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STATE OF ALASKA  
1988 LEGISLATIVE SESSION

147/1  
BILL VERSION: SCS HB 550 (C+RA)  
PUBLISH DATE: SENATE 5/6/88

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An act..DCRA..modify terms of.. mortgage loans..effective date."  
Sponsor: Rules Committee  
Requestor: \_\_\_\_\_

Agency Affected: Community & Regional Affairs  
BRU: Housing Assistance

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jim Plasman, Deputy Director  
Division: Municipal & Regional Assistance

Phone: 465-4750  
Date: 4/4/88

Approved by Commissioner: [Signature]  
Agency: Community & Regional Affairs

Date: 4/04/88

Distribution (by preparer):

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

# STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

- P.O. BOX B  
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PHONE: (907) 465-4700
- 849 E. 36TH AVENUE, SUITE 400  
ANCHORAGE, ALASKA 99508-4302  
PHONE: (907) 563-1073

April 4, 1988

## POSITION PAPER

RE: House Bill 550

SPONSOR: Rules Committee by request of the House Members of the Joint Committee on Economic Recovery.

### Program Effects:

This bill would allow the department, under the Housing Assistance Loan Program, to modify loan terms, such as the interest rate and maturity date, when a borrower is experiencing financial distress. This authority already exists in other State assisted housing loan programs so this legislation would make this program consistent with these other State housing loan programs.

### Comments:

This bill would correct an inconsistency between the provisions of the Housing Assistance Loan Program and other State housing loan programs, such as those offered by the Alaska Housing Finance Corporation. This would give the Housing Assistance Loan Program more options when assisting a distressed borrower to maintain his or her home and credit rating. It would help reduce the maintenance, legal, and resale costs that the Housing Assistance Loan Program experiences every time it cannot save a loan and has to accept the security, such as the real property, rather than repayment of the loan amount.

The Housing Assistance Loan Fund has currently about 1400 outstanding loans. Of these, 45 are in foreclosure, and another 100 are delinquent in payments. Of these delinquencies, the department estimates between one third and one half would be able to take advantage of the loan modification provisions proposed by this legislation.

HB 550  
April 4, 1988  
Page Two

The Housing Assistance Loan program has considered the financial impact on the Housing Assistance Revolving Loan Fund (HARLF) due to the resultant reduction in the average interest rate the portfolio earns brought about by lowering the interest rate charged to the borrowers. This loss in income, when averaged over the total portfolio, will not impact the loan fund. In addition the department feels that any loss in income due to the reduction in interest income may be offset by reducing the number of non-performing loans by turning them into performing loans. When a borrower goes into default and does not make the required loan payments, the HARLF receives no income from that loan. If the department can immediately work with that borrower and renegotiate loan terms which are acceptable to the State and the borrower, the State will suffer a smaller reduction in income than if it becomes necessary to go to foreclosure and liquidate the security.

The department strongly supports this legislation. It is in the best interests of both the state and the borrowers under this program to implement this statutory change.

  
Marty Rutherford  
Acting Deputy Commissioner

Original sponsor: Rules/House Members  
Of The Joint Committee  
On Economic Recovery

1 IN THE HOUSE  
2 SENATE CS FOR HOUSE BILL NO. 550 (C&RA)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act authorizing the Department of Community and  
7 Regional Affairs to modify the terms of its mortgage  
8 loans; and providing for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. FINDINGS. The legislature finds that  
11 (1) some residents of the state who have obtained mortgage loans  
12 from the Department of Community and Regional Affairs have mortgages with  
13 payment obligations that exceed their present ability to make the required  
14 payments;  
15 (2) the Department of Community and Regional Affairs does not  
16 have statutory authority to reduce interest rates;  
17 (3) the costs of foreclosure and resale, including legal ex-  
18 penses, publication costs, maintenance costs, repair and renovation costs,  
19 sales expenses, closing costs, and costs due to sale in a distressed mar-  
20 ket, may be very substantial;  
21 (4) it may be in the department's and state's best direct finan-  
22 cial interest to avoid foreclosure by modifying loan terms including re-  
23 scheduling principal payments, reducing interest rates and payment amounts,  
24 and adjusting maturity dates to induce existing owners to remain in title  
25 to the property and maintain active management of the property.  
26 \* Sec. 2. AS 44.47 is amended by adding a new section to read:  
27 Sec. 44.47.525. MODIFICATION OF LOANS. (a) Notwithstanding  
28 AS 44.47.410(a) and (b) and 44.47.520(b), on mortgages that it has  
29 financed under AS 44.47.360 - 44.47.560 the department may, by loan

