

LEG. FINANCE - BILLS 1979 - 1980 1227

ADHOC Loans SB 1 thru Housing Loan Bill 1227

Reported out

as 581

8203 J  
Vassar/Berrier

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Loan Corporation;  
7 amending, repealing and discontinuing lending operations  
8 of certain state loan programs; and providing for an  
9 effective date."

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

11 \* Section 1. AS 44.60 is amended by adding new sections to read:

12 CHAPTER 60. SMALL BUSINESS DEVELOPMENT CORPORATION

13 OF ALASKA AND ALASKA LOAN CORPORATION.

14 ARTICLE 5. ALASKA LOAN CORPORATION.

15 Sec. 44.60.400. ALASKA LOAN CORPORATION. The Alaska Loan Corpo-  
16 ration is a public corporation and government instrumentality in the  
17 Department of Commerce and Economic Development, but with a legal exist-  
18 tence independent of and separate from the state. The corporation may  
19 not be terminated as long as it has bonds, notes or other obligations  
20 outstanding. On termination of the corporation, its rights and property  
21 pass to the state.

22 Sec. 44.60.405. CORPORATION GOVERNING BODY. (a) The corporation  
23 shall be governed by a board of directors, consisting of the commis-  
24 sioners of commerce and economic development, revenue, and administra-  
25 tion, or their designees, and four members appointed by the governor.  
26 The appointment or reappointment of a member to the board, including an  
27 ex officio member, is subject to confirmation by a majority vote of the  
28 members of the legislature in joint session. If the legislature fails  
29 to confirm the appointment of an ex officio member, the governor may

1 appoint another member from the public to replace the ex officio member;  
2 however, the public member who replaces the ex officio member may not be  
3 reappointed unless the legislature has again failed to confirm the  
4 appointment of the ex officio member.

5 (b) All board members serve for one-year terms. The terms expire  
6 on February 1 of each year.

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

10 (d) Board members serve without compensation except that each  
11 member may be reimbursed by the corporation for actual and necessary  
12 expenses at the same rate paid to members of state boards under AS 39.-  
13 20.180.

14 Sec. 44.60.410. MEETINGS OF BOARD. The board shall elect a chair-  
15 man from among its membership at its first meeting in each year. A  
16 majority of the members of the board constitutes a quorum for organizing  
17 the board, conducting its business, and exercising the powers of the  
18 corporation. The board shall meet at the call of its chairman. The  
19 board shall meet not less than once each three months.

20 Sec. 44.60.415. MINUTES OF MEETINGS. The board shall keep minutes  
21 of each meeting and send a certified copy of the minutes of each meeting  
22 to the governor.

23 Sec. 44.60.420. ADMINISTRATION OF CORPORATION. The board shall  
24 manage the assets and business of the corporation and may prescribe,  
25 amend, and repeal bylaws and regulations governing the manner in which  
26 the business of the corporation is conducted and the manner in which its  
27 powers are exercised. The board may delegate the administration of the  
28 corporation to a executive director, appointed in accordance with AS 44.-  
29 60.450, and may delegate to him other duties it considers proper.

1           Sec. 44.60.425. EXECUTIVE DIRECTOR. The corporation shall employ  
2 an executive director who may not be a member of the board. The execu-  
3 tive director shall be appointed by the board and serves at the pleasure  
4 of the board.

5           Sec. 44.60.430. LOAN COMMITTEE. (a) The board shall employ three  
6 individuals to serve on a loan committee of the corporation. The loan  
7 committee is responsible for approving applications for loans under  
8 AS 44.60.400 - 44.60.540.

9           (b) The loan committee shall prepare and submit to the board a  
10 quarterly report describing the volume and categories of loans made by  
11 the corporation.

12           Sec. 44.60.435. LEGAL ADVISOR. The attorney general is the legal  
13 counsel for the corporation. He shall advise the corporation in legal  
14 matters and represent it in suits.

15           Sec. 44.60.440. CORPORATION STAFF. The board may appoint other  
16 officers and contract with professional and technical advisors. The  
17 executive director may hire employees of the corporation and, subject to  
18 the approval of the board, engage professional and technical advisors  
19 under contract with the corporation. The board shall prescribe the  
20 duties and compensation of corporation officers and employees. The  
21 officers and employees of the corporation are in the exempt service  
22 under AS 39.25.110.

23           Sec. 44.60.445. INTERDEPARTMENTAL COOPERATION. Departments,  
24 agencies, and public corporations of the state may provide information,  
25 services and facilities to the corporation upon its request. The cor-  
26 poration may reimburse departments, agencies, and public corporations of  
27 the state for expenses incurred on behalf of the corporation.

28           Sec. 44.60.450. REGULATIONS. The board may adopt regulations, in  
29 accordance with the Administrative Procedure Act (AS 44.62), to carry

1 out the purposes of AS 44.60.400 - 44.60.540.

2 Sec. 44.60.455. BUDGET. The operating budget of the corporation  
3 is subject to the Executive Budget Act (AS 37.07).

4 Sec. 44.60.460. GENERAL POWERS OF THE CORPORATION. In addition to  
5 other powers granted in AS 44.60.400 - 44.60.540, the corporation may

6 (1) sue and be sued in its own name;

7 (2) adopt an official seal;

8 (3) adopt bylaws for the regulation of its affairs and the  
9 conduct of its business;

10 (4) receive, administer, and comply with the conditions and  
11 requirements relating to an appropriation or gift, grant or donation of  
12 property or money;

13 (5) make and execute agreements, contracts, and other instru-  
14 ments necessary or convenient in the exercise of the powers and func-  
15 tions of the corporation under AS 44.60.400 - 44.60.540, including  
16 contracts with any person, firm, corporation, governmental agency or  
17 other entity;

18 (6) borrow money as provided in AS 44.60.400 - 44.60.540 to  
19 carry out its corporate functions, and issue its obligations as evidence  
20 of the borrowing;

21 (7) procure insurance against a loss in connection with its  
22 operation;

23 (8) purchase notes and mortgages securing loans from private  
24 financial institutions in the state in accordance with AS 44.60.465;

25 (9) acquire real or personal property, or an interest in real  
26 or personal property, by purchase, transfer or foreclosure, when the  
27 acquisition is necessary or appropriate to protect a mortgage or note in  
28 which the corporation has an interest; sell, transfer and convey that  
29 property to a buyer; and, if the sale, transfer or conveyance cannot be

1 effected with reasonable promptness or at a reasonable price, rent or  
2 lease the property to a tenant pending the sale, transfer or conveyance;

3 (10) administer money received by the state through the issu-  
4 ance of general obligation bonds for loans to veterans;

5 (11) do all acts necessary, convenient or desirable to carry  
6 out the powers expressly granted or necessarily implied in AS 44.60.400  
7 44.60.540.

