

CSSB

2009

# HOUSE COMMITTEE REPORT

(11)

Date referred: 5/12/87

FURTHER REFERRALS:

DATE: 5-17-87

The Finance Committee has considered CSSB 209 (Jud)

"An Act relating to mortgage loans purchased or made by the Alaska Housing Finance Corporation; relating to bonds issued by the Alaska Housing Finance Corporation; providing for an effective date."

**RECOMMENDS:**

- replace with HCS CSSB 209 (FIN)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact
- zero fiscal note
- zero with analysis
- same as previous fiscal note published \_\_\_\_\_
- same as previous zero fiscal note published \_\_\_\_\_

**SIGNING DO PASS:**

\_\_\_\_\_  
*Pat Rasmussen*  
 \_\_\_\_\_  
*Tom Brown*  
 \_\_\_\_\_  
*Alvin Kres*  
 \_\_\_\_\_  
*John*  
 \_\_\_\_\_  
*Ronald J. Sullivan*  
 \_\_\_\_\_  
*Michael Boyer*  
 \_\_\_\_\_  
*Bob*  
 \_\_\_\_\_  
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**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*Lee Adams - No Rec*  
 \_\_\_\_\_  
*Kay Wallis no rec*  
 \_\_\_\_\_  
*Peter J. Lee no rec*  
 \_\_\_\_\_  
*Walter Dan No Rec*  
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\_\_\_\_\_  
*Robert D. Cook*  
 \_\_\_\_\_  
 Chairman's signature

No. 152

5

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: HCS 655B.202 (FIN)  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to mortgage loans  
purchased by Alaska Housing Finance Corp.  
Sponsor: \_\_\_\_\_  
Requestor: Governor

Agency Affected: Revenue  
BRU: Alaska Housing Finance Corporation  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

\_\_\_\_\_

Prepared by: Ron Lehr  
Division: Alaska Housing Finance Corporation

Phone: 276-5599  
Date: March 16, 1987

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

Date: \_\_\_\_\_

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 209 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mortgage loans purchased or made  
7 by the Alaska Housing Finance Corporation; relating  
8 to bonds issued by the Alaska Housing Finance Corpo-  
9 ration; and providing for an effective date."

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

11 \* Section 1. AS 18.56.090 is amended by adding a new paragraph to read:

12 (28) purchase a mortgage loan made to refinance an existing  
13 mortgage loan, without regard to whether the corporation holds the  
14 existing mortgage loan, as long as the interest rate and fees charged  
15 to the borrower are sufficient to fully reimburse the corporation for  
16 all costs incurred by the corporation in purchasing the mortgage loan  
17 and as long as the borrower will be in compliance with AS 18.56.-  
18 096(a)(6) after purchase of the mortgage loan by the corporation.

19 \* Sec. 2. AS 18.56.096(b) is amended to read:

20 (b) The loan-to-value limitation established in (a)(4) of this  
21 section does not apply to a mortgage [QUALIFIED] loan that is feder-  
22 ally insured or guaranteed. The loan-to-value limitations established  
23 in (a)(1) and (4) of this section do not apply to a mortgage loan that  
24 is a refinancing mortgage loan under AS 18.56.102.

25 \* Sec. 3. AS 18.56.098(a) is amended to read:

26 (a) The corporation shall establish a special mortgage loan  
27 purchase program. Under the special mortgage loan purchase program,  
28 the corporation may purchase [REFINANCING LOANS OR] first or second  
29 mortgage loans. A first or second mortgage loan purchased under this

1 subsection must be [, INCLUDING GRADUATED PAYMENT MORTGAGE LOANS,]  
2 made for the purchase, improvement, or rehabilitation of a residence  
3 or must be a refinancing loan. First or second mortgage loans pur-  
4 chased under this subsection may include graduated payment mortgage  
5 loans and adjustable rate mortgage loans [RESIDENCES].

6 \* Sec. 4. AS 18.56.098(g) is amended by adding a new paragraph to read:

7 (7) The corporation shall determine the interest rate on a  
8 mortgage loan that is an adjustable rate mortgage loan as provided in  
9 this subsection. The corporation shall recalculate the interest rate  
10 from time to time based on changes in the cost to the corporation of  
11 the funds used to purchase the adjustable rate mortgage loan. Howev-  
12 er, the corporation may establish a minimum interest rate applicable  
13 to an adjustable rate mortgage loan, and the interest rate on the  
14 adjustable rate mortgage loan may not be less than the minimum inter-  
15 est rate so established regardless of the cost of funds to the corpo-  
16 ration.

17 \* Sec. 5. AS 18.56 is amended by adding a new section to read:

18 Sec. 18.56.102. SIMPLIFIED REFINANCING MORTGAGE LOAN PURCHASE  
19 PROGRAM. (a) The corporation shall establish a simplified refinanc-  
20 ing mortgage loan purchase program. Under the simplified refinancing  
21 mortgage loan purchase program, the corporation may purchase refinanc-  
22 ing mortgage loans to provide relief to borrowers under circumstances  
23 described by regulations adopted by the corporation.

24 (b) AS 18.56.098(c), (e), and (k) apply to refinancing mortgage  
25 loans purchased under (a) of this section.

26 (c) Subject to (d) of this section, the interest rate on a  
27 refinancing mortgage loan purchased under (a) of this section is three  
28 percent less than the cost to the corporation of the money used to  
29 purchase the refinancing mortgage loan, except that if the cost of

1 money

2 (1) is 10 percent or less, the interest rate is equal to  
3 the cost of money; and

4 (2) is more than 10 percent, the interest rate may not be  
5 less than 10 percent.

6 (d) If the refinancing mortgage loan is an adjustable rate  
7 mortgage loan, the corporation shall establish the initial interest  
8 rate as provided in (c) of this section and shall recalculate the  
9 interest rate from time to time in accordance with (c) of this sec-  
10 tion. However, notwithstanding (c)(1) of this section, the corpo-  
11 ration may establish a minimum interest rate applicable to an adjust-  
12 able rate refinancing mortgage loan; the interest rate on the adjust-  
13 able rate refinancing mortgage loan may not be less than the minimum  
14 interest rate so established, regardless of the cost of money to the  
15 corporation. The corporation may adopt regulations to implement this  
16 section, including regulations to define "cost of money" for purposes  
17 of this section. The regulations may provide for recalculation of the  
18 cost of money under this subsection at the times and frequencies the  
19 corporation considers appropriate. The time and frequency for a  
20 recalculation under this subsection is not required to match the time  
21 or frequency of a change in the cost of money to the corporation.

22 (e) Equity extraction may not be allowed under this program.

23 (f) In this section, "refinancing mortgage loan" means a loan  
24 refinancing another mortgage loan owned by the corporation.

25 \* Sec. 6. AS 18.56.106(b) is amended to read:

26 (b) The corporation shall adopt regulations under this section  
27 that establish conditions and terms for nonconforming housing loans  
28 including terms and conditions relating to owner and nonowner occu-  
29 pancy, the number of loans that may be made to a single borrower, and

1 borrower eligibility requirements. The corporation shall permit loans  
2 under this section for nonconforming housing located on land to which  
3 a borrower has agricultural rights.

4 \* Sec. 7. AS 18.56.110(g) is amended to read:

5 (g) Notwithstanding AS 18.56.090(12) and (a) of this section,  
6 the corporation may not issue bonds [, OTHER THAN REFUNDING BONDS,] in  
7 any 12-month period beginning after June 30, 1983, in an amount that  
8 exceeds the amount of bonds authorized to be issued during the preced-  
9 ing period, unless a different amount is authorized by the legislature.  
10 This subsection does not apply to the issuance by the corporation of  
11 refunding bonds or to the issuance by the corporation of bonds the  
12 proceeds of which are intended to be used to refinance mortgage loans  
13 held by the corporation.

14 \* Sec. 8. AS 18.56.900 is amended by adding a new paragraph to read:

15 (13) "adjustable rate mortgage loan" means a mortgage loan  
16 with respect to which the interest rate varies or is expected to vary  
17 from time to time by reference to an index or formula or other  
18 reference point.

19 \* Sec. 9. AS 18.56.102, added by sec. 5 of this Act, is repealed 18  
20 months after the effective date of this Act.

21 \* Sec. 10. This Act takes effect immediately under AS 01.10.070(c).  
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No. 152

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STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: HCS 055B-209 (FIN)  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to mortgage loans  
purchased by Alaska Housing Finance Corp.  
Sponsor: \_\_\_\_\_  
Requestor: Governor

Agency Affected: Revenue  
BRU: Alaska Housing Finance Corporation  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

\_\_\_\_\_

Prepared by: Ron Lehr  
Division: Alaska Housing Finance Corporation

Phone: 276-5599  
Date: March 16, 1987

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

*Alaska* HOUSING  FINANCE CORPORATION

April 15, 1987

The Honorable Albert P. Adams  
Representative, State of Alaska  
Post Office Box V  
Juneau, Alaska 99811

SUBJECT: HB 190 and SB 209 and Proposed Simplified Refinance Program

Dear Representative Adams:

To help in your consideration of HB 190 and SB 209 this memo provides some background on Alaska Housing Finance Corporation's proposed Simplified Refinance Program.

In March of 1986, with Legislative approval, AHFC instituted a Refinance Program under which AHFC borrowers could reduce their mortgage payments and make their loans assumable. That Program was successful in that to date 3,093 households have refinanced their mortgages and saved an average of \$240 per month.

Unfortunately, many people who needed the help of refinancing to a lower interest rate loan were not able to utilize the standard Refinance Program since they were not eligible. Generally, borrowers were not eligible either because they did not have adequate equity in their home, or because they had had a decrease in their income. To assist these borrowers, who number in the tens of thousands, AHFC has been working on a program that would allow a low cost refinance, with a minimum of qualifications.

AHFC now has a proposed program, called the Simplified Refinance Program, which would provide at least some of the needed assistance. Highlights of the proposed program are:

1. All AHFC loans closed prior to February 1, 1984 will be eligible for the program if the property is still owner-occupied. We are working with FNMA to include post-1984 loans.
2. Loan documentation, and thus the costs, will be minimal.
3. The refinance loan will be made regardless of current property value.

The Honorable Albert P. Adams  
April 15, 1987  
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4. The loan will bear an adjustable rate with the rate being level for the first three years and adjusting annually thereafter. The interest rate will have a cap and a floor for the life of the loan. AHFC is hoping to have a cap of 10% and a floor of 7.5%, however, market interest rates will ultimately determine what these values can be.
5. The loan term will be 30 years for borrowers who qualify for the hardship option and 20 years for all others. Mobile home loans will be for 20 years and 15 years, respectively.
6. Closing costs for the new loan, which are expected to be 1 - 1 $\frac{1}{2}$ %, will generally be able to be included in the new loan.

The proposed legislation does two major things. First, it permits AHFC to offer an adjustable rate mortgage (ARM). Second, it sets up the Simplified Refinance Program. This program differs from standard AHFC programs in two major respects: (1) it allows for a new loan where neither the borrower nor the property has to meet standard qualifications; and (2) it allows for the possibility of a subsidy on an entire mortgage, rather than just on the first \$90,000 as present law allows. This latter provision is included to provide some needed simplification to what will be a very complex financing situation.

Certain questions have been frequently asked regarding this legislation. First, why the February 1, 1984 cut-off date? The reason for this date is that AHFC changed the way in which it provided credit enhancement for its bonds at that time. Prior to February 1984, the major source of credit enhancement (and the source of an AA bond rating) was Mortgage Guaranty Insurance Company (MGIC). After this date, the major source of credit enhancement (and the basis of an AAA bond rating) was the Federal National Mortgage Association (FNMA). To issue the new debt required to fund the new refinancing loans, it is necessary that the company that provided credit support on the old debt also be willing to provide credit support on the new debt. At this time, MGIC has agreed to do so. FNMA is still considering whether or not they will participate in a similar arrangement. The proposed legislation does not make any reference to the February 1984 date, so it is equally applicable whether or not FNMA decides to participate.

It has also been asked if other than current AHFC loans could be included in the program. Unfortunately, other loans can not be included since the companies providing credit enhancement would (reasonably) not be willing to pick up the additional risk of a loan that does not have to meet standard qualifications.

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Finally, the question has been asked if this new program would jeopardize AHFC's standard programs. The answer is no, since AHFC will give priority to standard programs, and will insure that funds are reserved so that regular financing will always be available. In fact, if this program has its intended effect of strengthening the housing market in Alaska, then it will enhance AHFC's ability to raise funds for standard programs.

At this point, there are three major occurrences that have to be favorably resolved if the proposed program is to become a reality. Since all must happen, the order of the listing is not significant.

- 1) The proposed legislation must pass. It is not clear whether an adjustable rate mortgage would be permitted under our existing statutes. It is very clear that the proposed Simplified Refinance Program would not be.
- 2) Approval of the program must be obtained from the various primary and pool mortgage insurers. For financing to go forward, the current levels of insurance must be maintained. Since the proposed program represents a good deal for the insurers, their approval is expected. Preliminary approval has been received, but final details need to be resolved.
- 3) Appropriate financing must be obtained. It is obviously critical that we be able to obtain financing on favorable enough terms to be able to provide the low cost refinancing loans. We have been working with a number of investment banking firms over the past few months to try and find the lowest cost financing available. Unfortunately, the recent large increase in interest rates (about 1%) has made the program marginal, at best, for many borrowers. However, if interest rates drop back down to where they were earlier this year, the program should be able to function as designed, and produce a loan that has an interest of between 8 $\frac{1}{2}$  - 9% for the first three years, and then convert to an adjustable rate mortgage that varies between 7 $\frac{1}{2}$  - 10% for its remaining life.