1 modification, reschedule principal payments or reduce interest rates,  
2 or both, if the department finds that

3 (1) a loan modification would result in the likelihood that  
4 the loan would pay to maturity and induce the borrower to remain in  
5 active management and ownership of the property; and

6 (2) the loan modification would be

7 (A) in the best financial interest of the department  
8 and the state; and

9 (B) considered prudent by private lending standards  
10 taking into account the financial circumstances of the borrower  
11 and other costly alternatives such as foreclosure.

12 (b) Rescheduling of the borrower's repayment of principal under  
13 (a) of this section provides an interim payment adjustment and is not  
14 intended to affect the obligation of the borrower to repay the princi-  
15 pal amount on the mortgage loan.

16 (c) The department

17 (1) may reduce the interest rate payable on a mortgage  
18 under (a) of this section only if the modification contains an inter-  
19 est rate reopener clause; the interest rate reopener clause must

20 (A) require that, if the interest rate is reduced, the  
21 borrower and the department shall renegotiate the rate of inter-  
22 est on the mortgage within five years of the date of an interest  
23 rate reduction approved by the department under this section;

24 (B) specify the date by which the borrower and the  
25 department are to renegotiate the rate of interest under (A) of  
26 this paragraph;

27 (C) incorporate a call feature reserving to the  
28 department the right to demand repayment of the entire principal  
29 amount due if the borrower and the department are unable to

1           conclude renegotiation of the rate of interest under (A) of this  
2           paragraph; the department may not use the call feature incor-  
3           porated under this subparagraph to demand repayment of the entire  
4           principal amount due before the date determined under (B) of this  
5           paragraph;

6           (2) may not approve a rate of interest under this section  
7           that is less than six percent.

8           (d) An interest rate reduction approved by the department under  
9           this section cancels the borrower's obligation to pay the amount due  
10          that is attributable to the difference between the original interest  
11          rate and the interest rate reduction for the period of the rate re-  
12          duction.

13          (e) When an interest rate is renegotiated under (c) of this  
14          section, the renegotiated rate may not exceed the interest rate orig-  
15          inally charged on the loan.

16          (f) The department shall adopt regulations prescribing the terms  
17          and conditions of and the procedures applicable to loan modifications  
18          made under this section.

19          \* Sec. 3. This Act takes effect July 1, 1988.

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
TAM KELLY, Vice Chairman  
RICK HALFORD  
MIKE SZYMANSKI  
FRED ZHAROFF



P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4989

## Senate Community and Regional Affairs Committee

May 3, 1988

TO: Members,  
Senate Community and Regional Affairs Committee

FROM: Staff *MS/L*  
Senate Community and Regional Affairs Committee

RE: HB 550 - "An Act authorizing the Department of  
Community and Regional Affairs to modify the terms of  
its mortgage loans; efd."

This bill would allow DC&RA to modify Housing Assistance loan terms, including interest rate and maturity date when the borrower is in financial distress. This will make the HAD program consistent with other state assisted home loan programs which already have this authority.

In this packet is a zero fiscal note, a position paper from the department strongly supporting the bill, a memo from Max Gruenberg, House Chair of the Joint Committee on Economic Recovery, a House Research report on the ability to restructure state assisted mortgage loans, and a bill history.

# STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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April 4, 1988

## POSITION PAPER

RE: House Bill 550

SPONSOR: Rules Committee by request of the House Members of the Joint Committee on Economic Recovery.

### Program Effects:

This bill would allow the department, under the Housing Assistance Loan Program, to modify loan terms, such as the interest rate and maturity date, when a borrower is experiencing financial distress. This authority already exists in other State assisted housing loan programs so this legislation would make this program consistent with these other State housing loan programs.

