include an informative summary of the proposed subject of the regulation. On the date and at the time and place designated in the notice, the board shall give each interested person or his authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The board shall consider all relevant matter presented to it before adopting, amending, or repealing a regulation. At a hearing under this subsection, the board may continue or postpone the hearing to a time and place which it determines. A regulation which is adopted, or its amendment or repeal, may vary in content from the informative summary specified in this subsection if the subject matter of the regulation, or its amendment or repeal,

remains the same and the original notice was written so as to assure that members of the public are reasonably notified of the proposed subject of the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(e) A regulation or order of repeal on a subject specified in (c) of this section may be adopted as an emergency regulation or order of repeal if the board makes a finding in its order of adoption or repeal, including a statement of the facts which constitute the emergency, that the adoption of the regulation or order of repeal is necessary for the immediate preservation of the orderly operation of the corporation's loan and bonding programs. The requirements of (d) of this section do not apply to the initial adoption of an emergency regulation covering a subject specified in (c) (1) — (4) of this section; however, upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (d) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (d) of this section during the 120-day period.

(f) A regulation adopted under (b) — (e) of this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by the order of adoption.

(g) The provisions of (b) — (e) of this section do not apply to regulations governing interest rates on the corporation's mortgage loan programs.

(h) The board shall adopt regulations in accordance with (a)—(f) of this section which establish a procedure by which a seller of mortgage loans may appeal a decision of the corporation not to purchase mortgage loans offered by the seller. (§ 5 ch 167 SLA 1978; am § 19 ch 106 SLA 1980)

Effect of amendments. — The 1980 amendment added subsection (h).

NOTES TO DECISIONS

Applied in *Horowitz v. Alaska Bar Ass'n*, Sup. Ct. Op. No. 2059 (File Nos. 4310, 4311), 609 P.2d 39 (1980).

Sec. 18.56.089. Executive Budget Act. The operating budget of the corporation is subject to the Executive Budget Act (AS 37.07.010 — 37.07.130) for fiscal years beginning after June 30, 1981. (§ 20 ch 106 SLA 1980)

Sec. 18.56.090. General powers. In addition to other powers granted in AS 18.56.010 — 18.56.210, the corporation may, for the purpose of providing housing for persons of lower and moderate income or persons located in remote, underdeveloped or blighted areas of the state and for its other corporate purposes.

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