

S B

87

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER FINANCE

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE _____

1/9/89

Mr. President:

C&RA Committee considered SB 87

use of the housing assistance loan fund; authorizing the Department of Community and Regional Affairs to modify the terms of its mortgage loans; and providing for an effective date.

and recommended:

replace with CS SB87 (C&RA) same title
 attached amendment(s) and new title

_____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Al Adams - Do Pass
Chairman signature and recommendation

Committee backup attached

A M E N D M E N T

OFFERED IN THE SENATE

BY FRANK

TO: SB 87

Page 3, following line 27:

Insert a new subsection to read:

"(g) The legislative audit division shall annually conduct a performance post-audit of the loans modified by the department under this section during the preceding fiscal year, and shall report its conclusions and recommendations to the Legislative Budget and Audit Committee."

**COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
JANUARY 24, 1989**

**SB 87: AN ACT RELATING TO USE OF THE HOUSING ASSISTANCE LOAN
FUND; AUTHORIZING THE DEPARTMENT OF COMMUNITY AND REGIONAL
AFFAIRS TO MODIFY THE TERMS OF ITS MORTGAGE LOANS AND
PROVIDING FOR AN EFFECTIVE DATE.**

SPONSOR: RULES/GOV

FISCAL: NONE

**THE NEXT BILL WE WILL HEAR IS SENATE BILL 87, AN ACT
RELATING TO USE OF THE HOUSING ASSISTANCE LOAN FUND;
AUTHORIZING THE DEPARTMENT OF COMMUNITY AND REGIONAL
AFFAIRS TO MODIFY THE TERMS OF ITS MORTGAGE LOANS AND
PROVIDING FOR AN EFFECTIVE DATE.**

**THIS BILL ALLOWS THE DEPARTMENT TO MAKE LOANS FOR THE
DEVELOPMENT OR PURCHASE OF NONCONFORMING AND RURAL
HOUSING THAT COMBINES OWNER-OCCUPIED AND LIMITED
COMMERCIAL USE. SECTION TWO OF THE BILL ALLOWS THE
DEPARTMENT TO MAKE CERTAIN LOAN MODIFICATIONS. THE
BILL WOULD BECOME EFFECTIVE JULY 1, 1989.**

**THERE IS A ZERO FISCAL NOTE IN YOUR PACKET FROM THE
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS.**

JIM PLASMAN IS HERE TO SPEAK FURTHER.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Relating to the Housing Assistance Loan Fund
 Sponsor: Senate Rules
 Requestor: Governor

Agency Affected: Div. of Legislative Audit
 BRU: Legislative Budget and Audit Committee
 Components: Legislative Audit

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The requirements of the proposed legislation could be accomplished within the Division's existing budget.

Prepared by: Randy S. Welker
 Division: Division of Legislative Audit

Phone: 465-3830
 Date: 2/8/89

Approved by Commissioner: *Randy S. Welker*
 Agency: Division of Legislative Audit

Date: 2/8/89

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

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

Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the authority of the Department of Community and Regional Affairs (DCRA) to modify the terms of its mortgage loans. This bill also authorizes DCRA to make housing loans that allow for a combination of residential use and limited commercial use of homes.

Section 1 of the bill adds a new paragraph to AS 44.47.380, housing assistance loan fund, which allows DCRA to make loans for the purchase or development of nonconforming and rural housing that combines owner-occupied residential use and limited commercial use. The area for commercial use may not exceed 25 percent of the total gross living area of a residential unit. It is expected that this provision will encourage economic development in rural areas through the development of small business enterprises and family businesses.

Section 2 of the bill adds a new section, AS 44.47.525, to authorize DCRA to make certain loan modifications on mortgages that it has financed under AS 44.47.370 -- 44.47.-560. In making the loan modifications, the department must find that the modification(s) will be advantageous to both the borrower and the state and would be considered prudent by private lending standards. The types of loan modifications that the department may make are (1) rescheduling principal payments; or (2) reducing interest rates within specified guidelines; or (3) both. The department is required to adopt regulations prescribing the terms and conditions of, and the procedures for, the loan modifications authorized in this bill.