### Comments:


This bill would correct an inconsistency between the provisions of the Housing Assistance Loan Program and other State housing loan programs, such as those offered by the Alaska Housing Finance Corporation. This would give the Housing Assistance Loan Program more options when assisting a distressed borrower to maintain his or her home and credit rating. It would help reduce the maintenance, legal, and resale costs that the Housing Assistance Loan Program experiences every time it cannot save a loan and has to accept the security, such as the real property, rather than repayment of the loan amount.

The Housing Assistance Loan Fund has currently about 1400 outstanding loans. Of these, 45 are in foreclosure, and another 100 are delinquent in payments. Of these delinquencies, the department estimates between one third and one half would be able to take advantage of the loan modification provisions proposed by this legislation.

HB 550  
April 4, 1988  
Page Two

The Housing Assistance Loan program has considered the financial impact on the Housing Assistance Revolving Loan Fund (HARLF) due to the resultant reduction in the average interest rate the portfolio earns brought about by lowering the interest rate charged to the borrowers. This loss in income, when averaged over the total portfolio, will not impact the loan fund. In addition the department feels that any loss in income due to the reduction in interest income may be offset by reducing the number of non-performing loans by turning them into performing loans. When a borrower goes into default and does not make the required loan payments, the HARLF receives no income from that loan. If the department can immediately work with that borrower and renegotiate loan terms which are acceptable to the State and the borrower, the State will suffer a smaller reduction in income than if it becomes necessary to go to foreclosure and liquidate the security.

The department strongly supports this legislation. It is in the best interests of both the state and the borrowers under this program to implement this statutory change.

  
Marty Rutherford  
Acting Deputy Commissioner

# State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
HOUSE JUDICIARY  
HOUSE RULES



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465-4968/4986

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

MEMORANDUM

TO: SENATOR ARLISS STURGULEWSKI, CHAIR  
SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

FROM: MAX F. GRUENBERG, JR., HOUSE CHAIR  
JOINT COMMITTEE ON ECONOMIC RECOVERY *MFG*

DATE: APRIL 28, 1988

RE: JOINT COMMITTEE LEGISLATION

I would appreciate your consideration of the attached legislation at your earliest convenience. HB 550, "An Act authorizing the Department of Community and Regional Affairs to modify the terms of its mortgage loans; and providing for an effective date" was developed and considered by the Housing and Banking subcommittee and the members of the House side of the Joint Committee on Economic Recovery and introduced at the House members' request by the House Rules Committee.

This bill has also been heard and passed by the House Community and Regional Affairs and Labor and Commerce Committees. On April 27 HB 550 passed the House unanimously.

HB 550 would modify the terms of DC&RA mortgage loans to rural Alaskans by reducing interest rates, thus allowing more flexibility to the Department's loan program.

I hope you can speedily schedule this bill before your committee to enhance its chances of passing this session.

If you have any questions please give Tom Begich of my staff a call at 465-3718 or 465-4968 or contact Representative Steve Frank, the designated House floor manager for the bill, directly.

Thanks.

attachment

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 29, 1988

SUBJECT: Authority to restructure mortgage loans  
(Work order 5-2012)

TO: Representative Steve Frank  
ATTN: Rick Solie

FROM: Jack Chenoweth  
Legislative Counsel

You have asked for a review of the ability of the state agencies that manage residential mortgage lending programs to restructure those loans under current law.

The sources of the principal residential mortgage loan programs are:

-- loans made under one of the various housing assistance programs by the Alaska Housing Finance Corporation under authority of AS 18.56; 1/

-- loans made from the Housing Assistance Loan Fund and the Homeownership Assistance Funds by the Division of Housing Assistance of the Department of Community and Regional Affairs under the authority of AS 44.47.360 - 44.47.560. 2/

Though their total numbers are significantly below the numbers of loans made by each of the entities mentioned above, loans for residential purposes may also be made by

-- the Alaska Permanent Fund Corporation;

-- the commissioner of revenue, acting in the capacity of treasurer of the state's retirement systems for the pension fund surpluses of the Public Employment Retirement System and the Teachers' Retirement System.

"Restructuring of mortgage loans" is usually understood to mean at least one of the following:

Representative Steve Frank  
Page 2  
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-- forbearance arrangements or agreements, authorizing the borrower to reduce or suspend regular mortgage payments for a stated period; or,

- modification of the terms of a mortgage, including
  - reduction of payments of principal
    - without affecting the total debt obligation of the mortgagor on the mortgage loan; or
    - accompanied by a concomitant reduction in the total debt obligation of the mortgagor on the mortgage loan;
  - reduction of the interest payment payable on the loan; or
  - delay or postponement of the due date of the mortgage obligation.