8 Sec. 44.60.465. PURCHASE OF MORTGAGES AND NOTES. (a) Subject to  
9 the availability of money appropriated to the mortgage and note fund  
10 (AS 44.60.470) and money from the sale of its bonds, the corporation  
11 shall enter into contracts with private financial institutions in the  
12 state to purchase mortgages and notes which secure loans issued by the  
13 private financial institutions for the purposes described in AS 44.60.-  
14 475.

15 *delete* (b) The corporation may only purchase a mortgage or note which is  
16 of the quality, type, and class which would meet the purchase standards  
17 imposed by private institutional mortgage and note investors.

18 (c) The corporation may only purchase a mortgage or a note if it  
19 secures a loan which bears interest at a rate not in excess of  
20 The costs of collection and other required servicing of the loan shall  
21 be included in the computation of the interest rate for purposes of this  
22 subsection.

23 Sec. 44.60.470. MORTGAGE AND NOTE FUND. (a) The corporation  
24 shall establish and maintain a mortgage and note fund. Except for money  
25 required to be deposited in a capital reserve fund under AS 44.60.490,  
26 money received by the corporation from the sale of its bonds, from the  
27 repayment of mortgages and notes owned by the corporation and from  
28 appropriations shall be deposited in the mortgage and note fund.

29 (b) The mortgage and note fund may be used only for the purchase

1 of mortgages and notes described in AS 44.60.<sup>475</sup>~~560~~.

2 Sec. 44.60.475. PERMISSIBLE PURCHASES OF MORTGAGES AND NOTES. The  
3 corporation may purchase mortgages and notes which secure

4 (1) construction loans to sponsors, developers, and builders  
5 for land development projects or residential housing;

6 (2) mortgage loans to sponsors, developers, builders, owners  
7 and purchasers for the purchase of residential housing;

8 (3) loans to individual commercial fishermen for the repair,  
9 restoration or upgrading of existing vessels and gear and for the pur-  
10 chase of entry permits and gear and for the construction and purchase of  
11 vessels;

12 (4) loans to local development companies to assist in new  
13 financing of industrial and manufacturing plant construction, conversion  
14 or expansion, including the acquisition of land, to the extent necessary  
15 to secure a loan for a portion of the cost of the project from the Small  
16 Business Administration under 15 U.S.C. sec. 696 (section 502 of the Act  
17 of Congress entitled "Small Business Investment Company Act of 1958" as  
18 amended);

19 (5) loans to small businesses to acquire, finance or re-  
20 finance or equip businesses;

21 (6) loans to persons, firms, businesses or municipalities  
22 subject to applicable laws for the restoration, improvement, rehabili-  
23 tation, or maintenance of structures which are

24 (A) within the boundaries of an historical district  
25 established under AS 29.48.110;

26 (B) identified as important in state or national history  
27 as provided in AS 29.48.110(b); or

28 (C) other buildings or structures within an historical  
29 district that are suitable for superficial modification so that

1 they can conform to the period or motif of the surrounding build-  
2 ings or structures that are the reason for the area's designation  
3 as an historical district.

4 Sec. 44.60.480. BONDS AND BOND ANTICIPATION NOTES. (a) The  
5 corporation, by resolution, may issue bonds and bond anticipation notes  
6 in order to provide money to carry out its purposes.

7 (b) The principal and interest on these bonds or notes is payable  
8 from corporation funds, excluding money in the mortgage and note fund.  
9 Bond anticipation notes are payable from the proceeds of the sale of  
10 bonds or from the proceeds of sale of other bond anticipation notes, or  
11 if bond or bond anticipation note proceeds are not available, the bond  
12 anticipation notes may be paid from assets of the corporation. Bonds or  
13 bond anticipation notes may be additionally secured by a pledge of a  
14 grant or contribution from the federal government, or a corporator,  
15 association, institution or person, or a pledge of money or revenues of  
16 the corporation from any source.

17 (c) Bonds or bond anticipation notes may be issued in one or more  
18 series and shall be dated, bear interest at the rate or rates per year  
19 or within the maximum rate, be in the denomination, be in the form,  
20 either coupon or registered, carry the conversion or registration pro-  
21 visions, have the rank or priority, be executed in the manner and form,  
22 be payable from the sources in the medium of payment and place or places  
23 inside or outside the state, be subject to authentication by a trustee  
24 or fiscal agent, and be subject to the terms of redemption with or  
25 without premium, as the resolution of the corporation may provide. Bond  
26 anticipation notes shall mature at the time or times as may be deter-  
27 mined by the corporation. Bonds shall mature at a time, not exceeding  
28 50 years from their date, as may be determined by the corporation.  
29 Before the preparation of bonds or bond anticipation notes, the corpora-

1        tio.. may issue interim receipts or temporary bonds or bond anticipation  
2 notes, with or without coupons, exchangeable for bonds or bond anticipa-  
3 tion notes when bonds or bond anticipation notes have been executed and  
4 are available for delivery.

5            (d) Bonds or bond anticipation notes may be sold in the manner, on  
6 the terms, and at the price the corporation determines.

7            (e) If an officer whose signature or a facsimile of whose signa-  
8 ture appears on bonds or bond anticipation notes or coupons attached to  
9 them ceases to be an officer before the delivery of the bond, bond  
10 anticipation note or coupon, his signature or facsimile is valid the  
11 same as if he had remained in office until delivery.