The provisions and guidelines specified in sec. 2 will provide DCRA with the needed flexibility to address the needs of borrowers with mortgages that exceed their present ability to make the required payments, while assuring that a loan modification is also made in the best interests of the state.

Section 3 provides a definition of "limited commercial use."

Finally, sec. 4 provides for an effective date of July 1, 1989.

I urge your support of this bill.

Sincerely,



Steve Cowper
Governor

No.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: _____

Agency Affected: Community & Regional Affairs
BRU: Housing Assistance

Sponsor: Rules Committee
Requestor: Governor

Components: Housing Loan Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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
---------	---	---	---	---	---	---

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
T	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

For FY 89 and FY 90 no additional operating funding is requested. However, FY 91 through FY 95 might require additional staff and loan funds due to increase in loan activity for this commercial use.

Prepared by: Hank Hodge
Division: Rural Development Division

Phone: 561-0900
Date: October 25, 1988

Approved by Commissioner: [Signature]
Agency: DCRA

Date: 10-31-88

Distribution (by preparer):

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

Final Report of the
Subcommittee on Housing and Banking

Joint Committee
on Economic Recovery

May 5, 1988

Members

Rep. Kay Brown, Co-Chair
Rep. Steve Rieger, Co-Chair

Rep. Pat Pourchot
Rep. Steve Frank
Rep. Henry Springer
Rep. Fran Ulmer
Rep. Virginia Collins
Rep. Mike Davis
Rep. Mark Boyer
Rep. Randy Phillips
Rep. Mike Navarre
Rep. Dave Donley

Direct House Research Agency to conduct an interim survey of public housing needs and to analyze options for expanding the program.

Cost to State: \$2.35 million for pilot program.

Strategy: Increase demand for housing.

6. Support pending legislation identified by other subcommittees of the Joint Committee on Economic Recovery that will improve the economy generally and create jobs.

Strategy: Provide aid to distressed homeowners.

7. Revise law to allow restructuring of rural housing loans by the Department of Community and Regional Affairs, where appropriate.

Action needed by legislature: Pass subcommittee legislation, HB 550.

Cost to State: Theoretically, none.

8. Direct AHFC to relax current owner-occupancy ratios for condominium mortgage loans to the extent possible, and to take actions to raise owner occupancy in condominium developments.

Action needed by legislature: Pass subcommittee legislation CS HB 555(FIN).

Cost to State:

Alaska State Legislature

STEVE FRANK

DISTRICT 20A
Finance Committee

1125 Sunset Drive
Fairbanks, Alaska 99701



While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709

House of Representatives

TO: House Community & Regional Affairs Committee

FROM: Rep. Steve Frank

RE: House Bill 550 - "An Act authorizing the Department of Community & Regional Affairs to modify the terms of its mortgage loans, and providing for an effective date."

DATE: April 8, 1988

House Bill 550 would give the Department of Community & Regional Affairs (DCRA) the authority to modify the terms on troubled mortgage loans. Unlike other state loan agencies such as AHFC and AIDA, DCRA cannot reduce interest rates on its loans.

This legislation, developed by the Housing and Banking Subcommittee, would charge DCRA to act as a "prudent" lender would in working with borrowers. The idea was to keep the bill tight while allowing the department the ability to act in its own financial best interest.

The major aspect of this bill is to allow DCRA to reschedule principal payments and/or lower interest rates on mortgages. While the reduction in interest may be forgiven, the principal rescheduling may not. In addition, the bill would give the Department the authority to renegotiate the interest rate after five years; however, the new interest rate cannot be higher than the rate charged on the original note.

DCRA supports this legislation because they see it as a way to protect the integrity of the loan fund.

Thank you for your consideration.

State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
HOUSE JUDICIARY
HOUSE RULES



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

White/Smith

P.O. BOX V
TUNEAU, ALASKA 99811
(907) 465-3718
465-4968/4986

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

MEMORANDUM

TO: REPRESENTATIVE ALBERT ADAMS, CHAIR
HOUSE FINANCE COMMITTEE

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

40

DATE: APRIL 19, 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.

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. (Representative Steve Frank)

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 the designated member of the Joint Committee directly.