Alaska Housing Finance Corporation mortgage loans:

The Alaska Housing Finance Corporation enjoys wide latitude as to how it may address delinquent loans and those that may become delinquent. In the enumeration of the general powers of the corporation, AS 18.56.090(11) provides that the corporation may, "for its . . . corporate purposes":

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;

While this statutory language sets no limits, there are some practical constraints.

AHFC principally finances its programs through the use of bond proceeds. AS 18.56.110 generally prescribes limitations applicable to the bonds and notes of the corporation. AS 18.56.110(f)(3) authorizes the corporation to "covenant as to the use and disposition of any and all payments of principal and interest received by the corporation on mortgage loans . . . or other investments held by the corporation." Under AS 18.56.120,

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

Representative Steve Frank  
Page 3  
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immediately subject to the lien of the pledge without physical delivery or further act. . . .

So it is to the covenants that support the underlying bond issues rather than to provisions of state law that one must look to determine whether AHFC's various mortgage loan programs permit restructuring of outstanding loans. One must also consider the agreements between AHFC and, on the one hand, agreements entered into with the Federal National Mortgage Association (and similar entities) covering sales of mortgages and loans and, on the other hand, agreements with the corporation's own mortgage seller/servicers. Each of these groups of agreements may include provisions limiting the corporation's flexibility in responding to defaults and potential defaults by the borrowers.

These agreements notwithstanding, AHFC does authorize loan modifications under certain circumstances. The corporation's seller/servicer manual identifies those as limited to instances in which the mortgagor's income has been permanently affected by accident or illness, or in which the mortgagor's income has been reduced or eliminated altogether for a temporary period and which has not recovered sufficiently to maintain the current mortgage. The corporation will also consider a modification "if the servicer [of the mortgage] feels that changing the terms of the mortgage would not only cure [a] present delinquency but also prevent future delinquencies." AHFC must give prior approval and "will consider . . . reamortizing the debt to include the delinquent payments or extending the term of the loan by the number of past due installments." AHFC Seller/Servicer Manual sec. 9002.06.

In summary, current state law generally appears to provide sufficient latitude for the Alaska Housing Finance Corporation to modify loans and loan provisions for loans that are delinquent or may become delinquent. Legislative initiatives to amend the law to redefine or extend AHFC's authority need to be concerned with possible claims against impairment of contracts entered into by the corporation, particularly with bond underwriters, federal government agencies that purchase the mortgages, and the corporation's seller/servicers.

Department of Community and Regional Affairs mortgage loans:

Representative Steve Frank  
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February 29, 1988

State law applicable to management of the department's mortgage loan programs does not specifically provide the department latitude to restructure repayment of principal and interest on its loans. The department's own regulations are also silent on the point.

The department has asserted to you that it may not reduce interest payable. Its assertion seems to be borne out by the following:

-- the interest rate payable by a borrower under the rural owner-occupied housing program is, by statute (AS 44.47.410(b)), tied to the rate based on the most recent AHFC bond sale;

-- the interest rate payable by a borrower under the rural non-owner-occupied housing program is set by statute (AS 44.47.520(b)) as an amount not to exceed  $10\frac{1}{2}$  percent; the department advertises that the rate is  $10\frac{1}{2}$  percent;

-- the interest rate payable by a borrower under the homeownership assistance housing program, the interest-subsidy assistance program, directs by statute (AS 44.47.382(b)) that, for qualifying borrowers, the subsidy allowable shall be sufficient to reduce the actual interest rate paid on the mortgage to six percent.

The net effect of the three statutes cited suggests that the department is without discretion to adjust or reduce interest payable by a borrower under any of the three programs.

The department has also represented to you that, while it may adjust payments of principal on outstanding housing program loans, its authority to adjust the payments is limited to modifying current principal payments without reducing the mortgagor's total debt obligation under the mortgage loan. In other words, the department believes that it may reduce monthly payments, but the reductions correspondingly serve to extend the repayment obligation to an additional period; the department may not cancel or forgive a portion of the borrower's indebtedness.