Although this proposed refinance program will not be a panacea, we believe it will be the single largest positive action we can take to help AHFC borrowers, the housing market, and the Alaskan economy in general. We believe this proposed program is just another example of how AHFC functions as a stabilizer in Alaska's economy. In the current declining economy, when many participants in the mortgage industry are reducing or pulling their businesses out of Alaska, AHFC is proposing a program to help people through these times by reducing borrowers' mortgage payments. AHFC,

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through its financing abilities, will continue to do its best to provide access to the lowest possible rates available, in both national and international capital markets, to help Alaskan borrowers.

Sincerely,

*Ron Lehr bc*

Dr. Ronald D. Lehr  
Executive Director

RDL:de



STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

M E M O R A N D U M

DATE: April 20, 1987  
TO: Interested Parties  
FROM: Rep. Peter Goll *Peter Goll*  
SUBJECT: House Bill 190

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Following are the questions brought to the attention of the House Finance Subcommittee reviewing House Bill 190 as of this date.

The subcommittee will request comments on these from knowledgeable sources in an effort to complete its investigation prior to receipt from the Senate of SB 209.

AHFC'S FINANCIAL STRENGTH AND BOND RATING

1. What are the consequences to future bond sales, to bond ratings and to the reputation of AHFC of a bond sale whose proceeds will be knowingly used to finance loans collateralized by property appraised at less than the value of the loan?

The question has also been phrased: Is it not worse to our reputation to write bonds for under-collateralized loans than to have bonded and lent in good faith, finding at a later date, that the collateral property has depreciated?

2. If a high rate of current loan default is expected, what are the comparative problems/benefits of high defaults in the short term versus high defaults spread over time?

3. If certain condominiums (and mobile homes) are not readily saleable, what are the relative benefits and liabilities of getting into the rental business versus continuing to pay for the upkeep of the properties?

4. What is AHFC doing at this time regarding the rental of condominiums as a response to the decline in condominium values and the "obsolescence" of certain properties from a sales perspective?

## INSURANCE

5. What per cent (and dollar dollar) of individual loan amounts are currently covered by insurance?
6. What differences in coverage and cost of insurance are expected under the simplified re-financing plan?
7. What changes in insurance result if over-collateralization is required due to (a) reduced property values, (b) variable rates?

## OVERCOLLATERALIZATION; VARIABLE AND FIXED RATES

8. In terms of insurance, bond ratings, over-collateralization, etc: What are the impacts of lending to persons who have demonstrated their lack of ability to make monthly payments?
9. What specific assets will AHFC use to overcollateralize fixed rate loans on properties whose value has declined?
10. What specific assets will be restricted to meet the need to over-collateralize variable rate bonds, given the bill's limitations on interest rates to borrowers?
11. What is the difference in the level of required over-collateralization if AHFC refinances with fixed rate bonds?
12. What are the probabilities of having to actually expend the assets used to overcollateralize variable rate bonds? On what is this assumption based?
13. Please provide a simple list of all AHFC assets. Identify those which would be obligated under the simplified re-financing plan.

## MOBILE HOMES

14. What is viability of a 20-year loan to finance a mobile home in a hardship situation (i.e. the borrower is not current in payments)? If AHFC considers such loans viable, please document the bases for this assumption.

## SIMPLIFIED REFINANCING PLAN

15. What are current market values as a per cent of loan amount for properties expected to be financed in the program?

16. What would be the impact on the benefits and liabilities of this legislation if the following changes were made:

- a. If fixed rate rather than variable rate bonds are sold.
- b. If the borrowers and the bonds to provide refinancing were divided by type, for example:
  - (1) Those in which the barrier to refinancing is the decline in property value, but the borrower has remained current;
  - (2) Those where the borrower is not current, but the property has retained its value;
  - (3) Those where the borrower is not current and the property has declined in value.

Please feel free to suggest other ways of dividing the package in the interests of AHFC.

- c. If mobile home loans or condominium loans and the needed bonds are treated as separate classes of loan or bond.
- d. If mobile homes are excluded from the program.
- e. If condominiums are excluded from the program.

17. What is AHFC's response to the statement that the housing market is contracting, and that refinancing will not address the fundamental issue, specifically that all real estate holders may have to cut their losses and concentrate their financial strategies on the demands of new market conditions.

18. If this legislation is necessary, why has AHFC set a date for public hearings on regulations to accomplish the same purpose?

19. a. What are AHFC's intentions regarding resolution of the equity issue of providing different refinancing opportunities for pre-1984 versus post-1984 loans?

b. If the intent is to seek coverage from FNMA for the post-1984 loans, what is the progress? Who at FNMA is working on the matter?

20. The possibility of this refinancing was not provided to bondholders in official statements. What is the chance of litigation? What is the chance of AHFC prevailing? Why?

21. What is the argument in favor of the adjustable rate bond when interest rates are low and possibly rising?
22. What is the fixed rate obtainable this date?  
What subsidy would be needed, if any, to refinance with a fixed rate bond, and still reduce the home buyer's interest?
23. What would be the benefits and disadvantages of using AHFC assets which would be restricted under this plan to subsidize all AHFC borrowers and thereby reduce interest rates? Would this assist up the housing market?
24. What percentage of borrowers requiring simplified re-financing are participating in the (Alaska Builders Equity) ABE program? (If any) If the ABE program reduced the loan period and increased the payment amount, can the program be reversed for borrowers in changed circumstances?
25. What is AHFC's position on a statutory limitation on bank fees under simplified re-financing?
26. What is AHFC's recommendation regarding a time limit on this re-financing plan (i.e.. one time only).

**Opinions of attorney general.** — It seems clear that the Department of Community and Regional Affairs is not charged with enforcing the audit requirement of AS 18.55.996(i); and it is not clear who, if anyone, is so charged. August 2, 1982 Op. Att'y Gen.

It is quite clear that the annual audits of regional housing authorities mandated by AS 18.55.996(i) cannot be funded by the Department of Community and Regional Affairs with housing supplemental development fund moneys; and it must be concluded that department fund should not be used for post-project cost certification. August 2, 1982 Op. Att'y Gen.

The Department of Community and Re-

gional Affairs can, under this section, condition its grants to the regional authorities on the authorities' compliance with AS 18.55.996(i). August 2, 1982 Op. Att'y Gen.

The Department of Community and Regional Affairs is not compelled to limit its grants to those regional housing authorities showing compliance with the auditing requirement of AS 18.55.996(i), though the department may in its discretion, and probably should as a matter of policy, so limit its grants. It follows that the department may and should refuse to make grants to authorities whose audits reveal problems. August 2, 1982 Op. Att'y Gen.

## Chapter 56. Alaska Housing Finance Corporation.

### Section

- 10. Findings and purpose
- 20. Alaska Housing Finance Corporation
- 30. Corporation governing body
- 40. Meetings of board
- 45. Minutes of meetings
- 50. Administration of affairs
- 52. Executive director
- 55. Legal advisor
- 60. Employment of personnel
- 70. Personnel exempt from state Personnel Act
- 80. Interdepartmental cooperation
- 82. Alaska housing finance revolving fund
- 84. International borrowing
- 88. Administrative procedure
- 89. Executive Budget Act
- 90. General powers
- 91. Home ownership assistance program
- 93. Insurance
- 95. Mortgage insurance
- 96. Limitation on power to make or purchase mortgage loans
- 97. Collateral for loans
- 98. Special mortgage loan purchase program
- 99. Powers of corporation to deal in mortgage loans

### Section

- 100. Housing development fund
- 101. Eligibility for veterans' interest rates
- 103. Federal taxation of interest on bonds and bond anticipation notes
- 104. Allocation of tax-exempt bonds
- 105. Allocation of lending activities
- 106. Nonconforming housing loan program
- 107. Loan origination and service fees for rural areas
- 110. Bonds and notes
- 115. Independent financial advisor
- 120. Validity of any pledge
- 125. Capital reserve fund
- 130. Remedies
- 140. Negotiable instruments
- 150. Obligations eligible for investment
- 160. Refunding obligations
- 170. Credit of state not pledged
- 180. Officers not liable
- 190. Tax exemption
- 200. Annual report
- 205. Residential mortgage assistance for members of the Alaska delegation to Congress
- 900. Definitions

**Opinions of attorney general.** — The Alaska Housing Finance Corporation cannot constitutionally cease making funds available to mortgage companies that are not headquartered in the state. December 26, 1979 Op. Att'y Gen.

**Cross references.** — For provisions on the Division of Housing Assistance, see AS 44.47.360 — 44.47.560.

**Collateral references.** — 40 Am. Jur. 2d, Housing Laws and Urban Redevelopment, § 1 et seq.

Race or religious belief as permissible consideration in choosing tenants or purchasers of real estate. 14 ALR2d 153.

**Sec. 18.56.010. Findings and purpose.** (a) There exists within the state a serious shortage of decent, safe and sanitary residential housing available at low or moderate prices or rentals to persons of lower and moderate income. There also exist within the state remote, underdeveloped or blighted areas where the development of decent, safe and sanitary housing is necessary to economic growth. These conditions are inimical to the safety, health, welfare and prosperity of the residents of the state and to the sound growth of urban and rural communities.

(b) The legislature finds and declares that private enterprise has not been able to provide, without assistance, an adequate supply of safe and sanitary homes at prices or rents that persons of lower or moderate income can afford, or to achieve rehabilitation of much of the present housing for persons of lower and moderate income, or to provide without assistance the housing necessary to promote the economic growth of remote, underdeveloped or blighted areas, and that existing state and federal programs are inadequate to meet housing needs of persons of lower and moderate income or of remote, underdeveloped or blighted areas. It is imperative that the supply of housing for persons of lower and moderate income and the housing necessary to promote the economic growth of remote, underdeveloped or blighted areas be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for these persons.

(c) The legislature finds and declares further that, in accomplishing this purpose, the creation of the Alaska Housing Finance Corporation is essential to assist in the acquisition and development of land and the construction, rehabilitation, financing, management, maintenance, sale and rental of dwelling units for persons of lower and moderate income or persons in remote, underdeveloped or blighted areas and that these activities serve a public purpose in benefiting the people of the state. The Alaska Housing Finance Corporation is empowered to act on behalf of the state and its people in serving this public purpose for the benefit of the general public.

(d) The program of making loans for residential housing to veterans in accordance with AS 26.15 has increased and improved the supply of adequate housing in the state, and the continuation of the program is essential to the economic growth of the state and the expansion of the supply of adequate residential housing in the state. Participation by the Alaska Housing Finance Corporation in the program of purchasing and insuring state veterans' loans as provided in this chapter will be of material aid in insuring the continuance of the program of making loans for residential housing to veterans in accordance with AS 26.15.

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(e) Expansion of the program of the Alaska Housing Finance Corporation of purchasing insured and uninsured mortgage loans is essential to the economic growth of the state and the supply of adequate residential housing in the state.

(f) The legislature finds that enabling the Alaska Housing Finance Corporation to assist in financing the program of veterans' loans for residential housing in accordance with AS 26.15 and to expand its program of purchasing other mortgage loans serves a public purpose in benefiting the people of the state. The Alaska Housing Finance Corporation is empowered to act on behalf of the state and its people in serving this public purpose for the benefit of the general public. (§ 1 ch 107 SLA 1971; am § 1 ch 81 SLA 1972; am § 4 ch 151 SLA 1975)

**Sec. 18.56.020. Alaska Housing Finance Corporation.** The Alaska Housing Finance Corporation is a public corporation and government instrumentality within the Department of Revenue, but having a legal existence independent of and separate from the state. The corporation may not be terminated as long as it has bonds, notes or other obligations outstanding. Upon termination of the corporation, its rights and property pass to the state. (§ 1 ch 107 SLA 1971; am § 78 ch 218 SLA 1976; am § 12 ch 106 SLA 1980)

**Cross references.** — For legislative findings and intent relating to the Alaska Housing Finance Corporation, see § 10, ch. 106, SLA 1980, in the 1980 Temporary and Special Acts and Resolves.

**Sec. 18.56.030. Corporation governing body.** (a) The corporation shall be governed by a board of directors consisting of

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

(2) one other member who is the head of the principal department of the executive branch of state government appointed by the governor; and

(3) two public members appointed by the governor.

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

(c) The board members described in (a)(2) and (a)(3) of this section serve two-year terms.

(d) If a vacancy occurs on the board, the governor shall make an appointment, effective immediately, for the unexpired portion of the term.

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(e) The members of the board described in (a)(3) of this section received \$100 compensation for each day spent on official business of the corporation and may be reimbursed by the corporation for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180. (§ 1 ch 107 SLA 1971; am § 5 ch 151 SLA 1975; am § 79 ch 218 SLA 1976; am § 1 ch 167 SLA 1978; am § 13 ch 106 SLA 1980; am § 32 ch 37 SLA 1986)

Effect of amendments. — The 1986 amendment deleted the former second sentence of subsection (c), which read "However, the initial appointment of one member described in (a)(3) of this section shall be for a one-year term."

Sec. 18.56.040. Meetings of board. (a) The board shall elect a chairman from among its membership at its annual meeting each year. A majority of the members constitute a quorum for organizing the board, conducting its business and exercising the powers of the corporation. The board shall meet at the call of its chairman. The board shall meet not less than once each three months.

(b) The board may meet and transact business by electronic media if

(1) public notice of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location;

(2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and

(3) copies of pertinent reference materials, statutes, regulations, and audio-visual materials are reasonably available to participants and to the public.