12            (f) In a resolution of the corporation authorizing or relating to  
13 the issuance of bonds or bond anticipation notes, the corporation has  
14 the power

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

19            (2) to covenant against pledging all or a part of its reve-  
20 nues, or against permitting a lien on its revenues or its property;

21            (3) to covenant as to the use and disposition of payments of  
22 principal or interest received by the corporation on mortgage loans or  
23 other investments held by the corporation;

24            (4) to covenant as to establishment of reserves or sinking  
25 funds and provision for and the regulation and disposition of the re-  
26 serves or sinking funds;

27            (5) to covenant for or against limitations on a right to sell  
28 or otherwise dispose of property of any kind;

29            (6) to covenant as to bonds and bond anticipation notes to be

1 issued by the corporation, and their limitations, terms and conditions,  
2 and as to the custody, application and disposition of the proceeds of  
3 the bonds and notes;

4 (7) to covenant as to the issuance of additional bonds or  
5 bond anticipation notes, or as to limitations on the issuance of addi-  
6 tional bonds or bond anticipation notes and the incurring of other  
7 debts;

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

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

15 (10) to covenant against extending the time for the payment of  
16 bonds or bond anticipation notes or interest on the bonds or bond antici-  
17 pation notes;

18 (11) to covenant as to the redemption of bonds or bond antici-  
19 pation notes and privileges of their exchange for other bonds or bond  
20 anticipation notes of the corporation;

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

26 (13) to establish the procedure, if any, by which the terms of  
27 a contract or covenant with or for the benefit of the holders of bonds  
28 or bond anticipation notes may be amended or abrogated, the amount of  
29 bonds or bond anticipation notes the holders of which must consent to

1 amendment or abrogation, and the manner in which the consent may be  
2 given;

3 (14) to covenant as to the custody of any of its properties or  
4 investments, their safekeeping and insurance, and the use and disposi-  
5 tion of insurance money;

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

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

17 (17) to vest in a trustee or trustees inside or outside the  
18 state those property, rights, powers and duties in trust as the corpora-  
19 tion may determine, which may include any or all of the rights, powers  
20 and duties of a trustee appointed by the holders of bonds or notes, and  
21 to limit or abrogate the right of the holders of bonds or bond anticipa-  
22 tion notes of the corporation to appoint a trustee under AS 44.60.400 -  
23 44.60.540 or limit the rights, powers and duties of the trustee;

24 (18) to pay the costs or expenses incident to the enforcement  
25 of the bonds or bond anticipation notes or of the provisions of the  
26 resolution or of a covenant or agreement of the corporation with the  
27 holders of its bonds or bond anticipation notes;

28 (19) to agree with a corporate trustee which may be a trust  
29 company or bank having the powers of a trust company inside or outside

1 the state as to the pledging or assigning of revenues or other money to  
2 which or in which the corporation has rights or interest; the agreement  
3 may also provide for other rights and remedies exercisable by the trustee  
4 as may be proper for the protection of the holders of bonds or bond  
5 anticipation notes of the corporation which are not in violation of law  
6 and may provide for the restriction of the rights of an individual  
7 holder of bonds or bond anticipation notes of the corporation;

8 (20) to appoint and provide for the duties and obligations of  
9 a paying agent or paying agents, or other fiduciaries inside or outside  
10 the state;

11 (21) to limit the rights of the holders of bonds or bond  
12 anticipation notes to enforce a pledge or covenant securing bonds or  
13 notes;

14 (22) to make covenants, in addition to the covenants expressly  
15 authorized in this subsection, to do or refrain from doing acts as  
16 necessary, or as convenient and desirable, to secure the bonds or bond  
17 anticipation notes or which, in the absolute discretion of the corpora-  
18 tion, would make the bonds or bond anticipation notes more marketable.

19 Sec. 44.60.485. VALIDITY OF A PLEDGE. A pledge of assets or  
20 revenues of the corporation to the payment of the principal or interest  
21 on bonds or bond anticipation notes of the corporation is valid and  
22 binding from the time the pledge is made and the assets or revenues  
23 pledged are immediately subject to the lien of the pledge without physi-  
24 cal delivery or further act. The lien of a pledge is valid and binding  
25 against all parties having claims of any kind in tort, contract or  
26 otherwise against the corporation, irrespective of whether the parties  
27 have notice of the lien of the pledge. This section does not prohibit  
28 the corporation from selling assets subject to a pledge, except that the  
29 sale may be restricted by the resolution providing for the issuance of

1 the obligations.

2 Sec. 44.60.490. CAPITAL RESERVE FUND. (a) For the purpose of  
3 securing any one or more issues of its bonds or bond anticipation notes,  
4 the corporation may establish one or more special funds, called "capital  
5 reserve funds", and shall pay into those capital reserve funds (1) money  
6 appropriated for the purpose of those funds, (2) proceeds of the sale of  
7 its bonds and bond anticipation notes, to the extent provided in the  
8 resolution or resolutions of the corporation authorizing their issuance,  
9 and (3) other money which may be made available to the corporation for  
10 the purposes of those funds from any other source. All money held in a  
11 capital reserve fund, except as provided in this section, shall be used  
12 solely for (1) the payment of the principal of bonds or bond anticipation  
13 notes or of the sinking fund payments for those bonds or bond anticipa-  
14 tion notes, (2) the purchase or redemption of bonds or bond anticipation  
15 notes, (3) the payment of interest on bonds or bond anticipation notes,  
16 or (4) the payment of any redemption premium required to be paid when  
17 bonds or bond anticipation notes are redeemed before maturity. However,  
18 money in a capital reserve fund may not be withdrawn in an amount which  
19 would reduce the fund to less than the capital reserve requirement in  
20 (b) of this section, except if the withdrawal is for the purpose of  
21 making payment, when due, of principal, interest, redemption premiums  
22 and sinking fund payments for which other money of the corporation is  
23 not available. Income or interest earned by, or other increment to, a  
24 capital reserve fund, may be transferred by the corporation to other  
25 funds or accounts of the corporation to the extent that the transfer  
26 does not reduce the amount of the capital reserve fund below the capital  
27 reserve fund requirement in (b) of this section.

28 (b) If the corporation decides to issue bonds or bond anticipation  
29 notes secured by a capital reserve fund, the bonds or bond anticipation

1 notes may not be issued if the amount in the capital reserve fund is  
2 less than a percent, (not exceeding 10 percent of the principal amount  
3 of all of the bonds or bond anticipation notes secured by that capital  
4 reserve fund) as may be established by resolution of the corporation  
5 (called the "capital reserve fund requirement"), unless the corporation,  
6 at the time of issuance of the bonds or bond anticipation notes, deposits  
7 in that capital reserve fund an amount which, together with the amount  
8 in the fund, will not be less than the capital reserve fund requirement.

9 (c) In computing the capital reserve fund requirement for the  
10 purposes of this section, securities in which all or a portion of the  
11 fund is invested shall be valued at par or, if purchased at less than  
12 par, at amortized costs as the term is defined by resolution of the  
13 corporation authorizing the issue of the bonds or bond anticipation  
14 notes, or by some other reasonable method established by the corporation  
15 by resolution. Valuation on a particular date shall include the amount  
16 of any interest earned or accrued to that date.