The source of the department's mortgage lending activity is the housing assistance loan fund. That fund is established by statute (AS 44.47.380) and was, by a 1983 amendment, made

Representative Steve Frank  
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a revolving loan fund. 3/ A revolving loan fund is commonly thought of, and in Alaska legislation has been nearly universally treated, as a fund that is continually expended and replenished, from which withdrawals are made as loans but with a corresponding obligation to repay the fund in order to keep it intact. 4/ Legislative appropriations for state revolving loan funds are typically treated as non-lapsing appropriations, and any repayments of principal on loans purchased or originated with these appropriations should be deposited into the fund and made available from the fund for subsequent expenditure.

In my judgment, the department's representation to you seems to be fully consistent with its duty to maintain the integrity of the housing assistance loan fund as a revolving fund. A reduction in principal payments accompanied by a cancellation of a portion of a borrower's indebtedness would compromise the fund balance and the ability of the agency to use the fund balance as a source of loans in subsequent years.

Investments of the Alaska Permanent Fund Corporation:

Under authority granted in AS 37.13.120(g)(16), the corporation may invest in

notes secured by mortgages granting a first lien on commercial or residential real estate improved by completed buildings [subject to specific mortgage insurance requirements];

Like the Alaska Housing Finance Corporation, the Alaska Permanent Fund Corporation enjoys broad authority to manage investments. The corporation is authorized to "enter into and enforce all contracts necessary, convenient, or desirable for purposes of the corporation." (AS 37.13.120(f)). The residential mortgages purchased by the corporation as investments become assets of the corporation subject to the corporation's general asset management policies.

Since the Permanent Fund Corporation regularly receives income from sources other than those that support the mortgage lending activities of AHFC or the Housing Assistance Division, it is not constrained by the same considerations that circumscribe loan management practices of those two entities. Within the broad authority of the statutes directing its activities, the Permanent Fund

Representative Steve Frank  
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Corporation appears to have ample legal authority to structure or restructure loans that are potentially or actually delinquent.

Retirement Funds investments:

The commissioner of revenue may invest the surpluses of the Public Employees' Retirement System and the Teachers' Retirement System in, among other permissible investments specified by law, residential mortgages. AS 39.35.-110(a)(10) (for the Public Employees' Retirement System) and AS 14.35.180(b)(10) (for the Teachers' Retirement System) authorize the commissioner to invest in "first lien real estate mortgages guaranteed by the federal Veterans Administration." AS 39.35.110(a)(11) and (12) and AS 14.35.-180(b)(11) and (12) authorize investments involving other kinds of residential mortgages, subject to specific limitations set out in those paragraphs and in AS 39.-35.110(e) and AS 14.25.180(e), respectively.

As to each of the two retirement programs, the commissioner is authorized by law to "do all acts whether or not expressly authorized which are considered necessary or proper for the protection of the investments held in the pension fund." AS 39.35.110(d); AS 14.25.180(d).

JBC:bb  
wkb3/047

FOOTNOTES

1/ The loans of the Alaska Housing Finance Corporation may be classified among the following specific loan programs:

-- home ownership assistance program (a program to provide mortgage subsidies to persons of low and moderate income);

-- mobile home loan purchase program (a program to provide low-cost financing for mobile homes);

-- pledged account mortgage program (a program to assist persons with sufficient assets but whose income does not meet the minimum monthly income requirements generally applicable to the corporation's loan programs);

-- second mortgage loan program (a program to provide low-interest loans for home improvements or rehabilitation in order to make the units more habitable, and to finance second mortgages in order to allow home purchases);

-- taxable mortgage program conventional loan (the principal AHFC homeowner assistance program, applicable to owner-occupied units);

-- tri-plex and four-plex mortgage loan program (a program to allow the purchase of owner-occupied tri- and four-plex units);

-- veterans' mortgage program (a program to provide additional assistance to qualifying veterans through a reduced interest rate);

2/ The Department of Community and Regional Affairs' loans involve the following specific programs:

-- rural owner-occupied housing (a program to provide financing to qualified borrowers for the construction, purchase, or rehabilitation of a housing unit, limited to single family units and duplexes, for use as the borrower's principal residence);

-- rural non-owner-occupied housing (a program to provide financing to qualified borrowers for the construction, purchase, or rehabilitation of a multiple unit housing project, generally two to eight units, though larger under extraordinary circumstances);

Representative Steve Frank  
Page 8  
February 29, 1988

-- home ownership assistance housing (a program to provide assistance to persons of lower and moderate income to purchase or construct single-family, owner-occupied dwellings, through the use of subsidized interest payment support).