(c) A meeting by electronic media as provided in this section has the same legal effect as a meeting in person.

(d) For the purposes of this chapter public notice of 24 hours or more is adequate notice of a meeting of the board at which the issuance of corporation bonds is authorized. (§ 1 ch 107 SLA 1971; am § 1 ch 115 SLA 1981; am § 15 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment added subsection (d).

Sec. 18.56.045. Minutes of meetings. The board shall keep minutes of each meeting and send a certified copy to the governor and to the Legislative Budget and Audit Committee. (§ 1 ch 107 SLA 1971; am § 2 ch 115 SLA 1981)

**Sec. 18.56.050. Administration of affairs.** The board shall manage the assets and business of the corporation and may adopt, amend and repeal bylaws and regulations governing the manner in which the business of the corporation is conducted and the manner in which its powers are exercised. The board shall delegate supervision of the administration of the corporation to the executive director, appointed in accordance with AS 18.56.052. (§ 1 ch 107 SLA 1971; am § 2 ch 167 SLA 1978; am § 15 ch 106 SLA 1980)

**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. 18.56.055. Legal advisor.** The attorney general is the legal counsel for the corporation. The attorney general shall advise the corporation in legal matters and represent it in suits. (§ 1 ch 107 SLA 1971)

**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)

**Sec. 18.56.070. Personnel exempt from state Personnel Act.** The personnel of the corporation are exempt from AS 39.25. (§ 1 ch 107 SLA 1971; am § 17 ch 106 SLA 1980)

**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)

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**Sec. 18.56.082. Alaska housing finance revolving fund.** The Alaska housing finance revolving fund is established in the corporation. The revolving fund consists of appropriations made to the revolving fund by the legislature, money or other assets transferred to the revolving fund by the corporation and unrestricted repayments of principal on loans made or purchased by the corporation. Amounts deposited in the revolving fund shall be expended for the purposes of the corporation, set out in this chapter. (§ 2 ch 102 SLA 1983)

**Opinions of attorney general.** — The unexpended and unobligated balance of an appropriation to the Alaska Housing Finance Corporation revolving fund may be appropriated for purposes unrelated to the corporation. April 24, 1985 Op. Att'y Gen.

**Sec. 18.56.084. International borrowing.** For the purpose of obtaining access to international capital markets to borrow money for the special mortgage loan purchase program (AS 18.56.098), as an addition to the powers of the corporation under AS 18.56.090, the corporation may (1) establish or cause to be established, subsidiary corporations incorporated in the state or in another state, or under the laws of a foreign jurisdiction; (2) invest in corporations established under this section; (3) issue bonds and borrow money for investments in corporations established under this section; (4) borrow from corporations established under this section; (5) guarantee the obligations of corporations established under this section; or (6) enter into agreements with corporations established under this section or with other persons. In exercising a power under this section, the corporation may not subject its assets to risk of loss through foreign currency exchange. A guarantee under this section constitutes a bond of the corporation as defined in AS 18.56.900. (§ 16 ch 113 SLA 1982)

*Sec. 18.56.085. Investment of state surplus. [Repealed, § 77 ch 106 SLA 1980.]*

**Sec. 18.56.088. Administrative procedure.** (a) Except for AS 44.62.310 and 44.62.312, regarding public meetings, and AS 44.62.320(a) regarding legislative review of regulations, the Administrative Procedure Act (AS 44.62) does not apply to this chapter. 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 this chapter, 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.

(5) establishment of a procedure, including a fee schedule, for the commitment for one year or less of money for the purchase of an individual mortgage loan at a specific interest rate.

(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 an 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 that it determines. A regulation that 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 that 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 that 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.

(i) The board may adopt regulations under (a) — (f) of this section that establish conditions and terms for mobile home loans that are not in accordance with the provisions of this chapter, including conditions and terms relating to owner-occupancy, the number of loans that may be made to a single borrower, and borrower eligibility requirements, if the board first determines that the regulations are necessary to ensure the continued security of the mobile home loan portfolio. (§ 5 ch 167 SLA 1978; am § 19 ch 106 SLA 1980; am § 17 ch 113 SLA 1982; am § 2 ch 128 SLA 1984)

**Effect of amendments.** — The 1982 amendment added paragraph (5) to subsection (c).

The 1984 amendment added subsection (i).

**Legislative history reports.** — For legislative letter of intent as to mobile home financing, see 1984 Senate Journal at p. 3357.

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). To further ensure effective budgetary decision making by the legislature, the corporation shall present a complete accounting of all assets of the corporation, including assets of the Alaska housing finance revolving fund, to the legislature by January 10 of each year. The accounting shall be audited by an independent outside auditor and shall include a full description of all mortgage loan interest and principal repayments and program receipts, including mortgage loan commitment fees, received by or accrued to the corporation during the preceding fiscal year, and all income earned on assets of the corporation during that period, including earnings on assets of the state assisted mortgage fund. (§ 20 ch 106 SLA 1980; am § 3 ch 102 SLA 1983)

**Effect of amendments.** — The 1983 amendment deleted "for fiscal years beginning after June 30, 1981" from the end of the first sentence and added the second and third sentences.

**Sec. 18.56.090. General powers.** In addition to other powers granted in this chapter, 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,

(1) *[Repealed, § 51 ch 115 SLA 1981.]*

(2) make or participate in the making of mortgage loans to sponsors, developers, builders and purchasers of residential housing, if the corporation determines that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions; •

(3) purchase or participate in the purchase of mortgage loans made to sponsors, developers, builders, owners and purchasers of residential housing, if the corporation

(A) has given approval before the initial making of the loan and has determined that mortgage loans were, at the time the approval was given, not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions, or

(B) has determined that the purchase or participation will result in additional residential housing, taking into account without limitation such factors as reinvestment of the proceeds of the sale in additional mortgage loans, increased availability of mortgage loans insured by the federal government, its agencies or departments, the reduction, if any, of interest payments to be made with respect to mortgage loans, or such other factors as will tend to increase or improve the supply of residential housing within the state;

(4) make partial rental payments and mortgage interest payments under a contract with any housing owner if the payments will be

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applied to decrease rental or mortgage interest charges of persons of lower and moderate income or owners or purchasers of residential housing in remote, underdeveloped or blighted areas of the state:

(5) make loans from the housing development fund;

(6) collect and pay reasonable fees and charges in connection with making, purchasing and servicing its mortgages, loans, notes, bonds, certificates, commitments and other evidences of indebtedness;

(7) acquire real property, or any interest in real property, in its own name, by purchase, transfer or foreclosure, when the acquisition is necessary or appropriate to protect any loan in which the corporation has an interest; sell, transfer and convey the property to a buyer; and, if the sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, rent or lease the property to a tenant pending the sale, transfer or conveyance;

(8) sell, at public or private sale, to any purchaser, including the Federal National Mortgage Association, all or any part of a mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by this chapter;

(9) purchase, in order to meet the requirements of the sale of its mortgages to the Federal National Mortgage Association, stock of the Federal National Mortgage Association;

(10) procure insurance against any loss in connection with its operation;

(11) consent to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of the mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

(12) borrow money as provided in this chapter to carry out and effectuate its corporate purposes; and issue its obligations as evidence of borrowing;

(13) include in any borrowing the amounts necessary to pay financing charges, interest on the obligations for a period not exceeding one year after the date on which the corporation estimates funds will otherwise be available to pay the interest, consultant, advisory and legal fees and other expenses that are necessary or incident to this borrowing;

(14) under AS 18.56.088, adopt and publish regulations respecting its lending programs and other regulations that are necessary to effectuate its purposes;

(15) provide technical and advisory services to sponsors, builders and developers of residential housing and to residents of it;

(16) promote research and development in scientific methods of constructing low-cost and energy-efficient residential housing of high durability;

(17) make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the corporation under this chapter, including contracts with any person, firm, corporation, governmental agency or other entity;

(18) receive, administer and comply with the conditions and requirements respecting any appropriation or gift, grant or donation of property or money;

(19) sue and be sued in its own name;

(20) adopt an official seal;

(21) adopt bylaws for the regulation of its affairs and the conduct of its business and adopt regulations and policies in connection with the performance of its functions and duties;

(22) employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers and other consultants and employees that may be required in the judgment of the corporation, and fix and pay their compensation from funds available to the corporation;

(23) do all acts and things necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this chapter;

(24) invest or reinvest, subject to its contracts with noteholders and bondholders, any money or funds held by the corporation in any obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or any funds not required for immediate disbursement, and in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the state or the United States;

(25) *[Repealed, § 21, ch 106 SLA 1980];*

(26) *[Repealed, § 21, ch 106 SLA 1980];*

(27) *[Repealed, § 21, ch 106 SLA 1980.]* (§ 1 ch 107 SLA 1971; am § 3 ch 81 SLA 1972; am §§ 6, 7 ch 167 SLA 1978; am § 14 ch 72 SLA 1979; am § 21 ch 106 SLA 1980; am § 51 ch 115 SLA 1981)

**Editor's notes.** — Section 102, ch. 138, SLA 1986, provides: "Notwithstanding the provisions of AS 18.56.090(3) and (24), the Alaska Housing Finance Corporation may prepay at par value any debt owed the state and may purchase at par value home mortgage loans from the housing as-

sistance loan fund (AS 44.47.380), in an amount not to exceed \$70,000,000, from the Department of Revenue, in an amount not to exceed \$15,000,000, and from the Veterans' Revolving Loan Fund (AS 26.15), in an amount not to exceed \$5,000,000."

**Sec. 18.56.091. Home ownership assistance program.** The corporation shall implement a home ownership assistance program to assist persons of lower and moderate income to purchase homes financed under the special mortgage loan purchase program by providing a subsidy to the persons in an amount not greater than the difference between

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(1) the amount annually required to pay interest and principal on that person's loan and real property taxes and insurance for the home purchase with the loan; and

(2) 25 percent of that person's annual gross income. (§ 22 ch 106 SLA 1980; am § 3 ch 128 SLA 1984)

**Effect of amendments.** — The 1984 amendment substituted "assistance program" for "fund" in the catchline and, in the introductory language, deleted the former first sentence, which read "There is established in the corporation the home ownership fund, consisting of money appropriated to it by the legislature," and, in the remaining language, substituted "The corporation shall implement a home ownership assistance program" for "Money in the fund shall be used solely."

*Sec. 18.56.092. Veterans' loans for residential housing. [Repealed, § 77 ch 106 SLA 1980. For current provisions, see AS 18.56.101.]*

**Sec. 18.56.093. Insurance.** (a) There is established in the corporation the housing insurance fund, the rural housing hazard insurance fund, and the rural housing title insurance fund. The funds shall be completely segregated from all other funds of the corporation, and are trust funds for the uses and purposes of this section. The corporation may adopt regulations under AS 18.56.088 and enter into agreements with respect to the exercise of any power relating to the funds under this section, including, without limitation, agreements as to the use of the money in the funds, agreements with respect to the terms and conditions upon which payments from the funds must be made to the corporation with respect to mortgage loans insured under this section, agreements as to accounts or subaccounts in the funds for different categories of loans, and agreements regarding the payment of and security for bonds of the corporation. The corporation may pledge, assign, or grant other interests in the funds as may be necessary or appropriate in connection with the insurance of mortgage loans and to provide for the payment of and security for bonds of the corporation.

(b) In addition to any other fees and charges that the corporation may charge on mortgage loans, the corporation may collect, or cause to be collected, insurance commitment fees and insurance premiums on mortgage loans insured by a fund under this section.

(c) A mortgage loan purchased by the corporation as part of its special mortgage loan purchase program may be insured by the housing insurance fund, and a mortgage loan on a mobile home or residence located in a remote, underdeveloped, blighted or rural area of the state may also be insured (1) against hazard loss by the rural housing hazard insurance fund when hazard insurance from other sources satisfactory to private mortgage lenders is not, in the opinion of the corporation, available on reasonable terms, and (2) against title defect by the rural housing title insurance fund when title insurance from other sources satisfactory to private mortgage lenders is not, in

the opinion of the corporation, available on reasonable terms. The endorsement of the corporation on the mortgage that it is insured by any fund under this section at the time of purchase or acquisition of the mortgage loan is conclusive evidence that the mortgage loan is insured under the provisions of this section by the fund.

(d) Mortgage loans may be insured by a fund or an account in a fund under this section only when the amount in the fund or in the account as a percentage of the sum of all mortgage loans to be insured and all unpaid principal on mortgage loans to be insured by the fund or the account equals or exceeds the fund requirement. The fund requirement for each fund or account shall be calculated as the percentage that the corporation determines is actuarially sound for operation of the fund or account.

(e) When the corporation determines what is actuarially sound with respect to the operation of each fund or account in a fund, it shall consider means of providing sufficient revenue for the operation of the fund or account, without regard to amounts that may have been or may, after the date of determination of actuarial soundness, be appropriated under (f) of this section and it shall consider factors which must include, without limitation,

(1) as to the mortgages insured by the housing insurance fund, or an account of the housing insurance fund, estimates of future defaults and losses on mortgage loans insured under this section based on actual default and loss experience on those mortgage loans or on similar mortgage loans in Alaska or elsewhere, estimates of recoveries on defaulted or foreclosed mortgage loans based on that experience, the terms and conditions of the mortgage loans insured under this section, estimates of earnings and income of amounts on deposit in the fund, and any other appropriate factors;

(2) as to mortgages insured by the rural housing title insurance fund, estimates of defaults and losses by reason of title defects that are otherwise uninsured, estimates of earnings and income of amounts of deposit in the fund or the account, and any other appropriate factors; and

(3) as to mortgages insured by the rural housing hazard insurance fund, or an account of the rural housing hazard insurance fund, estimates of default by reason of hazard losses which are otherwise uninsured, estimates of earnings and income of amounts on deposit in the fund or the account, and any other appropriate factors.