17 (d) The chairman of the board shall annually, no later than  
18 January 2, make and deliver to the governor and <sup>Legislature</sup> ~~chairmen of the house~~  
19 ~~and senate finance committees~~ his certificate stating the amount, if  
20 any, required to restore any capital reserve fund to the capital reserve  
21 fund requirement. The legislature may appropriate the amount, and all  
22 appropriations made during the current fiscal year shall be deposited by  
23 the corporation in the proper capital reserve fund. Nothing in this  
24 section creates a debt or liability of the state.

25 (e) Whenever the corporation has created and established a capital  
26 reserve fund, the commissioner of revenue may lend surplus money in the  
27 general fund to the corporation for deposit in the capital reserve fund  
28 in an amount equal to the capital reserve fund requirement. The loan  
29 shall be made on the terms and conditions agreed upon by the commis-

1 sioner of revenue and the corporation, including without limitation  
2 terms and conditions providing that the loan need not be repaid until  
3 the bonds and bond anticipation notes of the corporation secured and to  
4 be secured by the capital reserve fund are no longer outstanding.

5 Sec. 44.60.495. REMEDIES. A holder of a bond or bond anticipation  
6 note or of coupons attached to them issued under AS 44.60.400 - 44.60.-  
7 540, and a trustee under a trust agreement or resolution authorizing the  
8 issuance of the bonds or bond anticipation notes, except as restricted  
9 by a trust agreement or resolution, may enforce all rights granted under  
10 this section or under the trust agreement or resolution, or under any  
11 other contract executed by the corporation under AS 44.60.400 - 44.60.-  
12 540, and may enforce and compel the performance of all duties required  
13 by AS 44.60.400 - 44.60.540 or by the trust agreement or resolution to  
14 be performed by the corporation or by an officer of it.

15 Sec. 44.60.500. NEGOTIABLE INSTRUMENTS. All bonds and bond antici-  
16 pation notes issued by the corporation and coupons attached to them are  
17 negotiable instruments under the laws of this state.

18 Sec. 44.60.505. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Bonds and  
19 bond anticipation notes issued under AS 44.60.400 - 44.60.540 are securi-  
20 ties in which all public officers and public bodies of the state and its  
21 political subdivisions, all insurance companies, trust companies, banking  
22 associations, investment companies, executors, administrators, trustees  
23 and other fiduciaries may properly and legally invest funds, including  
24 capital in their control or belonging to them. The bonds or bond antici-  
25 pation notes may be deposited with any state or municipal officer of an  
26 agency or political subdivision of the state for any purpose for which  
27 the deposit of bonds, notes or obligations of the state is authorized by  
28 law.

29 Sec. 44.60.510. REFUNDING OBLIGATIONS. (a) The corporation may

1 provide for the issuance of refunding obligations for the purpose of  
2 refunding bonds then outstanding which have been issued under the provi-  
3 sions of AS 44.60.400 - 44.60.540, including the payment of a redemption  
4 premium on them and interest accrued or to accrue to the date of redemp-  
5 tion of the bonds. The issuance of the refunding obligations, the  
6 maturities and other details of them, the rights of the holders of them,  
7 and the rights, duties and obligations of the corporation in respect to  
8 them are governed by the provisions of AS 44.60.400 - 44.60.540 which  
9 relate to the issuance of bonds and bond anticipation notes, insofar as  
10 those provisions are appropriate.

11 (b) Refunding obligations may be sold or exchanged for outstanding  
12 bonds issued under AS 44.60.400 - 44.60.540 and, if sold, the proceeds  
13 may be applied, in addition to any other authorized purposes, to the  
14 purchase, redemption or payment of the outstanding bonds. Pending the  
15 application of the proceeds of refunding obligations, with any other  
16 available funds, to the payment of the principal, accrued interest and  
17 any redemption premium on the bonds being refunded, and, if so provided  
18 or permitted in the resolution authorizing the issuance of the refunding  
19 obligations or in the trust agreement securing them, to the payment of  
20 any interest on the refunding obligations and any expenses in connection  
21 with the refunding, the proceeds may be invested in direct obligations  
22 of, or obligations the principal of and the interest on which are uncon-  
23 ditionally guaranteed by, the United States of America which mature or  
24 which will be subject to redemption, at the option of the holders of  
25 them, not later than the respective dates when the proceeds, together  
26 with the interest accruing on them, will be required for the purposes  
27 intended.

28 Sec. 44.60.515. CREDIT OF STATE NOT PLEDGED. (a) Bonds, bond  
29 anticipation notes and obligations issued under the provisions of AS 44.-

1 60.400 - 44.60.540 do not constitute a debt, liability or obligation of  
2 the state or of a political subdivision of the state or a pledge of the  
3 faith and credit of the state or of the political subdivision but are  
4 payable solely from the revenues or assets of the corporation. Each  
5 bond, bond anticipation note or refunding obligation issued under AS 44.  
6 60.400 - 44.60.540 shall contain on its face a statement that the cor-  
7 poration is not obligated to pay it nor the interest on it except from  
8 the revenues or assets pledged for it and that neither the faith and  
9 credit nor the taxing power of the state or of a political subdivision  
10 of the state is pledged to the payment of the principal of or the inter-  
11 est on the bond, note or obligation.

12 (b) Expenses incurred by the corporation in carrying out the  
13 provisions of AS 44.60.400 - 44.60.540 are payable from funds provided  
14 under AS 44.60.400 - 44.60.540 and no liability may be incurred by the  
15 corporation in excess of these funds.

16 Sec. 44.60.520. OFFICERS NOT LIABLE. A member or other officer of  
17 the corporation is not subject to personal liability or accountability  
18 by reason of his execution of bonds, bond anticipation notes, refunding  
19 obligations, or the issuance of them.

20 Sec. 44.60.525. TAX EXEMPTION. All property of the mortgage and  
21 note fund is public property devoted to an essential public and govern-  
22 mental function and purpose and is exempt from all taxes of the state or  
23 a political subdivision of the state. Bonds, bond anticipation notes,  
24 and refunding obligations issued under AS 44.60.400 - 44.60.540 are  
25 issued by a body corporate and public of this state for an essential  
26 public and governmental purpose, and the bonds and the interest and  
27 income on and from the bonds, bond anticipation notes and refunding  
28 obligations and all income of the mortgage and note fund are exempt from  
29 taxation except for transfer, inheritance and estate taxes.