3/ A January 23, 1984, Opinion of the Attorney General provides guidance to the Department of Community and Regional Affairs as to the proper handling of the repayments of principal and interest earnings on loans made from the loan fund before and after the 1983 amendment establishing it as a revolving fund.

4/ "Revolving loan funds provide for the return to the fund of repayments by borrowers of the principal (and frequently the interest on that principal) which was loaned to them from the fund so that new loans can be made on a continuing basis." 1982 Opinions of the Attorney General #13, November 30, 1982, at page 12.

JBC:bb  
wkb3/047

BILL: HB 550

NAME:

TITLE: "An Act authorizing the Department of Community and Regional Affairs to modify the terms of its mortgage loans; and providing for an effective date."

PRIME SPONSOR: RULES COMMITTEE
BY REQUEST OF ECONOMIC RECOVERY, HOUSE

FUNDING : \$000 GENERAL(FNOTE) \$000 OTHER(FNOTE)

CURRENT STATUS: (S) CRA STATUS DATE: 04/28/88
THEN FIN

Selection=>

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
HB 550 Bill/Resolution Action Page 2 of 2

Current Status: (S) CRA

Table with columns: Jrn-Date, Jrn-Pg, Action. Rows 1-15 detailing bill actions and dates.

Selection=>

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT

**BILL HISTORY - HOUSE ACTION:**

**HB 550**

**HOUSE CALENDAR: APRIL 27, 1988 - WEDNESDAY**

**HOUSE JOURNAL MARCH 28, 1988**

HB 550

HOUSE BILL NO. 550 by the Rules Committee by request of the House Members of the Joint Committee on Economic Recovery, entitled:

"An Act authorizing the Department of Community and Regional Affairs to modify the terms of its mortgage loans; and providing for an effective date."

was read the first time and referred to the Community & Regional Affairs, Labor & Commerce and Finance Committees.

**HOUSE JOURNAL APRIL 11, 1988**

HB 550

The Community & Regional Affairs Committee has considered:

HOUSE BILL NO. 550

"An Act authorizing the Department of Community and Regional Affairs to modify the terms of its mortgage loans; and providing for an effective date."

Recommending do pass (3): Springer (Chairman), Herrmann, Cato

No recommendation (1): Collins

A zero fiscal note was published April 11, 1988.

HB 550 was referred to the Labor & Commerce Committee.

**HOUSE JOURNAL APRIL 20, 1988**

HB 550

The Labor & Commerce Committee has considered:

HOUSE BILL NO. 550

"An Act authorizing the Department of Community and Regional Affairs to modify the terms of its mortgage loans; and providing for an effective date."

Recommending do pass (2): Davidson, Boucher

No recommendation (3): Donley (Chairman), Ellis, Koponen

HB 550 was referred to the Finance Committee.

**HOUSE ACTION APRIL 25, 1988**

The Finance Committee has considered HB 550: "An Act authorizing the Department of Community and Regional Affairs to modify the terms of its mortgage loans; and providing for an effective date."

And recommends: do pass, attaching the same as previous Zero fiscal note published 4-11-88.

Signing do pass (8): Larson, Goll, Swackhammer, Boyer, Brown, Davis, Pourchot, Rieger

Chairman Springer read the bills on the calendar for the day, SB 335 am, SB 336, HB 550 and HB 475. He brought HB 550 before the committee first.

Rep. Herrmann arrived at 3:06 p.m.

Chairman Springer informed the committee that Rep. Steve Frank had been charged with writing the bill. Chairman Springer explained that basically, in the "boom" days, there were housing assistance programs for residential housing in rural areas which included nonconformance loans. The Dept. of Community and Regional Affairs (DCRA) was locked in to the contract and interest rates of these loans.

