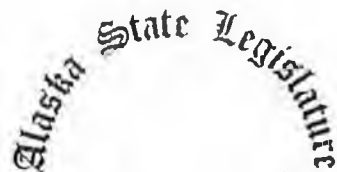


SB

153

SENATOR  
JOHN J. COWDERY  
Anchorage



Senate

January - May:  
State Capitol, Suite 101  
Juneau, Alaska 99801-1182  
Tel: 907-465-3879  
Toll Free: 888-269-3879  
Fax: 907-465-2069

May - December:  
716 W. 4th Avenue  
Anchorage, Alaska 99501  
Tel: 907-269-0222  
Fax: 907-269-0223

Senator\_John\_Cowdery@legis.state.ak.us

Committees

Chair: Rules  
Chair: Transportation  
Chair: World Trade &  
State/Federal Relations  
Legislative Council

## SPONSOR STATEMENT FOR SB 153

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*"An act authorizing a long-term lease of certain Alaska Railroad Corporation land at Anchorage; and providing for an effective date."*

**I**n 2002, the Alaska Legislature passed HB298. It's purpose was to allow the Alaska Railroad to increase its maximum lease term without termination rights from 35 to 55 years. The purpose of the increase was to afford entrepreneurs an opportunity to obtain financing or grants that might require a lease length longer than the original limit. Overall, the issue was promoting economic development within the Railbelt and its communities.

One beneficiary of HB298 was a developer of low-cost senior housing, who was applying for HUD (Federal Department of Housing and Urban Development) section 202 Senior Housing Grants.

Shortly after HB298 came into effect, however, HUD extended its lease requirement to 75 years. This meant developers seeking to receive HUD 202 grants were put out of the picture. The way the law now reads, the Alaska Railroad can approve leases in excess of 55 years; however the railroad must reserve the right to terminate the lease in the event the land is needed for railroad purposes.

If SB 153 comes into effect, the railroad will be allowed to offer the lease in question in excess of 55 years without the right to terminate.

A multifamily senior housing project has been planned for Government Hill (in Anchorage), and the developer received a 55-year lease from the Alaska Railroad Board. However with changes in the lease term requirement the project was no longer eligible for a HUD 202 grant.

SB153 will allow the Alaska Railroad to extend the developer's current 55-year lease without termination clause, in order to allow the senior housing developer to seek HUD 202 funding.

rfb  
revised: March 24, 2003

## **TALKING POINTS ON SB 153**

- **Alaska Enfranchise Facilities would like to build a lower-income senior housing complex on Alaska Railroad land, near Government Hill in Anchorage, using a federal HUD section 202 grant.**
- **Last year, HB 298 was passed. It extended the length of leases on AKRR land from 35 years to 55 years – with no right to terminate -- in order to allow use of HUD 202 grant.**
- **But federal regulation changed, requiring a 75 year lease in order to obtain a HUD 202 grant.**
- **The railroad can lease land for longer than 55 years, but it must retain the right to terminate the lease.**
- **The purpose of SB 153 is to permit the AKRR to lease land – without right to terminate – for 75 years in order to allow AEF to seek a HUD 202 grant.**
- **It is not single interest legislation because statutes requires the legislature to approve individual leases longer than 55 years.**

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB153  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title Long term Lease AK RR Corp BRU Admin & Support  
 Component Commissioners Office  
 Sponsor Senator Cowdery  
 Requester S TRA Component No. 530

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

Prepared by: /s/ Nancy Slagle, Director Phone 465-8974  
 Division Administrative Services Date/Time 3/24/03 3:00 PM  
 Approved by: /s/ Mike Barton, Commissioner Date 3/24/2003  
 Agency DOT&PF

Alaska Enfranchise  
Facilities, Inc.

Providing safe,  
Clean and affordable  
Housing for Alaskan  
Seniors.

Alaska Enfranchised Facilities, Inc. respectfully requests your assistance in providing legislation allowing for the development of senior housing, on land leased from the Alaska Railroad Corporation, using HUD's 202 program.