1           Sec. 44.60.530. REPORTS AND PUBLICATIONS. (a) By January 10 of  
2 each year, the board shall publish a report of the corporation for  
3 distribution to the governor, legislature, and the public. The report  
4 shall be written in easily understandable language. The report shall  
5 include a financial statement audited by an independent outside auditor,  
6 a statement of corporation investments in each type of mortgage and note  
7 listed in AS 44.60.475, including an appraisal at market value, a com-  
8 parison of the corporation performance with the goals of the corporation  
9 and the levels of bonding and investment activities anticipated in the  
10 previous year's report under (b) of this section, and any other informa-  
11 tion the board believes would be of interest to the governor, the legis-  
12 lature, and the public. The annual income statement and balance sheet  
13 of the corporation shall be published in at least one newspaper in each  
14 judicial district. The board may also publish other reports it con-  
15 siders desirable to carry out its purpose.

16           (b) The corporation shall include in its annual report under (a)  
17 of this section an estimate of the investment activity of the corporation  
18 in each type of mortgage and note described in AS 44.60.475 for the  
19 following 12-month period and an estimate of the amount of bonds to be  
20 issued for the investments in mortgages and notes. Notwithstanding  
21 AS 44.60.460(6) or 44.60.480, the corporation may not issue bonds during  
22 a 12-month period unless the legislature, by ~~concurrent resolution~~<sup>leave same</sup>  
23 approves the estimated investment activity and the estimated amount of  
24 bonds to be issued during the 12-month period in the corporation's  
25 annual report in accordance with this subsection.

26           (c) The corporation shall include in its annual report under (a)  
27 of this section an estimate of the amount of money needed for the inter-  
28 est differential account (AS 44.60.535) to enable the corporation to pay  
29 the difference between interest received by the corporation from its

1 investments in mortgages and notes and the interest paid by the corpora-  
2 tion on outstanding bonds.

3 Sec. 44.60.535. INTEREST DIFFERENTIAL ACCOUNT. (a) The corpora-  
4 tion shall maintain an interest differential account consisting of  
5 money appropriated to the account for the purposes of this section.

6 (b) The interest differential account may only be used to pay the  
7 difference between the interest received by the corporation from its  
8 investments in mortgages and notes and the interest and other related  
9 charges paid by the corporation on its outstanding bonds.

10 Sec. 44.60.540. DEFINITIONS. In this chapter

11 (1) "corporation" means the Alaska Loan Corporation created  
12 by AS 44.60.400 - 44.60.540:

13 (2) "board" means the board of directors of the corporation;

14 (3) "governmental agency" means a department, division,  
15 public agency, political subdivision, or other public instrumentality of  
16 the state or federal government.

17 \* Sec. 2. AS 18.56.030(a) is amended to read:

18 (a) The corporation shall be governed by the [A] board of directors  
19 of the Alaska Loan Corporation (AS 44.60.400). [THE BOARD OF DIRECTORS  
20 OF THE CORPORATION CONSISTS OF THE COMMISSIONER OF THE DEPARTMENT OF  
21 COMMERCE AND ECONOMIC DEVELOPMENT AND SIX MEMBERS APPOINTED BY THE  
22 GOVERNOR.]

23 \* Sec. 3. AS 39.25.110 is amended by adding a new paragraph to read:

24 (22) employees of the Alaska Loan Corporation.

25 \* Sec. 4. AS 44.60.030 is amended to read:

26 Sec. 44.60.030. GOVERNING BODY. The [CORPORATION'S] board of  
27 directors of the Alaska Loan Corporation (AS 44.60.400) shall conduct  
28 the business of the corporation.

29 \* Sec. 5. After July 1, 1980,

1 (1) no further loans may be made under AS 16.10.310 and  
2 16.10.320(a) except for loans authorized under AS 16.10.333;

3 (2) no further loans may be made under AS 18.56.090 or 18.56.  
4 092, or AS 26.15.040 or AS 44.60.270.

5 \* Sec. 6. AS 18.56.030(b) and (c) and 18.56.094; AS 45.90.010 - 45.90.040;  
6 and AS 45.95.010 - 45.95.080 are repealed.

7 \* Sec. 7. This Act takes effect July 1, 1980.

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WO 8204  
Vassar/Berrier

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act transferring loans to the Alaska Loan Corpora-  
7 tion; and providing for an effective date."

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

9 \* Section 1. All right, title, and interest in the loans described in  
0 sec. 2 of this Act, and all right, title, and interest in the mortgages,  
1 notes, and other security instruments made in connection with those loans,  
2 purchased by the Department of Revenue from the Department of Commerce and  
3 Economic Development, and held by the general fund on July 1, 1980, are  
4 transferred to the Alaska Loan Corporation for deposit in the interest  
5 differential account established under AS 44.60.535.

6 \* Sec. 2. This Act applies to

- 7 (1) small business loans made under AS 45.95;  
8 (2) veterans loans made under AS 26.15;  
9 (3) commercial fishing loans made under AS 16.10.310 and 16.10.-  
20 320; and  
1 (4) tourism loans made under AS 45.90.

2 \* Sec. 3. This Act does not apply to loans for purchase of limited entry  
3 permits made under AS 16.10.333.

4 \* Sec. 4. The commissioner of revenue shall execute instruments to  
5 transfer all right, title, and interest in the loans, mortgages, notes, and  
6 other security instruments to the Alaska Loan Corporation interest differ-  
7 ential account.

8 \* Sec. 5. This Act takes effect on the effective date of a version of an  
9 Act entitled "An Act establishing the Alaska Loan Corporation; amending,

1 repealing and discontinuing certain state loan programs; and providing for an  
2 effective date."

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WORK DRAFT 8203 - ALASKA LOAN CORPORATION

SECTION 1

Sec. 44.60.400 creates the Alaska Loan Corporation and gives assurance that its obligations will be met.

Sec. 44.60.405 creates a seven-member board of directors, including the commissioners of commerce, revenue and administration. Provides for legislative confirmation of one-year terms. If a commissioner is not confirmed as a board member, the governor may appoint another public member. Compensates board members with travel and per diem for meetings.

Sec. 44.60.410 provides for a board chairman, quorum and at least quarterly meetings.