Thanks.

attachment

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

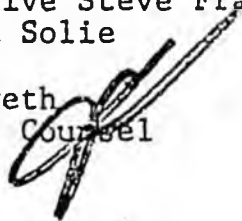
MEMORANDUM

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:

-- 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

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:

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

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
Page 6
February 29, 1988

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);

-- 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

Original sponsor: Rules/Governor

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 87 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to use of the housing assistance
7 loan fund; authorizing the Department of Community
8 and Regional Affairs to modify the terms of its
9 mortgage loans; and providing for an effective date."

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

11 * Section 1. AS 44.47.380 is amended to read:

12 Sec. 44.47.380. HOUSING ASSISTANCE LOAN FUND. There is created
13 in the department, as a revolving loan fund, the housing assistance
14 loan fund consisting of money appropriated to it by the legislature
15 and repayments of principal and interest on loans made or purchased
16 from the assets of the fund. The commissioner shall administer the
17 housing assistance loan fund in accordance with AS 44.47.370 - 44.-
18 47.560 and shall use the money in the housing assistance loan fund to
19 originate, purchase, or participate in the purchase of [, OR]

20 (1) nonconforming and rural housing mortgage loans;

21 (2) loans made for building materials for nonconforming and
22 rural housing;

23 (3) loans made for renovations or improvements to noncon-
24 forming and rural housing;

25 (4) loans made for the construction of owner-occupied non-
26 conforming and rural housing other than loans to builders or contrac-
27 tors or loans that compensate an owner for the owner's labor or ser-
28 vices in constructing the owner's own housing;

29 (5) loans made for the purchase or construction of

nonconforming and rural housing that combines predominately owner-occupied residential use and limited commercial use.

* Sec. 2. AS 44.47 is amended by adding a section to read:

Sec. 44.47.525. MODIFICATION OF LOANS. (a) Notwithstanding AS 44.47.410(a) and (b) and 44.47.520(b), on mortgages that it has financed under AS 44.47.370 - 44.47.560 the department may, by loan modification, reschedule principal payments or reduce interest rates, or both, if the department finds that

(1) a loan modification would

(A) result in the likelihood that the loan would pay to maturity; and

(B) induce the borrower to remain in active management and ownership of the property; and

(2) the loan modification would be

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

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

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

(c) The department

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

(A) require that, if the interest rate is reduced, the borrower and the department shall renegotiate the rate of

1 interest on the mortgage within five years after the date of an
2 interest rate reduction approved by the department under this
3 section;

4 (B) specify the date by which the borrower and the
5 department are to renegotiate the rate of interest under (A) of
6 this paragraph;

7 (C) incorporate a call feature, reserving to the de-
8 partment the right to demand repayment of the entire principal
9 amount due if the borrower and the department are unable to con-
0 clude renegotiation of the rate of interest under (A) of this
1 paragraph; the department may not use the call feature incorpo-
2 rated under this subparagraph to demand repayment of the entire
3 principal amount due before the date determined under (B) of this
4 paragraph;

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

7 (d) An interest rate reduction approved by the department under
8 this section cancels the borrower's obligation to pay the amount that
9 would otherwise have been due during the period of an interest rate
0 reduction and that is attributable to the difference between the
1 original interest rate and the reduced interest rate.

2 (e) If an interest rate is renegotiated under (c) of this sec-
3 tion, the renegotiated rate may not exceed the interest rate original-
4 ly charged on the loan.

5 (f) The department shall adopt regulations prescribing the terms
6 and conditions of, and the procedures applicable to, loan modifica-
7 tions made under this section.

8 (g) The legislative audit division shall annually conduct a
9 performance post-audit of the loans modified by the department under

1 this section during the preceding fiscal year, and shall report its
2 conclusions and recommendations to the Legislative Budget and Audit
3 Committee.

4 * Sec. 3. AS 44.47.560 is amended by adding a new paragraph to read:

5 (7) "limited commercial use" means a small business, op-
6 erated out of an owner-occupied nonconforming and rural housing resi-
7 dence, that occupies an area that does not exceed 25 percent of the
8 total gross living area of a residential unit.

9 * Sec. 4. This Act takes effect July 1, 1989.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29