HUD's 202 program was initiated in the 1960's as a low interest loan program, designed to provide rental housing for low income persons sixty-two years of age and older. The program has evolved over the years and in the mid 1990's the program became a grant program whereby 501 C-3 not-for-profit applicants would receive the grant funds and use the money to build and operate housing for low income people sixty-two years of age and older.

Each year HUD uses a formula to determine how many housing units to assign to each of the fifty states in two categories. The categories are rural and urban. Once the allocation is made the opportunity to apply for the grant funds is advertised to all potential not-for-profit applicants with a NOFA (notification of funding availability). The NOFA is typically posted on the HUD website each April.

The last several years Alaska's annual allocation has been twenty urban units and five rural units. The grant program allows for grant funded buildings to be built on leased land. Before the 2002 grant cycle the rules called for the duration of the lease to be a minimum of forty years. In the April 2002 NOFA the duration of the lease, necessary to build on leased land, was increased to seventy-five years.

Alaska Enfranchised Facilities, Inc. has received seven grants in the past eight years. Four buildings are built and occupied in Anchorage. One building is under construction in Sutton, and later this summer another building will be built in Sutton and one in downtown Anchorage. These buildings total 115 housing units. Marc Marlow has acted as the contractor for most of the buildings built with the grants AEF has received to date. Mr. Marlow also acts as a facilitator for AEF, Inc., coordinating requirements for application in a timely manner as well as assisting in coordinating efforts after AEF, Inc. has received a grant.

Please find attached a brochure of the buildings AEF, Inc. has finished for Alaska's elderly to date.

Alaska Enfranchised Facilities, Inc. desires to apply for the 2003 HUD 202 grant and hopes to build the building on Government Hill in Anchorage, on a piece of land that the Alaska Railroad Corporation owns. The Alaska Railroad Corporation is only allowed to lease land for a period not to exceed fifty-five years, unless a longer period is approved by the legislature. In so far as the 202 program requires a lease period of at least seventy-five years, the legislature's approval is hereby requested to allow the Alaska Railroad Corporation to lease the portion of Section 8, Township 13 North, Range 3 West, Seward Meridian that is owned by the Alaska Railroad Corporation for a period in excess of fifty-five years.

## HISTORY

Alaska Enfranchise Facilities, Inc., previously Alaska Evangelistic Fellowship, Inc., received its non-profit corporation status in 1991.

The purpose of the corporation as amended in March, 1999 states: "the purpose of this corporation is to (1) research community needs and target feasible projects; (2) build facilities to support programs by seeking incentives for developers; (3) organize and train program-specific management and volunteers; (4) coordinate the utilization of community-based services in the programs; (5) obtain support for quality-of-life improvements in completed facilities; (6) seek continuous evaluation of facility and program effects; and (7) involve local and regional leadership in the entire process."

Current activities include sponsoring and facilitating the development of owner corporations for seven (7) Section 202 Capital Advance, Supportive Housing for the Elderly, projects in Alaska.

## CURRENT PROJECTS

### Muldoon Manor

Project #176-EE007  
20 units  
2040 Muldoon Road  
Anchorage, Alaska 99504  
Funded 1995  
Grant amount \$2,438,199  
100% Occupied

### Commodore Park Plaza

Project #176-EE010  
25 units  
10415 Jamestown Drive  
Anchorage, Alaska 99507  
Funded 1996  
Grant amount \$3,034,440  
100% Occupied

### Russian Jack Manor

Project #176-EE015  
20 units  
1260 Delasala Place  
Anchorage, Alaska 99508  
Funded 1999  
Grant amount \$2,821,200  
100% Occupied

### Sutton Manor

Project #176-EE025  
5 units  
15816 North Glenn Highway  
Sutton, Alaska 99674  
Funded 2001  
Grant amount \$891,100  
Under construction

*Jewel Lake Plaza*

Project #176-EE014  
20 units  
8300 Jewel Lake Road  
Anchorage, Alaska 99502  
Funded 1998  
Grant amount \$2,351,000  
100% Occupied