Sec. 44.60.415 provides for minutes of meetings.

Sec. 44.60.420 states that the board is responsible for the management of the corporation.

Sec. 44.60.425 requires the board to hire an executive director.

Sec. 44.60.430 requires the board to hire a three-member loan committee responsible for approving loans. Also requires a quarterly report to the board.

Sec. 44.60.435 requires the attorney general to give legal counsel to the corporation.

Sec. 44.60.440 allows the board to hire other officers and contract for technical advice. Also allows the executive director to hire employees. Puts all officers and employees in the exempt service.

Sec. 44.60.445 allows cooperation from state agencies.

Sec. 44.60.450 allows the board to adopt regulations subject to the Administrative Procedures Act.

Sec. 44.60.455 subjects the corporation's operating budget to the Executive Budget Act.

Sec. 44.60.460 gives the general powers of the corporation. All boilerplate except (10) which allows for use of G.O. vets funds if Constitution is amended.

Sec. 44.60.465 allows the purchases of mortgages and notes from private financial institutions. Requires mortgages and notes to be sound. In (C) sets an interest rate restriction with interest rate left blank.

Sec. 44.60.470 sets up a fund to buy mortgages and notes. Fund can receive money from three sources: bond sales, loan repayments, appropriations.

Sec. 44.60.475 allows the purchase of housing, small business, commercial fishing and tourism loans. Please note that (6) should be replaced with attached amendment.

Sec. 44.60.480 provides for the issuance of bonds and bond anticipation notes. All boilerplate.

Sec. 44.60.485 states that a pledge of assets is legally binding.

Sec. 44.60.490 provides a capital reserve fund to secure the corporation's debt.

Sec. 44.60.495 allows creditors and trustees to enforce claims against the corporation.

Sec. 44.60.500 states that corporation bonds are negotiable.

Sec. 44.60.505 states that corporation bonds are eligible investments.

Sec. 44.60.510 allows the corporation to issue refunding obligations to pay off outstanding bonds.

Sec. 44.60.515 states that the state's credit is not pledged to the corporation's debt.

Sec. 44.60.520 exempts the corporation's officers and employees from personal liability for the corporation's debt.

Sec. 44.60.525 exempts the corporation from state taxes.

Sec. 44.60.530 requires an annual report to the governor, legislature and public. As a part of this report, the corporation must estimate its next year's activity. This activity may not take place unless approved by a concurrent resolution of the legislature. Please see attached memos from Ken Vassar and Billie Berrier. Also as a part of this report, the corporation must estimate the appropriation necessary for the interest differential account.

Sec. 44.60.535 sets up an interest differential account to pay the difference between the corporation's cost of money and the interest rate fixed in Sec. 44.60.465.

## SECTION 2

This makes the Alaska Loan Corporation board the caretaker for the Alaska Housing Finance Corporation.

SECTION 3

This adds the corporation's employees to the exempt service.

SECTION 4

This makes the Alaska Loan Corporation board the caretaker of the Alaska Small Business Development Corporation.

SECTION 5

This shuts off loans from the commercial fishing (except permit loans), AHFC, veteran's and small business programs as of July 1, 1980.

SECTION 6

This removes AHFC's board of directors, repeals the tourism loan statute and the small business loan statute.

SECTION 7

This gives the effective date.

WORK DRAFT 8204 - APPROPRIATIONS BILL

SECTION 1

This appropriates existing loans held by the general fund to the Alaska Loan Corporation's interest differential account as of July 1, 1980.

SECTION 2

This specifies the types of loans to be purchased.

SECTION 3

This exempts limited entry permit loans from appropriation.

SECTION 4

This directs the commissioner of revenue to effect the appropriation.

SECTION 5

This is the effective date, contingent upon the passage of the Alaska Loan Corporation bill.

March 5, 1980

MEMO TO: Representative Russ Meekins  
Chairman, House Finance Committee

FROM: Mike Doogan  
Administrative Assistant

SUBJECT: LOAN BILL WORK DRAFTS

The committee may want to consider the following changes in the work drafts:

W.O. 8203

P. 1, 1. 20: add "liabilities" to expressly state bonds and other corporation debts will be paid off.

P. 1, 1. 29: change "may" to "shall" to insure a full seven-member board.

P. 2, 1. 29: add "except approval of loan applications" to eliminate any possible conflict with the loan committee.

P. 6, 1. 21 - P. 7, 1. 3: remove this language, which applies to historical district loans, and insert language pertaining to tourism loans. Please see attached amendment.

W.O. 8204

To Section 2, add "other housing mortgages held by the general fund".

In addition, the following policy decisions remain:

1. Rate of interest for loans
2. Refinancing
3. Separate authorities for housing and commercial loans.
4. Loans for rental space
5. Loan limits
6. Personal loans for vets
7. Length of transition period from existing programs to new corporation

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 3, 1980

SUBJECT: Alaska Loan Corporation  
(Work Order Number 8203)

TO: House Finance Committee  
Attn: Mike Doogan, A.A.

FROM: Kenneth E. Vassar  
Legislative Counsel *KEV*

Enclosed is the bill you requested establishing a multi-purposé loan corporation (which I have named the Alaska Loan Corporation) in the state. The bill has been prepared in rough draft since the ceiling on interest rates for loans the corporation may purchase has not been included in the bill.

The requirement in the bill that the legislature approve the level of bonding activity by concurrent resolution (see sec. 44.60.530(b)) raises some constitutional questions as a result of the recent Alaska Supreme Court opinion in State of Alaska v. A.L.I.V.E. Voluntary, (File No. 3670). That case ruled unconstitutional the practice of annulling regulations by resolution; however, it did not clearly preclude the requirement that administrative actions be approved by resolution before taking effect (see page 4 of attached memo from Billy Berrier dated February 19, 1980).

I am enclosing a memo and attached back-up materials for your consideration in determining whether to retain this provision or to eliminate it.

KEV:ljb

Enclosures

# STATE OF ALASKA THE LEGISLATURE

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

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 28, 1980

SUBJECT: State of Alaska v. A.L.I.V.E. Voluntary  
TO: Representative Nels A. Anderson, Jr.  
House Majority Leader  
FROM: Billy G. Berrier  
Director  
Division of Legal Services

You have asked my comments on the decision of the Supreme Court in the case of State of Alaska v. A.L.I.V.E. Voluntary, (File No. 3670). A copy of the decision is attached.