(f) On December 1 of each year the corporation shall ascertain the amount on deposit in each fund established under this section and in each account of each fund. If the amount in any fund or account is less than the fund requirement for the fund or account, the corporation 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 that fund or account to the fund requirement. The legislature

may appropriate the amount and the corporation shall deposit in the fund or account all amounts appropriated during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state. (§ 22 ch 106 SLA 1980)

*Sec. 18.56.094. New capital city mortgage loans. [Repealed. § 77 ch 106 SLA 1980.]*

**Sec. 18.56.095. Mortgage insurance.** (a) There is a special fund of the state to be known as the "state mortgage insurance fund" (called the "mortgage insurance fund") which shall be completely segregated and set apart from all other funds of the state, and which is a trust fund for the uses and purposes of this section and into and from which money shall be paid as provided in this section. The mortgage insurance fund shall be held by the commissioner of revenue, subject to the power of the commissioner of commerce and economic development to enter into and perform agreements with respect to the use of money in the mortgage insurance fund and to pledge, assign or grant interests in the mortgage insurance fund as provided in this section. The commissioner of commerce and economic development may enter into agreements with the corporation with respect to the exercise of any power or approval relating to the mortgage insurance fund under this section, including, without limitation, agreements as to the use of money in the mortgage insurance fund, agreements with respect to the terms and conditions upon which payments from the mortgage insurance fund shall be made to the corporation with respect to mortgage loans insured under this section, and agreements regarding the payment of and security for mortgage insurance bonds, and in connection with these agreements the commissioner of commerce and economic development may pledge, assign or grant other interests in the mortgage insurance fund to the corporation as may be necessary or appropriate in connection with the insurance of mortgage loans and to provide for the payment of and security for mortgage insurance bonds. Any such agreement or any of the rights of the corporation under the agreement and payments received or to be received under the agreement may be pledged or assigned by the corporation for the benefit of the holders of mortgage insurance bonds.

(b) In addition to any other fees and charges that the corporation may charge on mortgage loans, it may collect or cause to be collected on all mortgage loans made or purchased with the proceeds of the sale of mortgage insurance bonds, either or both a special mortgage loan insurance commitment fee or a mortgage loan insurance premium. The special mortgage loan insurance commitment fees and special mortgage loan insurance premiums when received shall be deposited in the mortgage insurance fund by the corporation, or by any mortgage loan servicer, trustee, or agent designated by the corporation to

receive them, and shall be held, invested and, together with all investment income derived from them, reinvested by the commissioner of revenue in investments authorized under AS 37.10.070(a), subject to any agreement with the corporation under (a) of this section.

(c) If, at any time after receipt by the corporation of a payment from the mortgage insurance fund with respect to a mortgage loan or any portion of the principal and interest and other amounts payable on a mortgage loan, the corporation recovers an amount on the mortgage loan or portion of it from any source other than the mortgage insurance fund, it shall apply the amount recovered in the following order: first to repay the general fund of the state to the extent of appropriations made pursuant to requests made under (f) of this section, and second, to repay the mortgage insurance fund.

(d) A mortgage loan may be insured if the loan-to-value ratio at the time of the insurance loan does not exceed 80 percent or, if the loan-to-value ratio does exceed that percentage, if it is federally insured or guaranteed or insured by a qualified mortgage insurance company to the extent of the excess. The endorsement of the corporation on the mortgage at the time of purchase or acquisition of the mortgage loan is conclusive evidence that the mortgage loan is insured under the provisions of this section. The insurance is payable solely from the mortgage insurance fund.

(e) Mortgage loans may only be insured when the amount in the mortgage insurance fund as a percentage of the sum of all mortgage loans to be insured and all unpaid principal on mortgage loans insured by the corporation, equals or exceeds the fund requirement. As used in this section, the fund requirement is calculated as follows as to the following mortgage loans insured by the corporation:

(1) in the case of federally insured or guaranteed mortgage loans, or mortgage loans insured by a qualified mortgage insurance company or, if not so insured or guaranteed, with a loan-to-value ratio at the time of the mortgage insurance application less than 80 percent, the greater of (A) two percent of the unpaid principal amount of those mortgage loans, or (B) a percentage that the corporation with the approval of the commissioner of commerce and economic development determines is actuarially sound for operation of the mortgage insurance fund;

(2) *[Repealed, § 77 ch 106 SLA 1980.]*

(f) On December 1 of each year the commissioner of commerce and economic development shall determine the amount on deposit in the mortgage insurance fund. If the amount in the fund is less than the fund requirement, the commissioner of commerce and economic development shall request the corporation to transfer from any available funds the amount necessary to restore the mortgage insurance fund to the fund requirement and the corporation shall promptly comply with the request from any funds available subject to agreements with

holders of any of its obligations. If sufficient funds are not provided as the result of the requests, the commissioner of commerce and economic development shall, no later than January 2 of the following year, make and deliver to the governor and to the chairmen of the house and senate finance committees a certificate stating the sum required to restore the fund to the fund requirement and the sum so certified may be appropriated and paid to the fund during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state.

(g) *[Repealed, § 77 ch 106 SLA 1980.]*

(h) In this section, unless the context clearly indicates a different meaning,

(1) "loan to value ratio" means the ratio between the principal amount of a mortgage loan and the appraised value, as determined by the corporation, of the residential housing financed by the mortgage loan;

(2) "mortgage insurance bond" means a bond, note or other obligation of the corporation, the proceeds of which are authorized to be expended to purchase or make a mortgage loan insured under this section;

(3) "qualified mortgage insurance company" means a mortgage insurance company satisfactory to the corporation;

(4) "special mortgage loan insurance commitment fee" and "special mortgage loan insurance premium" mean, respectively, a fee of a percent of the principal amount of a mortgage loan to be insured under this section, and an annual insurance premium of a percent of the portion of the unpaid principal amount of a mortgage loan insured under this section that is not federally insured or guaranteed or insured by a private mortgage insurance company, that the corporation with the approval of the commissioner of commerce and economic development determines is actuarially sound for the operation of the mortgage insurance fund;

(5) *[Repealed, § 77 ch 106 SLA 1980.]*

(6) the determination of what is "actuarially sound" with respect to the operation of the mortgage insurance fund shall be based on a consideration of the factors that will provide sufficient revenue for the operation of the fund, without regard to amounts that may have been or may, after the date of determination of actuarial soundness, be appropriated pursuant to (f) of this section, including, without limitation, estimates of future defaults and losses on mortgage loans insured under this section based on actual default and loss experience on those mortgage loans or on similar mortgage loans in Alaska or elsewhere. estimates of recoveries on defaulted or foreclosed mortgage loans based on that experience, the terms and conditions of the mortgage loans insured under this section, estimates of earnings and income of amounts on deposit in the mortgage insurance fund, and any other

appropriate factors. (§ 8 on 151 SLA 1975; am §§ 23 — 26, 77 ch 106 SLA 1980)

**Sec. 18.56.096. Limitation on power to make or purchase mortgage loans.** (a) The corporation may not make, participate in the making of, purchase, or participate in the purchase of

(1) a first mortgage loan under this chapter for a duplex, triplex, or four-plex that exceeds the limitations on first mortgage loans for similar housing purchased by the Federal National Mortgage Association as to principal amount and loan-to-value ratio;

(2) a second mortgage loan for a duplex, triplex, or four-plex the amount of which, when combined with the principal balance of a first mortgage loan on the property, exceeds the limitation on the amount set out in (1) of this subsection or that has a loan-to-value ratio, when considered with the principal balance of the first mortgage loan, that exceeds 90 percent;

(3) a mortgage loan to finance the purchase of new housing or for the improvement or rehabilitation of existing housing, unless the construction, improvement, or rehabilitation work has been performed by a contractor who is registered to work as a contractor under AS 08.18; this paragraph does not apply if the construction, improvement, or rehabilitation work

(A) has been totally or substantially performed by the borrower;

(B) has been performed by a borrower who acts as the contractor for the construction, improvement, or rehabilitation work; or

(C) has been performed in an area designated by the corporation as exempt from the requirements of this paragraph because of the unavailability of registered contractors in that area;

(4) a first mortgage loan for a single-family residence that exceeds the limitations on first mortgage loans for similar housing purchased by the Federal National Mortgage Association as to principal amount by more than 10 percent, or has a loan-to-value ratio that exceeds 95 percent, or a second mortgage loan for a single-family residence, the amount of which, when combined with the principal balance of a first mortgage loan on the property, exceeds the limitations on loans for similar housing purchased by the Federal National Mortgage Association as to principal amount by more than 10 percent, or has a loan-to-value ratio, when considered with the principal balance of the first mortgage loan, that exceeds 90 percent; or

(5) a first or second mortgage loan for rental housing unless the borrower agrees not to discriminate against tenants or prospective tenants because of sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color, national origin, or status as a student;

(6) a first mortgage loan if the borrower has an outstanding first mortgage housing loan under this chapter or an outstanding first mortgage loan for owner-occupied housing under AS 44.47; or

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(7) a loan to a person who has a past due child support obligation established by court order or by the child support enforcement division under AS 47.23.160 — 47.23.220 at the time of application.

(b) The loan-to-value limitation established in (a)(4) of this section does not apply to a qualified loan that is federally insured or guaranteed. (§ 27 ch 106 SLA 1980; am § 3 ch '15 SLA 1981; am § 18 ch 113 SLA 1982; am §§ 4-6 ch 112 SLA 1985, am § 4 ch 128 SLA 1984; am § 5 ch 116 SLA 1986)

**Effect of amendments.** — The 1982 amendment added paragraph (3).

The 1983 amendment inserted "for a duplex, triplex, or four-plex" and "for similar housing" in paragraph (1), deleted "or" from the end of paragraph 1, inserted "for a duplex, triplex, or four-plex" in paragraph (2), and added paragraphs (4) and (5).

The 1984 amendment designated the previously undesignated introductory language as subsection (a), added subsection (b), and, in subsection (a), added paragraph (6) and made a series of internal reference and technical changes in paragraphs (2), (4), and (5).

The 1986 amendment added paragraph (7) of subsection (a).

**Sec. 18.56.097. Collateral for loans.** Under procedures established by regulations of the corporation adopted in accordance with AS 18.56.088 a person may pledge as security for the repayment of a loan made, purchased or insured by the corporation under this chapter a preference right the person holds to receive title to land the person occupies as a primary place of residence, primary place of business, subsistence campsite, or as headquarters for reindeer husbandry. The preference right must be conveyed to the person by the Native corporation to which the land was granted under section 14 of the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. secs. 1601 — 1626, as amended by P.L. 94-204) before it may be pledged as security under this section. The Department of Community and Regional Affairs shall prescribe procedures and standard forms for establishing and appraising the value of a preference right held by a person to secure the repayment of a loan made, purchased or insured by the corporation under this chapter. (§ 27 ch 106 SLA 1980)

**Sec. 18.56.098. Special mortgage loan purchase program.** (a) The corporation shall establish a special mortgage loan purchase program. Under the special mortgage loan purchase program, the corporation may purchase refinancing loans or first or second mortgage loans, including graduated payment mortgage loans, made for the purchase, improvement, or rehabilitation of residences.

(b) The corporation shall adopt regulations under AS 18.56.088 to establish minimum construction standards that a residence must meet before the corporation may purchase a mortgage loan on the residence under (a) of this section. The minimum construction standards shall include standard deviations from the minimum construc-

tion standards to allow the corporation to purchase loans on residences that do not meet the minimum construction standards but that are certified by an engineer to be within the standard deviations. The standard deviations shall include, but are not limited to, provisions relating to water holding tanks, on-site water and sewer systems, and foundations.

(c) The corporation may pledge mortgage loans purchased by the corporation under (a) of this section, mortgage loans assigned to the corporation for the special mortgage loan purchase program, and mortgage loans purchased with amounts appropriated to the corporation for the special mortgage loan purchase program to pay the principal, interest, and redemption premium, if any, on bonds or bond anticipation notes issued by the corporation for the special mortgage loan purchase program and may expend amounts appropriated to the special mortgage loan purchase program for mortgage loan subsidies or other purposes of the program as necessary to cause the interest rate on mortgage loans purchased under the special mortgage loan purchase program and retained by the corporation or sold under AS 18.56.099 to equal the rates specified in this section.

(d) *[Repealed, § 51 ch 115 SLA 1981.]*

(e) The corporation shall establish regulations in accordance with AS 18.56.088 to implement the special mortgage loan purchase program. The regulations shall include provisions allowing, prohibiting, or restricting the right to assume or the right to provide for the payment of mortgage loans purchased under (a) of this section by a person other than the mortgagor. A provision in a mortgage loan purchased by the corporation after June 30, 1981, that prohibits or restricts the right to assume or the right to provide for the payment of mortgage loans is enforceable. The corporation shall enforce the regulations adopted under this subsection.