*Sutton Annex*

Project #176-EE028  
5 units  
15838 North Glenn Highway  
Sutton, Alaska 99674  
Funded 2002  
Grant amount \$891,100  
Design phase

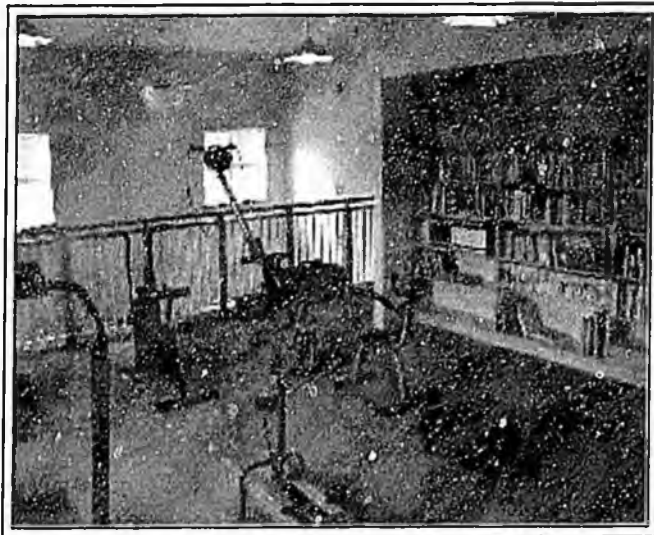
*Sullivan Manor*

Project #176-EE027  
20 units  
Anchorage, Alaska  
Funded 2002  
Grant amount \$3,620,500  
Design phase

The Board of Directors works with Manor Management of Alaska, Inc. (MMA) on the development and operation of its current facilities as well as future projects. MMA was formed as a sister corporation to Manor Management Services, Inc. (MMS) specifically to provide housing and related services to seniors in Alaska. MMA was incorporated on July 29<sup>th</sup>, 1992.

Board meetings are held on a quarterly basis with the management team. Board members are asked to review financial statements from each facility, comment on facility operations, and provide support for project funding, design phase to project completion.

Attached for your review are photographs from our current facilities. Should you have any questions please contact Patrick C. O'Toole, President, MMA, at 1-800-201-4922.



Russian  
Jack  
Manor





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- HUD and Federal



**HUD Section 202 Program Now Allows Participation by For-Profit Owners, Developers**

Private sector participation in the HUD Section 202 elderly housing program is now possible due to legislative changes enacted in 2000. The changes permit the use of the low-income housing tax credit for such projects for the first-time, according to Washington, DC attorneys Monica Sussman and Rick Goldstein.

The two, partners in the law firm of Nixon Peabody LLP, spoke on a panel August 18 at the National Housing & Rehabilitation Association's 2001 Summer Institute in Half Moon Bay, CA. (See related article on p. 1 on opportunities for owners of older HUD-assisted properties.)

Under the Section 202 program, HUD provides grants to nonprofit sponsors to finance the construction or rehabilitation of supportive housing projects for the elderly. It also provides rent subsidies for such developments. Sussman said an opportunity "just getting underway" is development and ownership of Section 202 projects by for-profit developers/owners in joint ventures with nonprofits.

This stems from amendments made to the program made by a law (P.L. 106-569) signed last December. It permits Section 202 and Section 811 (housing for persons with disabilities) projects to be owned by limited partnerships that include a for-profit limited dividend entity, provided a nonprofit sponsor is the sole general partner. A recent HUD notice (H 200 11), outlining policies for Section 202/811 projects receiving FY 2001 HUD funds, says the purpose of for-profit participation must be to develop a "mixed-finance or mixed-use project for additional units (i.e., units in addition to the Section 202 or Section 811 units)."

Sussman said HUD is trying to decide whether it must issue regulations to implement the 202 program changes. But she contended that HUD now has authority to close transactions on an "ad hoc" basis without rules, noting precedent in HUD programs. Sussman, though, indicated that she isn't aware of any transactions that have closed yet.