The case concerns a regulation relating to games of skill and chance annulled by the legislature. The authority for annulment was AS 44.62.320(a) which provides:

The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.

The Administrative Procedure Act was adopted by the First State Legislature in 1959. This Act provided, among other things, for the procedure by which regulations of agencies or departments are promulgated and the section was enacted as part of that procedure.

The Court held, with a majority opinion of three justices and a strong dissent by two justices, that regulations could not constitutionally be annulled by concurrent resolution since a resolution is not enacted in accordance with the requirements in Article II of the Constitution for adoption of law. The result, of course, is a non sequitor since the majority opinion avoided addressing the difference between regulation and law and finding that despite the difference, the enactment procedures applied. They, therefore, assumed the middle term of the syllogism and rambled widely to provide a substitute for the missing logic. Various cases were cited, only one of which was relevant and that one is no longer good law in its own jurisdiction.

Representative Nels A. Anderson, Jr.

Page 2

February 28, 1980

For this reason, it is very difficult to determine the effect of the decision.

The holding is explicit that regulations may not be annulled by concurrent resolution. Although it is not explicitly stated, there is a clear implication that annulment by bill is constitutional.

Beyond that, the Court made several statements which do not appear necessary to the holding in this case. Much of this dicta is in sweeping terms. It casts doubt over substantial areas and, since the reasoning is essentially stream of consciousness rather than coherent, gives only minimal clues concerning the legal status of these areas.

Essentially the areas affected fall into two classes

- (1) regulations and legislative oversight of regulations; and
- (2) other areas of law where concurrent resolutions are used to provide legislative oversight.

On regulations the majority opinion states broadly:

"The express provision in the Alaska Constitution of two specific legislative veto mechanisms supports our view that no implied general power to veto agency regulations by informal legislative action exists.

\* \* \*

"In our view, the specificity with which the constitution deals with the legislative veto powers it does grant leads logically to the conclusion that no other veto power is implied."

The case law on regulations which the majority opinion cited is not helpful. One of the cases is on point but is no longer good law in its own jurisdiction, the second is a trial court decision and the last is a federal case where the question of a one-house veto was present, but not reached. The discussion of this last case illustrates the difficulty in following the reasoning in the majority opinion. The Court referring to the United States Circuit Court decision in Atkins v. United States, 556 F2d 1028 (1977) said:

Representative Nels A. Anderson, Jr.  
Page 3  
February 28, 1980

The court implied that for one House to have the authority to make such a change would be unconstitutional: "Nor could one House do anything more than preserve existing law. . ." Id. at 1064. In contrast, the annulment provisions of AS 44.62.320(a) permit the legislature to void administrative regulations which are in effect. Such regulations are laws in every meaningful sense, and annulling any one of them effects a change in the law.

The connection and logic totally escape me.

In its discussion of delegation of power to annul regulations, an issue injected into the opinion since no delegation is involved in the case before the Court, the opinion is even less helpful. The majority opinion observes:

"While the power to void agency regulations could be exercised by either the legislature, or by an agency, when the legislature exercises such power it must do so while acting as a legislature. It may not grant itself the power to act as an agency.

"It might be supposed that if the legislature could condition the validity of a regulation upon the subsequent disapproval by both of its houses by concurrent resolution, it could condition the same upon disapproval by a committee, or a single legislator. Using the theory, propounded by the Amici, that a veto is merely a condition there is no principled distinction between these cases. It is therefore worth observing that most authorities have rejected the validity of laws conferring either affirmative or negatory legislative powers on individual legislators or legislative committees."

Perhaps the second point made by the majority opinion in discussing the desirability of legislative oversight of administrative regulations gives the best clue. The opinion stated:

Second, at least according to a recent case study, the legislative veto has been unimpressive in practice. See Bruff & Gellhorn, Congressional Control of Administrative Regulation: A Study of Legislative Vetoes, 90 Harv. L. Rev., 1369 (1977). That study concludes, essentially, that the legislative veto encourages secretive, poorly

informed, and politically unaccountable legislative action. Id. at 1409-20. It is consequences such as these that the enactment provisions of our constitution are designed to guard against.

It should be pointed out that the facts concerning the annulment which was the subject matter of the case do not support a conclusion that the annulment resulted from "secretive, poorly informed and politically unaccountable legislative action" but that, of course, is not material.

It is my conclusion that any annulment of regulation other than by law would be unconstitutional under this case. Although the question is not discussed since it is not relevant to the case, it is very clear that regulations which have the effect of law require statutory authorization and the legislature can withdraw the authorization or establish standards in whatever degree of specificity the legislature desired. Since in case of conflict between statute and regulation the statute controls, it is also clearly permissible to make the substantive statutes detailed thereby leaving less or no areas which must be dealt with by regulations. This latter course, however, involves a loss of flexibility and administrative expertise.

It appears that any form of legislative oversight of administrative regulations would be regarded with suspicion by the court. However, devices such as providing that no regulation can become effective until it has been before the legislature in session for a set time or even a provision that no regulation may become effective unless approved by law are not clearly precluded.

In Plumley v. Hale, 594 P.2d 497 (Alaska 1979), our Court discussed the question of non-retroactive treatment in civil cases. The Court in that case stated:

In accord with United States Supreme Court precedent, we have previously identified four conditions indicating the propriety of non-retroactive treatment in civil cases: 1) the holding is one of first impression, or overrules prior law, and was not foreshadowed in earlier decisions; 2) there has been justifiable reliance on an alternative interpretation of the law; 3) undue hardship would result from retroactive application; and 4) the

Representative Nels A. Anderson, Jr.

Page 5

February 28, 1980

purpose and intended effect of the holding is best accomplished by prospective application.

The case concerned approval of free conference committee reports without a recorded roll call vote. The Court held the criteria to be satisfied and the decision to be prospective only. In my opinion the facts here, while not as compelling as the facts in Plumley, would lead to a conclusion that annulment of regulations which occurred prior to this case are not affected by the case.

The second major problem area is legislative oversight exercised by concurrent resolution in other areas than regulation oversight. The majority opinion made a very broad statement saying:

The question presented by this case is whether the legislature can exercise its legislative power without following these enactment provisions. In our view the answer must be in the negative, for otherwise they would serve no purpose.