(f) In this section and in AS 18.56.099,

(1) "graduated payment mortgage loan" means a mortgage loan the terms of which provide for monthly principal and interest payments that

(A) during the first year of the mortgage loan are lower than the monthly principal and interest payments that would be required under the terms of a level payment mortgage loan made at the same interest rate; and

(B) during subsequent years of the mortgage loan are graduated to provide for the same return over the term of the loan that would have been provided by a level payment mortgage loan made at the same interest rate;

(2) "mortgage loan" includes a beneficial interest or participation in a mortgage loan;

(3) "refinancing loan" means a loan refinancing one of the following loans through another mortgage loan the amount of which may not

exceed the unpaid balance of the loan being refinanced plus closing costs:

(A) a first or second mortgage loan purchased under (a) of this section;

(B) a loan for which the interest rate is established under AS 44.47.410(a); or

(C) a loan for which the interest rate is established under AS 44.47.410(b) other than a nonconforming housing loan or a nonowner occupied housing loan:

(4) "residence" means an owner-occupied, single-family residence, including a mobile home, or an owner-occupied duplex, triplex or fourplex.

(g) The corporation shall establish the interest rate on a first mortgage loan purchased under (a) of this section in accordance with the following:

(1) The interest rate on the first \$90,000 of a mortgage loan purchased with the proceeds of an issue of taxable bonds of the corporation is three percent less than the cost of funds of that issue, except that

(A) if the cost of funds of that issue is less than 10 percent, the interest rate is equal to the cost of funds; and

(B) if the cost of funds of that issue is more than 10 percent, the interest rate may not be less than 10 percent.

(2) An interest rate determined under this subsection on the first \$90,000 of a mortgage loan that is not purchased from the proceeds of bonds that are qualified veterans' mortgage bonds under 26 U.S.C. 103A (Mortgage Subsidy Bond Tax Act of 1980), as amended, shall be reduced by one percentage point if the loan is made to an eligible veteran under AS 18.56.101.

(3) The interest rate for the amount of a mortgage loan purchased under (a) of this section that exceeds \$90,000 is equal to the cost of funds to the corporation attributable to that part of the loan.

(4) The interest rate on the first \$90,000 of a mortgage loan purchased with money that is not the proceeds of either taxable or tax-exempt bonds is the rate the corporation determines is appropriate by application of the provision of (1) of this subsection.

(5) The interest rate on the first \$90,000 of a mortgage loan purchased from the proceeds of bonds that are exempt from taxation other than bonds that constitute qualified veterans' bonds under (i) of this section, is equal to the interest rate determined under (1) and (2) of this subsection on a loan purchased under (a) of this section from the proceeds of the most recent applicable issue of taxable bonds sold by the corporation. A higher or lower interest rate shall be established on the entire loan amount if required to ensure the tax-exempt status of the bonds.

(6) In this subsection

(A) "cost of funds" means the true interest cost expressed as a rate on bonds of the corporation plus an additional percentage as determined by the corporation to represent the allocable expenses of operation, costs of issuance, and mortgage servicing;

(B) "taxable bonds" means bonds bearing interest that is taxable under 26 U.S.C. 103A (Mortgage Subsidy Bond Tax Act of 1980) issued to finance the purchase of first mortgage loans.

(h) The corporation shall establish the interest rate on a second mortgage loan purchased under (a) of this section in the manner established for computing the interest rates on a first mortgage loan under (g) of this section except that, in the case of a second mortgage loan, if the first mortgage loan made to the same borrower is held by the corporation and was purchased under the special mortgage loan purchase program, the outstanding principal balance of the existing first mortgage loan is subtracted from \$90,000 to determine the amount of the loan that is eligible for an interest rate on a second mortgage loan determined by reference to (g) of this section.

(i) The interest rate on the first \$90,000 of a mortgage loan purchased from the proceeds of bonds that constitute qualified veterans' mortgage bonds under 26 U.S.C. 103A (Mortgage Subsidy Bond Tax Act of 1980) as amended, is the greater of (1) four percent less than the cost of funds or (2) the rate for other loans to veterans under AS 18.56.098(g)(3). A higher or lower interest rate shall be established on the entire loan amount if required under 26 U.S.C. 103A.

(j) If the money used to purchase a mortgage loan made to a veteran under this section comes from an issue of bonds of the corporation guaranteed by the state, each bond must be issued as part of an issue substantially all of the proceeds of which are used to provide residences for qualifying veterans. In this subsection a qualifying veteran is a person who is a "qualified veteran" as the term is defined or may subsequently be defined under 26 U.S.C. 103A. (Mortgage Subsidy Bond Tax Act of 1980), as amended.

(k) The interest rate limitations of AS 45.45.010 do not apply to loans purchased under this section or to loans that the corporation has, in any manner, committed itself to purchase. (§ 27 ch 106 SLA 1980; am §§ 4 — 7, 51 ch 115 SLA 1981; am § 1 ch 35 SLA 1982; am §§ 19 — 24 ch 113 SLA 1982; am §§ 7, 8, 27 ch 102 SLA 1983; am § 5 ch 128 SLA 1984; am §§ 1, 2 ch 9 SLA 1986)

**Cross references.** — For interest rate applicable to certain newly constructed owner-occupied triplexes and fourplexes completed between June 25, 1982 and October 1, 1984, see § 68, ch. 113, SLA 1982.

**Effect of amendments.** — The first 1982 amendment, in subsection (h), in-

serted "in the case of a second mortgage loan, if the first mortgage loan made to the same borrower is held by the corporation and was purchased under the special mortgage loan purchase program."

The second 1982 amendment added "triplex or fourplex" to the end of paragraph

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(4) of subsection (f), added former sub-paragraph (2)(E) to subsection (g), and added subsection (k). The amendment also inserted the language beginning "that is not purchased from the proceeds of bonds" and ending "as amended" in present paragraph (2) of subsection (g), inserted "as amended, other than bonds that constitute qualified veterans' bonds under (i) of this section" in paragraph (5) of subsection (g), and added subsections (i) and (j).

The 1983 amendment, in paragraph (g)(1), substituted "an issue" for "the first issue," "three percent less than" for "10 percent or," and the language beginning "of that issue, except that" for "whichever is less"; in paragraph (g)(4), substituted the language beginning "the first \$90,000" and ending "either taxable or tax-exempt bonds" for "a mortgage loan purchased from money appropriated to the corporation" and "(1) of this subsection" for "(1)-(4) of this subsection," and deleted the former second sentence; and repealed paragraph (g)(2).

The 1984 amendment, in subsection (g), redesignated former paragraphs (3)-(7) as present paragraphs (2)-(6) and, in paragraph (5), deleted "under the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103A), as amended" following "taxation" in the first sentence and substituted "equal to the interest rate determined under (1) and (2) of this subsection on a loan purchased under (a) of this section from the proceeds of the most recent applicable issue of taxable bonds, sold by the corporation" for "10 percent or the cost of the funds, whichever is less" in the first sentence and "to ensure the tax-exempt status of the bonds" for "under the Mortgage Subsidy Bond Tax Act" in the second sentence.

The 1986 amendment in the second sentence of subsection (a) inserted "refinancing loans or" and in subsection (f) added paragraph (3).

**Sec. 18.56.099. Powers of corporation to deal in mortgage loans.** The corporation may purchase, sell, hold, or otherwise deal in mortgage loans. In connection with the purchase or sale of a beneficial interest or participation in a mortgage loan, the corporation may enter into a trust agreement providing for the custody, control, and administration of the mortgage loan. The trust agreement may provide that the corporation or a bank or trust company shall act as trustor or trustee under the trust and that title to the mortgage loans subject to the trust shall be considered to have passed as provided in the trust agreement. To the extent provided in the trust agreement, the effect of a sale of a beneficial interest or participation in a mortgage loan is the same as the sale of the mortgage loan subject to the trust. (§ 27 ch 106 SLA 1980)

**Cross references.** — For certain definitions applicable to this section, see AS 18.56.098(f).

**Sec. 18.56.100. Housing development fund.** (a) There is created a housing development fund to be administered by the corporation as a trust fund separate and distinct from any other money or funds administered by the corporation.

(b) Consistent with AS 18.56.090, the corporation may make temporary and permanent loans from the housing development fund, at an interest rate or rates determined by the corporation, and with the security for repayment that is necessary and practicable, to purchase,

make, or participate in the making of mortgage loans that are not federally insured or guaranteed for residential housing, if the corporation determines that the loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(c) To the credit of the housing development fund shall be deposited

(1) grants and contributions to the fund; and

(2) all receipts of the corporation on account of repayment of or sale or other disposition of the security for any loans made under (b) of this section.

(d) The corporation may receive and accept from any source whatever any grants or contributions for the housing development fund.

(e) [Repealed, § 72 ch 113 SLA 1982.]

(f) [Repealed, § 72 ch 113 SLA 1982.]

(g) [Repealed, § 72 ch 113 SLA 1982.]

(h) [Repealed, § 72 ch 113 SLA 1982.]

(i) [Repealed, § 72 ch 113 SLA 1982.]

(j) [Repealed, § 72 ch 113 SLA 1982.]

(k) [Repealed, § 72 ch 113 SLA 1982.] (§ 1 ch 107 SLA 1971; am § 4 ch 81 SLA 1972; am § 28 ch 106 SLA 1980; am §§ 25 — 27, 72 ch 113 SLA 1982)

**Effect of amendments.** — The 1982 amendment in subsection (a), substituted "housing development fund" for "special revolving loan fund to be known as the 'housing development fund'"; in subsection (b), deleted the paragraph designations, deleted the provisions of former paragraphs (1) and (2), which read, respectively, "defray development costs of sponsors, builders, and developers of residential housing" and "provide to persons of lower and moderate income who are applying for mortgages, the amounts required to make down payments and pay closing costs and to housing owners the amounts applied for partial rental payments and mortgage interest payments

under AS 18.56.090(4); or", and substituted "loans which are not federally insured or guaranteed for" for "and construction loans which are not federally insured or guaranteed to sponsors, builders, purchasers and developers of land development or"; and in subsection (c), deleted "and the proceeds of sale of fund notes" following "to the fund" in paragraph (1). The amendment also repealed subsections (e)-(k).

**Editor's notes.** — Section 74, ch. 113, SLA 1982, provides: "The repeal of AS 18.56.100(e)-(k) in sec. 72 of this Act does not invalidate housing development fund notes issued under AS 18.56.100(e)-(k) before June 25, 1982."

**Sec. 18.56.101. Eligibility for veterans' interest rates.** The following persons are eligible veterans for the purposes of AS 18.56.098(g) and (h):

(1) a person who served in the armed forces of the United States for 90 days or more, or whose service was for less than 90 days because of injury or disability incurred in the line of duty, after April 6, 1917, whose discharge was under honorable conditions;

(2) the widow or widower of a member of the armed forces or an eligible veteran if the member or veteran served in the armed forces

for at least 90 days after April 6, 1917 and the veteran's discharge was under honorable conditions;

(3) a person who has served for not less than five years in the Alaska Army National Guard, or the Alaska Air National Guard, or a reserve unit of the United States armed forces if the reserve unit required, as a minimum, one weekend each month of duty and 15 consecutive days of active duty training each year and whose discharge was under honorable conditions. (§ 29 ch 106 SLA 1980; am § 8 ch 115 SLA 1981; am § 9 ch 102 SLA 1983; am § 12 ch 67 SLA 1983)

**Effect of amendments.** — The first 1982 amendment rewrote this section. The second 1983 amendment made the same changes as the first 1983 amendment and also deleted "the Alaska Naval Militia" following "Alaska Air National Guard" in paragraph (3).

**Sec. 18.56.103. Federal taxation of interest on bonds and bond anticipation notes.** If the interest on bonds or bond anticipation notes of the corporation issued after June 1, 1980, becomes taxable under the income tax laws of the United States, the legislature may appropriate an amount sufficient to pay the outstanding principal and interest on the bonds or bond anticipation notes. Nothing in this section creates a debt or liability of the State of Alaska. (§ 29 ch 106 SLA 1980)

**Sec. 18.56.104. Allocation of tax-exempt bonds.** (a) Pursuant to sec. 103A(g)(6) of the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103A) the amount of mortgage revenue bonds that may be issued in the state under sec. 103A(g)(4) of that Act is allocated solely to the corporation. A municipality may not issue mortgage revenue bonds under sec. 103A(g)(4) of the Mortgage Subsidy Bond Tax Act of 1980 unless permitted to do so by the corporation. The amount of mortgage revenue bonds issued by a municipality under sec. 103A(g)(4) of the Mortgage Subsidy Bond Tax Act of 1980 with the permission of the corporation shall be deducted from the total amount permitted by that Act.

(b) The provisions of this section apply to home rule municipalities. (§ 9 ch 115 SLA 1981)

**Sec. 18.56.105. Allocation of lending activities.** The corporation shall designate regions within the state which in the aggregate, encompass the entire state. In participating in the making or purchasing of loans under AS 18.56.090(2) and (3) or under AS 18.56.100, the corporation shall make its money available through the private financial institutions in the state within each region designated by the corporation under this section. The corporation shall allocate its

money among the regions on the basis of recent and future anticipated lending activity as well as the potential need for the loans in each region and may reallocate its money among the regions as it considers appropriate to reflect changes in lending activity or need in the regions. (§ 29 ch 106 SLA 1980; am § 33 ch 37 SLA 1986)

**Effect of amendments.** — The 1986 amendment substituted "AS 18.56.090(2) and (3)" for "AS 18.56.090(1) — (3)" in the second sentence.

**Editor's notes.** — AS 18.56.090 (1), referred to in the second sentence, was repealed by § 51. ch. 115, SLA 1981.

**Sec. 18.56.106. Nonconforming housing loan program.** (a) There is established in the corporation the nonconforming housing loan program to assist persons to purchase housing that does not conform to minimum building standards under any state or federal program that provides for housing purchases.