She said the changes will also permit greater leveraging of 202 program funds, by allowing allocations of 202 funds - which now typically fund small projects - to be combined with other funds to produce larger housing

projects containing both 202 and non-202 units. Sussman likened this to many HUD HOPE VI projects, where the HOPE VI grant is combined with other public and private funds to finance developments with a mix of units for public housing, tax credit-eligible, and market-rate tenants.

Goldstein said for-profit participation in 202 projects will enable the use of housing tax credits for such projects, and the raising of equity for them through the syndication of the credits.

Sussman and Goldstein discussed several issues regarding the use of credit in 202 projects.

One is whether HUD will continue to provide 202 funds to nonprofit sponsors as grants. Second is whether HUD will permit such nonprofits to convert the grant they receive to a loan to the project partnership.

Tax credit program rules require a federal grant to be excluded from the eligible basis of a credit project, which reduces the tax credit amount. If the grant is provided as a loan to a project, and the interest rate on it is at least at the Applicable Federal Rate (AFR), the project won't be considered to be "federally subsidized," and new construction or substantial rehabilitation expenses won't be limited to the so-called 4 percent rather than the 9 percent credit.

Goldstein said a statement by the congressional banking committee that wrote the 202 program changes said the program shouldn't be considered a federal grant program. However, he continued, the congressional banking committees don't have jurisdiction over federal tax law - the tax committees do.

A related issue is whether Section 202 funds, if provided as a loan to the project with an interest rate below the AFR, will be treated as providing "federally subsidized" financing. If so, the project would be limited to the 4 percent tax credit. The IRS has said certain federal funds won't be treated as federal subsidies, including Section 8 rent subsidies, HOME funds, and a number of other resources.

NH&RA Executive Director Peter Bell said the 202 program changes might also enable for-profit developers to work with nonprofit sponsors to make existing 202 properties more attractive to prospective tenants, by helping reconfigure the unit mix to convert studio units to larger apartments. He said 202 projects often were built with many studio units, but consumers prefer two- and three-bedroom units instead.

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## GOVERNMENT HILL COMMUNITY COUNCIL

Susanne DiPietro and Thomas Pease, Co-Presidents/Dan Lowery, Vice President/Diane Miller and Bob French, Co-Secretary-Treasurers/Bellinda Breaux and Caroline Higgins, At-Large Board Members/  
Stuart C. Hall, Past President  
P.O. Box 100018 Anchorage, AK 99510-0018

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March 21, 2003

Senator Johnny Ellis  
Representative Les Gara  
Representative Nancy Dahlstrom  
Senator Fred Dyson  
State Capitol  
Juneau, AK 99801

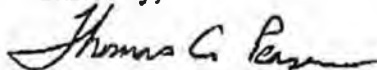
Re: HB 97 and SB 153

Dear Senator Ellis, Representative Gara, Representative Dahlstrom, and Senator Dyson:

At its regular monthly meetings on February 20 and March 20, 2003, the Government Hill Community Council discussed House Bill 97 concerning the extension of the lease terms from 55 to 70 years for an Alaska Railroad property located on Hollywood Drive on Government Hill. The Community voted at its March 20<sup>th</sup> meeting unanimously to oppose this bill. The Community believes that HB 97 (and its companion, SB 153), focusing on a single piece of real property, is narrow, special interest legislation, is unsound public policy and is not in the best interest of our neighborhood, the Alaska Railroad Corporation or the State of Alaska.

Please feel free to call me or Co-President Susanne DiPietro if you have any questions or would like more information about our concerns about this legislation. I can be reached at 277-4351 and Susanne can be reached at 264-0785, or by email at [dipietro@alaska.net](mailto:dipietro@alaska.net).

Sincerely,



Thomas C. Pease  
GHCC Co-President

Cc: Sen. John Cowdery  
Sen. Lyda Green  
Sen. Gary Wilken  
Rep. James Holm

Rep. Bud Fate  
Rep. Mike Chenault  
Rep. Ralph Samuels

Rep. Ethan Berkowitz  
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