JIM PLASMAN, DCRA, testified in SUPPORT of HB 550. HB 550 would allow DCRA to help out distressed borrowers to stay in their homes through modification of the interest rates and rescheduling of principal payments. There were currently about 1,400 loans in the housing assistance loan program of which 45 were in foreclosure and 100 were delinquent in payments. The standards in the bill were designed to insure it was not a giveaway program. Rep. Cato asked if it would reduce the amount to be paid over the length of the contract if it was modified. Mr. Plasman explained that it would reduce the interest rate but not affect the principle amount. Rep. Cato also wondered if other people, upon passage of HB 550, would become delinquent. Mr. Plasman responded that the intent was to reduce interest rates of borrowers as dictated by the financial circumstances. They wanted to keep people in their homes. DCRA felt that 1/3 to 1/2 of those with delinquent loans could take advantage of the program. They anticipated no fiscal impact except for regulation changes (no additional funds required), it would be carried out as part of the existing loan program.

Chairman Springer noted that the percentages of people in trouble were roughly the same as the Alaska Housing Finance Corporation, between 8-15%. He made two observations on it: 1) that they should not reward non-responsibility of people with loans (give incentive to quit trying to meet payments by rewarding defaults); and 2) on the flip side, they were looking at what would be prudent for the State.

Rep. Frank's position paper emphasized that the major aspect of HB 550 was to allow DCRA to reschedule principle payments and/or lower interest rates on mortgages. While the reduction on interest may be forgiven, the principle may not. It would give the DCRA the authority to renegotiate the interest rate after five years. The new interest rate may not be higher than the interest rate on the original note. Chairman Springer felt it was a

reasonable mechanism. He clarified for Rep. Cato that the loans were regular loans, but could include nonconforming loans.

REP. CATO made a MOTION to move HB 550 out of Committee with Individual Recommendations. There being NO OBJECTIONS, it was SO ORDERED.

HOUSE LABOR AND COMMERCE COMMITTEE MEETING - APRIL 19, 1988

HB 550

Chairman Donley stated the next matter on the agenda was HB 550, an act authorizing the Dept. of Community and Regional Affairs to modify the terms of its mortgage loans.

Rep. Frank, member of the Housing and Banking subcommittee of the Joint Economic Recovery Committee, stated that he introduced the idea for HB 550 and assumed the responsibility of seeing the bill through. He explained that the Department of Community and Regional Affairs had the housing assistance division within it and made the rural non conforming loans. They established a statutory interest rate and if a mortgage loan needed restructuring, because the property could not carry the mortgage payments, then the department and the borrower would both be faced with foreclosure. If the department decided to foreclose (judicial or nonjudicial) they would be faced with additional costs. He continued that foreclosure could be avoided if the same owner was able to stay in the property, manage it and continue to own it through an interest rate renegotiation. He stated that a bank would do something similar to this concept because it was a prudent business practice. He pointed out that HB 550 was not a bail out and reiterated that it only allowed renegotiation of interest rates in situations that were in the department's best interest.

Rep. Frank pointed out that there was a call feature included in HB 550 so that if interest rates or circumstances change in the next five years the interest could be raised back up to the original rate. He emphasized that the interest rate could be raised back up to the original rate but not greater than the original rate. He pointed out that the loans referred to in HB 550 were actually owned by the state and not like AHFC that had to deal with a private mortgage insurer. He continued that the loans were similar to the Alaska Industrial Development and Export Authority (AIDEA) concept where AIDEA actually owned the loans and had the authority to renegotiate interest rates and were in fact doing so.

Rep. Ellis asked how the Joint Economic Recovery Committee bills fit together and if fairness and equity were the watch words regarding HB 550.

Rep. Frank stated that fairness and equity should be the

objective and that HB 550 was not designed to save the homeowner but rather to allow flexibility to the department when it was in the state's best financial interest to do so. He explained that HB 550 would help induce the borrower to stay with the project instead of foreclosing.

Rep. Koponen moved HB 550 to the next committee of referral with individual recommendations. There being no objections, the motion carried.

SENATE COMMITTEE REPORT

5-2052 N

FURTHER

FINANCE

DATE TURNED INTO OFFICE 5/6/88

4/28/88  
Mr. President:

C&RA Committee considered HB 550

Department of Community and Regional Affairs to modify the terms of its mortgage loans; efd

and recommended

replace with SCS ~~CS~~ for HB 550 (C&RA)  same title (b)  
 or adopt \_\_\_\_\_ CS \_\_\_\_\_  new title

attached amendment(s) and + majority do pass.