(b) The corporation shall adopt regulations under this section that establish conditions and terms for nonconforming housing loans including terms and conditions relating to owner and nonowner occupancy, the number of loans that may be made to a single borrower, and borrower eligibility requirements. (§ 2 ch 100 SLA 1985)

**Sec. 18.56.107. Loan origination and service fees for rural areas.** Loan origination and service fees charged for a loan made or purchased in a rural area with money received by the corporation after July 1, 1981, may be higher than loan origination and service fees charged for other loans made or purchased by the corporation and the corporation may pay a portion of the higher fees. (§ 10 ch 115 SLA 1981)

**Sec. 18.56.110. Bonds and notes.** (a) The corporation, by resolution, may issue bonds and bond anticipation notes in order to provide funds to carry out and effectuate its purposes.

(b) The principal and interest on these bonds or notes, except state guaranteed bonds, is payable from corporation funds, excluding funds in the housing development fund. The principal and interest on state guaranteed bonds is payable from corporation funds, excluding funds in the housing development fund, and in accordance with the terms of the state guaranty of principal and interest. Bond anticipation notes may be payable from the proceeds of the sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the event bond or bond anticipation note proceeds are not available, the notes may be paid from other funds or assets of the corporation. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government, or a corporation, association, institution or person, or a pledge of money, income, or revenues of the corporation from

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any source. The corporation may issue state guaranteed bond anticipation notes in anticipation of the sale of state guaranteed bonds to be issued under this chapter. State guaranteed bond anticipation notes are guaranteed as to principal and interest by the state and secured by the full faith, credit and resources of the state.

(c) Bonds or bond anticipation notes may be issued in one or more series and shall be dated, bear interest at the rate or rates per year or within the maximum rate, be in the denomination, be in the form, either coupon or registered, carry the conversion or registration provisions, have the rank or priority, be executed in the manner and form, be payable from the sources in the medium of payment and place or places within or outside the state, be subject to authentication by a trustee or fiscal agent, and be subject to the terms of redemption with or without premium, as the resolution of the corporation may provide. Bond anticipation notes shall mature at the time or times that are determined by the corporation. Bonds shall mature at a time, not exceeding 50 years from their date, that is determined by the corporation. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

(d) Bonds or bond anticipation notes, except state guaranteed bonds and bond anticipation notes, may be sold in the manner, and on the terms the corporation determines. State guaranteed bonds and bond anticipation notes shall be sold at public sale by the corporation in amounts and at times as may be approved by the state bond committee, on terms fixed under the notice of sale.

(e) If an officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached to them ceases to be an officer before the delivery of the bond, note or coupon, the signature or facsimile is valid the same as if the officer had remained in office until delivery.

(f) In any resolution of the corporation authorizing or relating to the issuance of bonds or bond anticipation notes, the corporation has power by provisions in the resolution which will constitute covenants of the corporation and contracts with the holders of the bonds or bond anticipation notes

(1) to pledge to any payment or purpose all or any part of its revenues to which its right then exists or may thereafter come into existence, and the money derived from the revenues, and the proceeds of any bonds or notes;

(2) to covenant against pledging all or any part of its revenues, or against permitting or suffering a lien on the revenues of its property;

(3) to covenant as to the use and disposition of any and all payments of principal or interest received by the corporation on mortgage loans, construction loans or other investments held by the corporation;

(4) to covenant as to establishment of reserves or sinking funds and the making of provision for and the regulation and disposition of the reserves or sinking funds;

(5) to covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind;

(6) to covenant as to bonds and notes to be issued, and their limitations, terms and conditions, and as to the custody, application and disposition of the proceeds of the bonds and notes;

(7) to covenant as to the issuance of additional bonds or notes, or as to limitations on the issuance of additional bonds or notes and the incurring of other debts;

(8) to covenant as to the payment of the principal of or interest on the bonds or notes, as to the sources and methods of the payment, as to the rank or priority of the bonds or notes with respect to a lien or security, or as to the acceleration of the maturity of the bonds or notes;

(9) to provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(10) to covenant against extending the time for the payment of bonds or notes or interest on the bonds or notes;

(11) to covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(12) to covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(13) to establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(14) to covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(15) to covenant as to the time or manner of enforcement or restraint from enforcement of any rights of the corporation arising by reason of or with respect to nonpayment of any principal or interest of any mortgage loans or construction loans;

(16) to provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation, and to prescribe the events of default and the terms and conditions upon which any or all the bonds, notes or other obligations of the corporation become or may be declared due and payable before maturity and the terms and conditions upon which any such declaration and its consequences may be waived;

(17) to vest in a trustee or trustees within or outside the state the property, rights, powers and duties in trust as the corporation may

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determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds or notes, and to limit or abrogate the right of the holders of any bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(18) to pay the costs or expenses incident to the enforcement of the bonds or notes or of the provisions of the resolution or of any covenant or agreement of the corporation with the holders of its bonds or notes;

(19) to agree with any corporate trustee which may be any trust company or bank having the powers of a trust company within or outside the state as to the pledging or assigning of revenue or funds to which or in which the corporation has any rights or interest; the agreement may further provide for other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds or notes of the corporation and not otherwise in violation of law and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(20) to appoint and provide for the duties and obligations of any paying agent or paying agents, or other fiduciaries as the resolution may provide within or outside the state;

(21) to limit the rights of the holders of any bonds or notes to enforce any pledge or covenant securing bonds or notes;

(22) to make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and to make covenants to do or refrain from doing acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or that, in the absolute discretion of the corporation, will tend to make bonds or notes more marketable, notwithstanding that the covenants, acts or things may not be enumerated in this section.

(g) Notwithstanding AS 18.56.090(12) and (a) of this section, the corporation may not issue bonds, other than refunding bonds, in any 12-month period beginning after June 30, 1983, in an amount that exceeds the amount of bonds authorized to be issued during the preceding period, unless a different amount is authorized by the legislature. (§ 1 ch 107 SLA 1971; am § 11 ch 115 SLA 1981; am § 2 ch 35 SLA 1982; am §§ 28, 29 ch 113 SLA 1982)

**Cross references.** — For provisions concerning state guaranteed veterans residential mortgage bonds, see §§ 5-11, ch. 35, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

**Effect of amendments.** — The first 1982 amendment, in subsection (g), substituted "June 30, 1983" for "June 30, 1982."

The second 1982 amendment in subsection (b), inserted "except state guaranteed bonds" in the first sentence, and added the present second, next-to-last, and last sentences. In subsection (d), the amendment inserted "except state guaranteed bonds and bond anticipation notes" and substituted "and on the terms" for "on the terms

and at the price" in the first sentence and added the second sentence.

Section 76, ch. 113, SLA 1982, provides that the 1982 amendment takes effect on the date of approval by the voters of the

state of a constitutional amendment to Alaska Const., art. IX, § 8 to allow the state to contract debt for housing loans for veterans. Such an amendment was approved November 2, 1982.

**Sec. 18.56.115. Independent financial advisor.** In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the corporation may retain a financial advisor. A financial advisor retained under this section must be independent from the underwriter. (§ 4 ch 102 SLA 1974; am § 2 ch 130 SLA 1978; am § 10 ch 102 SLA 1983)

**Effect of amendments.** — The 1983 amendment divided the section into two sentences by substituting "A financial advisor retained under this section must be"

for "who is" at the beginning of the present second sentence and made a minor word change in the present first sentence.

**Sec. 18.56.120. Validity of any pledge.** The pledge of assets or revenue of the corporation to the payment of the principal or interest on any obligations of the agency is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of any pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge. This section does not prohibit the corporation from selling assets subject to any pledge, except that any sale may be restricted by the trust agreement or resolution providing for the issuance of the obligations. (§ 1 ch 107 SLA 1971)

#### NOTES TO DECISIONS

Cited in *National Bank v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).

**Sec. 18.56.125. Capital reserve fund.** (a) For the purpose of securing any one or more issues of its obligations, the corporation may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds (1) any money appropriated and made available by the state for the purpose of any of those funds, (2) any proceeds of the sale of its obligations, to the extent provided in the resolution or resolutions of the corporation authorizing their issuance, and (3) any other money that may be made available to the corporation for the purposes of those funds from any other source. All money held in a capital reserve fund, except as provided in this section, shall be used as required, solely for (1) the payment of the princi-

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beginning of the year and made a change to the present first

of assets or principal or interest from the time immediately subject to further act. The parties having interest in the corporation at the time of the lien of the corporation from selling the property are restricted by the issuance of the

purpose of separate corporation may have funds", and any appropriated of those funds, as provided in their issuing their issue available to the corporation. All included in this section of the principal

of obligations or of the sinking fund payments with respect to those obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity; however, money in any fund may not be withdrawn from it at any time in an amount that would reduce the amount of that fund to less than the capital reserve requirement set out in (b) of this section, except for the purpose of making, with respect to those obligations, payment, when due, of principal, interest, redemption premiums and the sinking fund payments for the payment of which other money of the corporation is not available. Any income or interest earned by, or increment to, a capital reserve fund, due to the investment of the fund or any other amounts in it, may be transferred by the corporation to other funds or accounts of the corporation to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the corporation decides to issue obligations secured by a capital reserve fund, the obligations may not be issued if the amount in the capital reserve fund is less than such a per cent, not exceeding 10 per cent of the principal amount of all of those obligations secured by that capital reserve fund then to be issued and then outstanding in accordance with their terms, as may be established by resolution of the corporation (called the "capital reserve fund requirement"), unless the corporation, at the time of issuance of the obligations, deposits in such capital reserve fund from the proceeds of the obligations to be issued or from other sources, an amount which, together with the amount then in the fund, will not be 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 funds are invested shall be valued at par or, if purchased at less than par, at amortized costs as the term is defined by resolution of the corporation authorizing the issue of the obligations, or by some other reasonable method established by the corporation by resolution. Valuation on a particular date shall include the amount of any interest earned or accrued to that date.

(d) To assure the continued operation and solvency of the corporation for the carrying out of its corporate purposes, provision is made in (a) of this section for the accumulation in capital reserve funds of an amount equal to their capital reserve fund requirement.

(e) The chairman of the corporation shall annually, no later than January 2, make and deliver to the governor and chairmen of the house and senate finance committees a certificate stating the sum, if any, required to restore any capital reserve fund to the capital reserve fund requirement. The legislature may appropriate that sum, and all sums appropriated during the then current fiscal year by the legisla-

ture for the restoration shall be deposited by the corporation in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

(f) *(Repealed, § 77 ch 106 SLA 1980.)* (§ 9 ch 151 SLA 1975; am § 77 ch 106 SLA 1980)

**Sec. 18.56.130. Remedies.** A holder of obligations or coupons attached to them issued under the provisions of this chapter, and a trustee under any trust agreement or resolution authorizing the issuance of the obligations, except as restricted by a trust agreement or resolution, either at law or in equity, may enforce all rights granted hereunder or under the trust agreement or resolution, or under any other contract executed by the corporation under this chapter, and may enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the corporation or by any officer of it. (§ 1 ch 107 SLA 1971)

**Sec. 18.56.140. Negotiable instruments.** All obligations and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to any applicable provisions for registration. (§ 1 ch 107 SLA 1971)

**Sec. 18.56.150. Obligations eligible for investment.** Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations may be deposited with any state or municipal officer of any agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law. (§ 1 ch 107 SLA 1971).

**Sec. 18.56.160. Refunding obligations.** (a) The corporation may provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding that have been issued under the provisions of this chapter, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of the obligations, the maturities and other details of them, the rights of the holders of them, and the rights, duties and obligations of the corporation in respect of them are governed by the provisions of this chapter that relate to the issuance of obligations, insofar as those provisions may be appropriate.

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(b) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of the outstanding obligations. Pending the application of the proceeds of refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of any interest on the refunding obligations and any expenses in connection with the refunding, the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States that mature or that will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended. (§ 1 ch 107 SLA 1971)

**Sec. 18.56.170. Credit of state not pledged.** (a) Obligations issued under the provisions of this chapter other than state guaranteed bonds do not constitute a debt, liability or obligation of the state or of any political subdivision of the state or a pledge of the faith and credit of the state or of a political subdivision but are payable solely from the revenue or assets of the corporation. Each obligation issued under this chapter other than a state guaranteed bond shall contain on its face a statement that the corporation is not obligated to pay it nor the interest on it except from the revenue or assets of the corporation and that neither the faith and credit nor the taxing power of the state or of any political subdivision of the state is pledged to the payment of the principal of or the interest on the obligation.

(b) Expenses incurred by the corporation in carrying out the provisions of this chapter are payable from funds provided under this chapter and no liability may be incurred by the corporation in excess of these funds. (§ 1 ch 107 SLA 1971; am § 30 ch 113 SLA 1982); am § 6 ch 128 SLA 1984)

**Effect of amendments.** — The 1982 amendment, in subsection (a), inserted "other than state guaranteed bonds" in the first sentence and "other than a state guaranteed bond" in the second sentence.

Section 76, ch. 113, SLA 1982, provides that the 1982 amendment takes effect on the date of approval by the voters of the

state of a constitutional amendment to Alaska Const., art. IX, § 8 to allow the state to contract debt for housing loans for veterans. Such an amendment was approved November 2, 1982.

The 1984 amendment substituted "of the corporation" for "pledge of it" in the second sentence in subsection (a).