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)  
 new  updated or  previous  
 zero  fiscal impact

*Φ FOL*

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*1 Mil. Spri*  
*1 Tim. Hill*  
*1 Chas. J. Hancock*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Tim. Hill*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Artis Stupulischi Dolan*  
Chairman signature and recommendation

Committee Backup attached

1 IN THE HOUSE  
2  
3 HOUSE BILL NO. 550  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 FIFTEENTH LEGISLATURE - SECOND SESSION  
6 A BILL  
7 For an Act entitled: "An Act authorizing the Department of Community and  
8 Regional Affairs to modify the terms of its mortgage  
9 loans; and providing for an effective date."  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
11 \* Section 1. FINDINGS. The legislature finds that  
12 (1) some residents of the state who have obtained mortgage loans  
13 from the Department of Community and Regional Affairs have mortgages with  
14 payment obligations that exceed their present ability to make the required  
15 payments;  
16 (2) the Department of Community and Regional Affairs does not  
17 have statutory authority to reduce interest rates;  
18 (3) the costs of foreclosure and resale, including legal ex-  
19 penses, publication costs, maintenance costs, repair and renovation costs,  
20 sales expenses, closing costs, and costs due to sale in a distressed mar-  
21 ket, may be very substantial;  
22 (4) it may be in the department's and state's best direct finan-  
23 cial interest to avoid foreclosure by modifying loan terms including  
24 rescheduling principal payments, reducing interest rates and payment  
25 amounts, and adjusting maturity dates to induce existing owners to remain  
26 in title to the property and maintain active management of the property.  
27 \* Sec. 2. AS 44.47 is amended by adding a new section to read:  
28 Sec. 44.47.525. MODIFICATION OF LOANS. (a) Notwithstanding  
29 AS 44.47.410(a) and (b) and 44.47.520(b), on mortgages that it has  
financed under AS 44.47.360 - 44.47.560 the department may, by loan

1 modification, reschedule principal payments or reduce interest rates,  
2 or both, if the department finds that

3 (1) a loan modification would result in the likelihood that  
4 the loan would pay to maturity and induce the borrower to remain in  
5 active management and ownership of the property; and

6 (2) the loan modification would be

7 (A) in the best financial interest of the department  
8 and the state; and

9 (B) considered prudent by private lending standards  
10 taking into account the financial circumstances of the borrower  
11 and other costly alternatives such as foreclosure.

12 (b) Rescheduling of the borrower's repayment of principal under  
13 (a) of this section provides an interim payment adjustment and is not  
14 intended to affect the obligation of the borrower to repay the princi-  
15 pal amount on the mortgage loan.

16 (c) The department may reduce the interest rate payable on a  
17 mortgage under (a) of this section only if the modification contains  
18 an interest rate reopener clause. The interest rate reopener clause  
19 must

20 (1) require that, if the interest rate is reduced, the  
21 borrower and the department shall renegotiate the rate of interest on  
22 the mortgage within five years of the date of an interest rate reduc-  
23 tion approved by the department under this section;

24 (2) specify the date by which the borrower and the depart-  
25 ment are to renegotiate the rate of interest under (1) of this sub-  
26 section;

27 (3) incorporate a call feature reserving to the department  
28 the right to demand repayment of the entire principal amount due if  
29 the borrower and the department are unable to conclude renegotiation

1 of the rate of interest under (1) of this subsection; the department  
2 may not use the call feature incorporated under this paragraph to  
3 demand repayment of the entire principal amount due before the date  
4 determined under (2) of this subsection.

5 (d) An interest rate reduction approved by the department under  
6 this section cancels the borrower's obligation to pay the amount due  
7 that is attributable to the difference between the original interest  
8 rate and the interest rate reduction for the period of the rate re-  
9 duction.

10 (e) When an interest rate is renegotiated under (c) of this  
11 section, the renegotiated rate may not exceed the interest rate orig-  
12 inally charged on the loan.

13 (f) The department shall adopt regulations prescribing the terms  
14 and conditions of and the procedures applicable to loan modifications  
15 made under this section.

16 \* Sec. 3. This Act takes effect July 1, 1988.