## NOTES TO DECISIONS

**Bonds as state obligations.** — Prior to the 1982 amendment which inserted "other than state guaranteed bonds" and "other than a state guaranteed bond" in subsection (a), Alaska State Housing Authority and Alaska Housing Finance Cor-

poration bonds were held not to be "state obligations" for purposes of former AS 43.70.030(b) of the business license tax act. See *National Bank v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).

**Sec. 18.56.180. Officers not liable.** A member or other officer of the corporation is not subject to personal liability or accountability by reason of having executed or issued any obligations. (§ 1 ch 107 SLA 1971)

**Sec. 18.56.190. Tax exemption.** (a) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the state, for their well-being and prosperity and for the improvement of their social and economic conditions, and the corporation is not required to pay a tax or assessment on any property owned by the corporation under the provisions of this chapter or upon the income from it, except taxes on real property of which the corporation is fee owner.

(b) All obligations issued under this chapter are declared to be issued by a body corporate and public of the state and for an essential public and governmental purpose, and the obligations, and the interest and income on and from the obligations, and all fees, charges, funds, revenues, income and other money pledged or available to pay or secure the payment of the obligations, or interest on the obligations, are exempt from taxation except for transfer, inheritance and estate taxes. (§ 1 ch 107 SLA 1971)

## NOTES TO DECISIONS

**Liability under business license tax.** — The interest on the Alaska State Housing Authority and Alaska Housing Finance Corporation bonds, although otherwise tax exempt, had to be included within the banks' "net income" under for-

mer AS 43.70.030(b) in order to avoid any unlawful discrimination against federal securities. *National Bank v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).

**Sec. 18.56.200. Annual report.** (a) The corporation shall prepare and transmit annually a report accounting to the governor and the legislature for the efficient discharge of all responsibility assigned by law or by directive to the corporation.

(b) By January 10 of each year, the board shall publish a report of the corporation for distribution to the governor, legislature, and the public. The report shall be written in easily understandable language. The report shall include a financial statement audited by an indepen-

dent outside auditor, a statement of corporation investments in mortgage loans under this chapter, including an estimate of market value of the mortgage loans, a comparison of the corporation performance with the goals of the corporation, and the levels of bonding and investment activities anticipated in the previous year's report under (c) of this section, and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the corporation shall be published in at least one newspaper in each judicial district. The board may also publish other reports it considers desirable to carry out its purpose.

(c) The corporation shall include in its annual report under (b) of this section an estimate of the investment activity of the corporation in mortgage loans under this chapter for the following 12-month period and an estimate of the amount of bonds to be issued for the investments.

(d) The corporation shall include in its annual report under (b) of this section a summary of its efforts to implement a program to extend the operation of the loan programs authorized under this chapter to rural communities. (§ 1 ch 107 SLA 1971; am § 30 ch 106 SLA 1980; am §§ 12, 13 ch 115 SLA 1981)

**Sec. 18.56.205. Residential mortgage assistance for members of the Alaska delegation to Congress.** The corporation may extend the special mortgage loan purchase program (AS 18.56.098) to purchase a mortgage loan made for the purchase or rehabilitation of a residence located in the District of Columbia or within 50 miles of the District of Columbia to a member of the United State Congress from Alaska if the member is otherwise qualified for assistance under the special mortgage loan purchase program. (§ 11 ch 102 SLA 1983)

**Sec. 18.56.900. Definitions.** In this chapter, unless the context clearly indicates a different meaning,

(1) "board" means the board of directors of the corporation;

(2) "bond" or "obligation" means a bond, bond anticipation note, or other note of the corporation authorized to be issued by the corporation under this chapter, or a mortgage participation certificate issued with respect to mortgages of the corporation;

(3) "construction loan" means a construction loan for land development or residential housing that is secured by a federally insured or guaranteed mortgage or that is insured or guaranteed by the United States or an instrumentality of the United States or for which there is a commitment by the United States or an instrumentality of the United States to insure or guarantee such a loan, or a construction loan for land development or residential housing which land development or residential housing will be secured by a mortgage loan;

(4) "corporation" means the Alaska Housing Finance Corporation created by this chapter;

(5) "development costs" means the costs approved by the corporation as appropriate expenditures that may be incurred by sponsors, builders and developers of residential housing, before commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including but not limited to

(A) payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of the properties;

(B) legal and organizational expenses, including payments of attorney fees, project manager, clerical and other staff salaries, office rent and other incidental expenses;

(C) payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;

(D) expenses for tenant surveys and market analyses; and

(E) necessary application and other fees;

(6) "governmental agency" means any department, division, public agency, political subdivision or other public instrumentality of the state or the federal government;

(7) "housing development fund" means the housing development fund created by AS 18.56.100;

(8) "land development" means the process of acquiring land primarily for residential housing construction for persons of lower and moderate income and making, installing or constructing nonresidential housing improvements, including water, sewer and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities and other installations or works, whether on or off the site, that the corporation considers necessary or desirable to prepare the land primarily for residential housing construction;

(9) "mortgage" or "mortgage loan" means a mortgage loan for residential housing insured or guaranteed by the United States or an instrumentality of the United States or for which there is a commitment by the United States or an instrumentality of the United States to insure or guarantee such a mortgage, or if not so insured or guaranteed or if there is no such commitment, which the corporation determines meets the conditions described in AS 18.56.100(k) or which shall be secured upon such terms and conditions as the corporation considers necessary or practicable to insure all repayments;

(10) "persons of lower and moderate income" means a person or persons considered by the corporation to require assistance available under this chapter on account of insufficient or inadequate personal or family income or otherwise limited personal financial resources, taking into consideration, without limitation, such factors as

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- (A) the amount of the total income of the persons available for housing needs;
- (B) the size of the family;
- (C) the cost and condition of housing facilities available;
- (D) standards established for various federal programs determining eligibility based on income of the persons; and
- (E) the ability of the persons to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing;

(11) "remote, underdeveloped or blighted areas" means areas considered by the corporation to require assistance available under this chapter on account of insufficient availability of the residential housing necessary to promote, develop or maintain the economic growth or potential of the area, taking into consideration, without limitation, the following:

- (A) the population, resources and environment of the area;
- (B) the present availability and condition of residential housing in and near the area;
- (C) the cost of construction and rehabilitation of residential housing in the area;
- (D) the availability of other federal or state sponsored programs to facilitate the development of residential housing in the area; and
- (E) the ability of residents of the area to finance the purchase of residential housing or to rent or lease residential housing at rates comparable to those in effect in other areas of the state;

(12) "residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations without limitation as to form of lawful occupancy, whether rental, under contract, fee ownership, cooperative housing, condominium, mobile home, or other lawful form of ownership, including the acquisition, construction or rehabilitation of land, buildings and improvements to them, and other nonhousing facilities as may be incidental or appurtenant to the land or buildings. (§ 1 ch 107 SLA 1971; am §§ 5 — 10 ch 81 SLA 1972; am § 8 ch 167 SLA 1978; am § 31 ch 106 SLA 1980; am § 14 ch 115 SLA 1981; am §§ 34, 35 ch 37 SLA 1986)

**Revisor's notes.** — Formerly AS 18.56.210. Renumbered in 1986. Reorganized in 1986 to alphabetize the defined terms.

**Effect of amendments.** — The 1986 amendment in paragraph (2) inserted "bond anticipation note," "other" preceding "note of the corporation," and "authorized

to be issued by the corporation under this chapter," and repealed the paragraph formerly designated as AS 18.56.210(9), which defined "obligations."

**Editor's notes.** — AS 18.56.100(k), referred to in paragraph (9), was repealed by § 72, ch. 113, SLA 1982.

*Alaska* HOUSING  FINANCE CORPORATION

April 28, 1987

The Honorable Fran Ulmer  
Representative, State of Alaska  
Post Office Box A  
Juneau, AK 99811

Dear Representative Ulmer:

The purpose of this letter is to provide the information you requested on AHFC's proposed Simplified Refinance Program. Specifically, you wanted to know what the financial effect on AHFC would be both in terms of total resources and liquidity. As I explained, because the actual interest rates of the proposed program are, of course, unknown, and because the existing loans and bond issues that would be affected by this program cover such a wide range, it is impossible to provide an exact description of what will happen. However, I believe that it is possible to provide a representative example that can be used to understand the financial impact of this program on AHFC.

My procedure will involve the comparison of a representative "old" loan versus a "new" loan, under two different circumstances, and then a comparison of an "old" versus a "new" bond issue. The following assumptions will be used:

Old Loans

These are intended to represent the existing loans that would be refinanced by the proposed program. Assume that the loan rate is 10% and the total cost of funds (bond costs plus servicing and other costs) is 13%. Hence, there would be a 3% subsidy on these loans. Please note that this hypothetical loan (and bond) are intended to represent an average example of those loans which we believe would refinance under this program. In fact, the Corporation has loan rates ranging from under 7% to over 18%, and subsidies ranging from 0% to over 7%.

Also, assume these loans all have the Alaskan's Building Equity (ABE) graduated payment structure, hence average loan length about 17 years. Finally, assume the average loan balance is \$87,000.

New Loans

These are intended to represent the new loan that would be made under the Simplified Refinance Program. Since these loans would be adjustable rate mortgages based upon floating rate debt, calculation of a potential subsidy is much more problematical. For purposes here, assume the WORST case, that is the loan rate to the borrower is at 10% throughout the 20 year life of the loan. The total cost of funds, in this worst case, is assumed to be 10% for the first three years, and then 13% for the remaining life of the loan. Again, assume an \$87,000 loan.

Case 1: Loans stay out their entire stated maturity

Subsidy for old loan - \$18,121

Maximum subsidy for new loan - \$11,992

Case 2: Loans are paid off after five years (based on expected average life)

Subsidy for old loan - \$10,001

Maximum subsidy for new loan - \$3,346

Case 3: Overcollateralization for bond issues

Financial considerations require that the maximum possible amount needed for subsidy be made available at the time of a bond issue in the form of "overcollateralization". That is, it requires a greater dollar amount of loans than there are bonds, based upon the presumption that the interest rate is lower on the loans than it is on the bonds. Other up-front costs for bond issues are the various issuance costs, which must be paid at the time of issuance, and which are recovered from the borrowers as part of their interest rate. The following values are based upon the subsidy calculations of Case 1, assuming a \$100 million bond issue, and bond issuance costs and reserves not related to possible subsidies.

Overcollateralization for

old bond issue - \$20.8 million, or approximately 21%

Overcollateralization for

new bond issue - \$18.8 million, or approximately 19%

The Honorable Fran Ulmer  
April 29, 1987  
Page Three

One point is essential with respect to all of these figures. The examples for the old loans represent guaranteed subsidies, whereas the examples for the new loans represent the worst possible case of subsidies. It is far more likely that for the new loans there will be either no subsidies, or very little subsidies. Furthermore, as the years go by and the subsidy is not needed (for the new loans) the excess collateral can be freed up from the bond issues so that it can be used for other corporate purposes, such as supporting future bond issues.

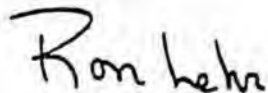
Finally, as new loans are made, and old loans are (simultaneously) paid off, the old bond issues that were the source of funds for the old loans can also be paid off. As the old bond issues are paid off, this frees up the excess overcollateralization that was pledged to support the old bond issue. This collateral can be used as the source of overcollateralization for new bond issues - that is, it can be recycled, so to speak. Hence, the net effect on AHFC with respect to overcollateralization from the Simplified Refinance would be nil.

Two further questions are obvious. First, how representative is the example? We believe it is quite valid, since, using a 10% loan rate as a floor, AHFC then has loan rates ranging from 10% to over 18%, with accompanying subsidies ranging from 1% to over 7% - so this represents a middle ground. Second, won't there be a time when both the old and new bond issues are out, that is, before the old bond issue can be totally called. Yes, there will be, but we believe that for the most part this "double bond issue" situation will be resolved within one year from the start of the program.

I hope this answers the questions that you raised about the proposed program. Please pardon me for using this opportunity to advertise on behalf of the program, however I think it is important to stress that the significance of this program runs far beyond expected levels of overcollateralization. Assuming the program works as intended, it will lower house payments for thousands of Alaskans, it will pump millions of dollars into the Alaskan economy, and it will save AHFC millions of dollars in subsidies.

Please let me know if I can provide any further information on the Simplified Refinance Program.

Sincerely,



Dr. Ronald D. Lehr  
Executive Director

RDL:de

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 24, 1987

The Honorable Jan Faiks  
President of the Senate  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the purchase of mortgage loans by the Alaska Housing Finance Corporation (AHFC) and to the issuance of refinancing mortgage bonds by AHFC. The bill enables AHFC to establish a new program for AHFC purchase of refinancing mortgage loans. It also clarifies AHFC's ability to purchase adjustable rate mortgage loans.

Existing AS 18.56.096 imposes a number of limitations with respect to the terms of mortgage loans that AHFC may purchase. Existing AS 18.56.096(a)(1) and (4) set out loan-to-value ratio limits applicable to first mortgages for two- to four-unit houses and single-family houses, respectively. Existing AS 18.56.096(b) waives the loan-to-value ratio limit for single-family houses if the mortgage loan is federally insured or guaranteed. The amendment proposed in sec. 1 of the bill also waives the loan-to-value ratio limit for both single-family houses and two- to four-unit houses if the mortgage loan is a refinancing mortgage loan purchased under the new program established in proposed AS 18.56.102 (in sec. 4 of the bill).

Most of AHFC's loan purchasing activities have been carried out under the special mortgage loan purchase program established in AS 18.56.098. The amendment to AS 18.56.098(a), proposed in sec. 2 of the bill, (1) reorganizes some of the language of that subsection to clarify its meaning, (2) preserves AHFC's ability to purchase refinancing loans under the special mortgage loan purchase program notwithstanding the addition of the new program for that purpose in sec. 4 of the bill, and (3) makes it clear that AHFC may purchase an adjustable rate mortgage loan.

Section 3 of the bill adds a new paragraph (7) to AS 18.56.-098(g), the subsection that deals with the setting of interest rates on mortgage loans purchased under the special mortgage loan purchase program. The new paragraph directs

that the interest rate for an adjustable rate mortgage loan be established as with any other mortgage loan except that (1) AHFC is to periodically review those interest rates, and (2) AHFC may establish a minimum interest rate for adjustable rate mortgage loans.

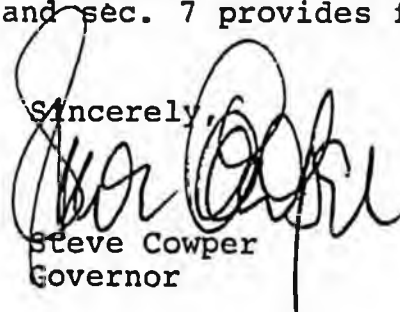
Section 4 of the bill adds AS 18.56.102, which establishes the simplified refinancing mortgage loan purchase program. The new program is intended to provide relief to borrowers under circumstances described by regulations to be adopted by AHFC. The interest rate for a mortgage loan purchased under the new program is set according to the cost to AHFC of the money used to purchase the mortgage loan. The interest rate is equal to the cost of the money if that cost is 10 percent or less; if the cost of the money is greater than 10 percent, the interest rate is 3 percent below the cost of the money, but may not be less than 10 percent. AHFC may purchase adjustable rate mortgage loans under the new program. The interest rates for the adjustable rate mortgage loans are to be periodically reviewed and are subject to a minimum interest rate if one is established by AHFC.

Certain provisions of the special mortgage loan purchase program in AS 18.56.098 will be applicable to the new refinancing mortgage loan purchase program, including the ability to pledge mortgage loans to bonds issued for the purposes of the program (AS 18.56.098(c)), the duty to adopt regulations with respect to the program and with respect to the ability to prepay mortgage loans purchased under the program (AS 18.56.098(e)), and a waiver of the application of the state usury limitation to loans purchased by AHFC (AS 18.56.098(k)).

Section 5 of the bill proposes an amendment to AS 18.56.110(g), to exempt bonds for the purchase of refinancing mortgage loans from the limitation, set in that subsection, on the amount of bonds that AHFC may issue during a 12-month period.

Section 6 of the bill adds to AS 18.56.900 a definition of "adjustable rate mortgage loan," and sec. 7 provides for an immediate effective date.

Sincerely,



Steve Cowper  
Governor

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 209 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL  
6 For an Act entitled: "An Act relating to mortgage loans purchased or made  
7 by the Alaska Housing Finance Corporation; relating  
8 to bonds issued by the Alaska Housing Finance Corpo-  
9 ration; and providing for an effective date."

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

11 \* Section 1. AS 18.56.096(b) is amended to read:

12 (b) The loan-to-value limitation established in (a)(4) of this  
13 section does not apply to a mortgage [QUALIFIED] loan that is feder-  
14 ally insured or guaranteed. The loan-to-value limitations established  
15 in (a)(1) and (4) of this section do not apply to a mortgage loan that  
16 is a refinancing mortgage loan under AS 18.56.102.

17 \* Sec. 2. AS 18.56.098(a) is amended to read:

18 (a) The corporation shall establish a special mortgage loan  
19 purchase program. Under the special mortgage loan purchase program,  
20 the corporation may purchase [REFINANCING LOANS OR] first or second  
21 mortgage loans. A first or second mortgage loan purchased under this  
22 subsection must be [, INCLUDING GRADUATED PAYMENT MORTGAGE LOANS,]  
23 made for the purchase, improvement, or rehabilitation of a residence  
24 or must be a refinancing loan. First or second mortgage loans pur-  
25 chased under this subsection may include graduated payment mortgage  
26 loans and adjustable rate mortgage loans [RESIDENCES].

27 \* Sec. 3. AS 18.56.098(g) is amended by adding a new paragraph to read:

28 (7) The corporation shall determine the interest rate on a  
29 mortgage loan that is an adjustable rate mortgage loan as provided in

1 this subsection. The corporation shall recalculate the interest rate  
2 from time to time based on changes in the cost to the corporation of  
3 the funds used to purchase the adjustable rate mortgage loan. Howev-  
4 er, the corporation may establish a minimum interest rate applicable  
5 to an adjustable rate mortgage loan, and the interest rate on the  
6 adjustable rate mortgage loan may not be less than the minimum inter-  
7 est rate so established regardless of the cost of funds to the corpo-  
8 ration.

9 \* Sec. 4. AS 18.56 is amended by adding a new section to read:

10 Sec. 18.56.102. SIMPLIFIED REFINANCING MORTGAGE LOAN PURCHASE  
11 PROGRAM. (a) The corporation shall establish a simplified refinanc-  
12 ing mortgage loan purchase program. Under the simplified refinancing  
13 mortgage loan purchase program, the corporation may purchase refinanc-  
14 ing mortgage loans to provide relief to borrowers under circumstances  
15 described by regulations adopted by the corporation.

16 (b) AS 18.56.098(c), (e), and (k) apply to refinancing mortgage  
17 loans purchased under (a) of this section.

18 (c) Subject to (d) of this section, the interest rate on a  
19 refinancing mortgage loan purchased under (a) of this section is three  
20 percent less than the cost to the corporation of the money used to  
21 purchase the refinancing mortgage loan, except that if the cost of  
22 money

23 (1) is 10 percent or less, the interest rate is equal to  
24 the cost of money; and

25 (2) is more than 10 percent, the interest rate may not be  
26 less than 10 percent.

27 (d) If the refinancing mortgage loan is an adjustable rate  
28 mortgage loan, the corporation shall establish the initial interest  
29 rate as provided in (c) of this section and shall recalculate the

1 interest rate from time to time in accordance with (c) of this sec-  
2 tion. However, notwithstanding (c)(1) of this section, the corpo-  
3 ration may establish a minimum interest rate applicable to an adjust-  
4 able rate refinancing mortgage loan; the interest rate on the adjust-  
5 able rate refinancing mortgage loan may not be less than the minimum  
6 interest rate so established, regardless of the cost of money to the  
7 corporation. The corporation may adopt regulations to implement this  
8 section, including regulations to define "cost of money" for purposes  
9 of this section. The regulations may provide for recalculation of the  
10 cost of money under this subsection at the times and frequencies the  
11 corporation considers appropriate. The time and frequency for a  
12 recalculation under this subsection is not required to match the time  
13 or frequency of a change in the cost of money to the corporation.

14 (e) Equity extraction may not be allowed under this program.

15 (f) In this section, "refinancing mortgage loan" means a loan  
16 refinancing another mortgage loan owned by the corporation.

17 \* Sec. 5. AS 18.56.106(b) is amended to read:

18 (b) The corporation shall adopt regulations under this section  
19 that establish conditions and terms for nonconforming housing loans  
20 including terms and conditions relating to owner and nonowner occu-  
21 pancy, the number of loans that may be made to a single borrower, and  
22 borrower eligibility requirements. The corporation shall permit loans  
23 under this section for nonconforming housing located on land to which  
24 a borrower has agricultural rights.

25 \* Sec. 6. AS 18.56.110(g) is amended to read:

26 (g) Notwithstanding AS 18.56.090(12) and (a) of this section,  
27 the corporation may not issue bonds [, OTHER THAN REFUNDING BONDS,] in  
28 any 12-month period beginning after June 30, 1983, in an amount that  
29 exceeds the amount of bonds authorized to be issued during the

1 preceding period, unless a different amount is authorized by the  
2 legislature. This subsection does not apply to the issuance by the  
3 corporation of refunding bonds or to the issuance by the corporation  
4 of bonds the proceeds of which are intended to be used to refinance  
5 mortgage loans held by the corporation.

6 \* Sec. 7. AS 18.56.900 is amended by adding a new paragraph to read:

7 (13) "adjustable rate mortgage loan" means a mortgage loan with  
8 respect to which the interest rate varies or is expected to vary from  
9 time to time by reference to an index or formula or other reference  
10 point.

11 \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

Introduced: 3/24/87  
Referred: Judiciary &  
Finance

wol327s

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 209

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to mortgage loans purchased by the  
7 Alaska Housing Finance Corporation; relating to bonds  
8 issued by the Alaska Housing Finance Corporation; and  
9 providing for an effective date."

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

11 \* Section 1. AS 18.56.096(b) is amended to read:

12 (b) The loan-to-value limitation established in (a)(4) of this  
13 section does not apply to a mortgage [QUALIFIED] loan that is federal-  
14 ly insured or guaranteed. The loan-to-value limitations established  
15 in (a)(1) and (4) of this section do not apply to a mortgage loan that  
16 is a refinancing mortgage loan under AS 18.56.102.

17 \* Sec. 2. AS 18.56.098(a) is amended to read:

18 (a) The corporation shall establish a special mortgage loan  
19 purchase program. Under the special mortgage loan purchase program,  
20 the corporation may purchase [REFINANCING LOANS OR] first or second  
21 mortgage loans. A first or second mortgage loan purchased under this  
22 subsection must be [, INCLUDING GRADUATED PAYMENT MORTGAGE LOANS,]  
23 made for the purchase, improvement, or rehabilitation of a residence  
24 or must be a refinancing loan. First or second mortgage loans pur-  
25 chased under this subsection may include graduated payment mortgage  
26 loans and adjustable rate mortgage loans [RESIDENCES].

27 \* Sec. 3. AS 18.56.098(g) is amended by adding a new paragraph to read:

28 (7) The corporation shall determine the interest rate on a  
29 mortgage loan that is an adjustable rate mortgage loan as provided in

1 this subsection. The corporation shall recalculate the interest rate  
2 from time to time based on changes in the cost to the corporation of  
3 the funds used to purchase the adjustable rate mortgage loan. Howev-  
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5 to an adjustable rate mortgage loan, and the interest rate on the  
6 adjustable rate mortgage loan may not be less than the minimum inter-  
7 est rate so established regardless of the cost of funds to the corpo-  
8 ration.

9 \* Sec. 4. AS 18.56 is amended by adding a new section to read:

10 Sec. 18.56.102. SIMPLIFIED REFINANCING MORTGAGE LOAN PURCHASE  
11 PROGRAM. (a) The corporation shall establish a simplified refinanc-  
12 ing mortgage loan purchase program. Under the simplified refinancing  
13 mortgage loan purchase program, the corporation may purchase refinanc-  
14 ing mortgage loans to provide relief to borrowers under circumstances  
15 described by regulations adopted by the corporation.

16 (b) AS 18.56.098(c), (e), and (k) apply to refinancing mortgage  
17 loans purchased under (a) of this section.

18 (c) Subject to (d) of this section, the interest rate on a  
19 refinancing mortgage loan purchased under (a) of this section is three  
20 percent less than the cost to the corporation of the money used to  
21 purchase the refinancing mortgage loan, except that

22 (1) if the cost of money is 10 percent or less, the inter-  
23 est rate is equal to the cost of money; and

24 (2) if the cost of money is more than 10 percent, the  
25 interest rate may not be less than 10 percent.

26 (d) If the refinancing mortgage loan is an adjustable rate  
27 mortgage loan, the corporation shall establish the initial interest  
28 rate as provided in (c) of this section and shall recalculate the  
29 interest rate from time to time in accordance with (c) of this

1 section. However, notwithstanding (c)(1) of this section, the corpo-  
2 ration may establish a minimum interest rate applicable to an adjust-  
3 able rate refinancing mortgage loan; the interest rate on the adjust-  
4 able rate refinancing mortgage loan may not be less than the minimum  
5 interest rate so established, regardless of the cost of money to the  
6 corporation. The corporation may adopt regulations to implement this  
7 section, including regulations to define "cost of money" for purposes  
8 of this section. The regulations may provide for recalculation of the  
9 cost of money under this subsection at the times and frequencies the  
10 corporation considers appropriate. The time and frequency for a  
11 recalculation under this subsection is not required to match the time  
12 or frequency of a change in the cost of money to the corporation.

13 (e) Equity extraction may not be allowed under this program.

14 (f) In this section, "refinancing mortgage loan" means a loan  
15 refinancing another mortgage loan owned by the corporation.

16 \* Sec. 5. AS 18.56.110(g) is amended to read:

17 (g) Notwithstanding AS 18.56.090(12) and (a) of this section,  
18 the corporation may not issue bonds [, OTHER THAN REFUNDING BONDS,] in  
19 any 12-month period beginning after June 30, 1983, in an amount that  
20 exceeds the amount of bonds authorized to be issued during the preced-  
21 ing period, unless a different amount is authorized by the legisla-  
22 ture. This subsection does not apply to the issuance by the corpo-  
23 ration of refunding bonds or to the issuance by the corporation of  
24 bonds the proceeds of which are intended to be used to refinance  
25 mortgage loans held by the corporation.

26 \* Sec. 6. AS 18.56.900 is amended by adding a new paragraph to read:

27 (13) "adjustable rate mortgage loan" means a mortgage loan with  
28 respect to which the interest rate varies or is expected to vary from  
29 time to time by reference to an index or formula or other reference

1 point.

2 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).