(The dissenting opinion quite correctly pointed out this is not the question at all. Justice Boochever said

In my opinion, the majority misstates the question presented as being whether the legislature can exercise its legislative power without the usual constitutional safeguards. The real question is whether, having exercised its legislative power, subject to all those safeguards, it may condition the delegation of regulatory power to an executive agency upon a provision for legislative oversight. I agree with our statement in Boehl that the legislature has that power.

This view will be significant in subsequent cases which concern the use of concurrent resolutions in context other than annulment of regulations placing as it does the issue before the Court in focus.)

The majority opinion went on to say:

Of course, when the legislature wishes to act in an advisory capacity it may act by resolution. However, when it means to take action having a binding effect on

10. AS 38.05.182 -- Disapproval of a determination by the Commissioner of the Department of Natural Resources that the taking of royalty on natural resources in money rather than in kind is in the best interests of the state.
11. AS 38.05.065 -- Approval of disposition of oil and gas and contracts for sale of state owned royalty gas or oil.
12. AS 39.23.080 -- Approval of salary commission recommendations. (This is now repealed but until the pay bill this year went into effect, it was the basis on which higher government officials, including the governor, legislators and judges, were paid.)
13. AS 44.55.110 -- Approval of Alaska Power Authority plans. This approval is a specific condition on bonding.
14. AS 44.57.210 -- Approval of projects of the Alaska Toll Bridge Authority. This approval is required before bonds may be issued.
15. AS 46.03.758 -- Disapproval of regulations establishing civil penalties for discharge of oil.
16. AS 46.40.080 -- Approval of Alaska coastal management programs.

While all of these are clouded by the language in the majority opinion, that language is clearly dicta except on the point of annulment of regulations. In my opinion, an attempt to determine whether in later cases the court would follow the broad sweep in the instant case, narrow that sweep depending on the issue before it, or even confine the case to its facts would be pure speculation. Courts have frequently done all three. The majority opinion with its conclusionary approach unsupported by a coherent rationale is of little assistance in determining the scope of the opinion.

Earlier in the opinion, I discussed retro-activity as it applied to regulations annulled by concurrent resolution before the opinion. There is an even stronger case for holding that retroactive application cannot be given to a decision in the areas where annulment of regulations is not in question.

Representative Nels A. Anderson, Jr.

Page 8

February 28, 1980

I am, however, very disturbed by the possibility that a future decision in this area could be retroactive to the date of this decision based on a finding by the Court that this decision "clearly foreshadowed" a subsequent decision that resolutions could not be used as prescribed in these statutes. I do not think this would be the decision since certainly at the time of enactment of the laws referred to there was no foreshadowing and bringing all legislative action to a halt in areas of major concern to the state while the legislature re-wrote the law in these areas is certainly not reasonable.

Since the alternative would be to halt, among other things, power development, coastal zone management, and oil and gas sales based on a possibility that the Court will look on legislative oversight in these areas as unfavorably as it does on legislative oversight of regulations, I recommend continuing to operate within the statutory framework now established until the Court, by a subsequent decision, clarifies its position.

I would also recommend that the legislature consider the question of what options are open to it to meet the serious problems created by the case.

BGB:jdn

AMENDMENT #1

Page 6, line 21 to Page 7, line 3: delete all material  
and insert the following

(6) loans to businesses directly involved in the tourist  
industry.

*Board of Directors*  
Robert M. Thorstenson  
Dale R. Pihlman  
Paul A. Huppert  
Frank M. Homan

*President of the Bank*  
Gary W. Anderson



*Anchorage:*  
101 Benson  
Suite 501  
Anchorage, Alaska 99503  
(907) 278-4553

*Juneau:*  
(907) 586-2593

TO: The AD HOC COMMITTEE for the Structure of State Loan Programs

The Alaska Commercial Fishing and Agriculture Bank (CFAB) was created by the Legislature in 1978 to provide a continuous, stable source of financing for the development and operation of both the fishing and agriculture industries. It is designed to:

1. Provide access for both industries to outside (domestic and international) capital resources.
2. Leverage the capital provided both by the State and members by various means, including discounting its loans through the various arms of the Federal Credit System.
3. Provide an organization responsive to the needs of both industries. This responsiveness is assured by the cooperative ownership of the member/borrowers.
4. Provide a collectively strong voice for both industries in both the domestic and international market place.
5. Provide services to the member/borrowers which enhance their abilities to qualify for loans and to pay them back.
6. Create other financial services necessary to augment financially the industries' abilities to compete financially in their respective markets without reliance or dependence upon outside financial institutions.

Since the executive staff of the Bank was hired on October 15, 1979, it has been concentrating its efforts on creating a highly professional organization to specifically address those goals and purposes.

1. The most competent staff available to the Bank has been hired or is being sought. That staff is generally available only in the private non-government market and are individually motivated by the capitalistic incentives available in a private sector financial institution (i.e., advancement opportunities, financial incentives, and job description flexibility).
2. Loan programs have been developed which are competitive and yet accepted by the leveraging intermediaries CFAB will employ.
3. A branch office deployment scheme has been developed and is being implemented using local Alaska residents familiar with their respective communities and with whom the fishermen and farmers are familiar and comfortable.
4. Leveraging arrangements have been established with the Spokane Bank for Cooperatives and the Federal Intermediate Credit System.
6. An organizational structure has been created providing for the expansion of services of CFAB beyond those with which it will initially open on April 2, 1980.

Management of the Bank feels that to fully service the two industries and to meet the purposes for which it was created, CFAB must offer the following services within the first 18 months of its existence:

1. Short term operating loans to meet seasonal working capital needs (and in the case of the individual farmer or fisherman, living expenses), revolving lines of credit to finance inventories and accounts receivable, intermediate term loans for acquisition of equipment, long term needs for plant construction or expansion, interim construction loans for vessel and plant construction and leasing plans for various types of equipment. (With the exception of leasing plans, these types of financing will be available from inception on April 2, 1980.)
2. International financing capabilities, such as export financing (direct or in cooperation with the Import-Export Bank), import financing, letter of credit negotiation and issuance, and trade negotiation. (These services will receive high priority after opening. Timing will be dependent upon the attraction of a competent individual to head the activity.)
3. Service capabilities to include:
  - a. Loan application preparation.
  - b. Guidance to other sources of financing and assistance in applying and securing these financings, such as: Title 11 guarantees, State vessel program loans,

export guarantees and loans, guaranteed real estate loans, renewable resource investments, and funding under the various bonding corporations initiated by the State.

- c. Financial planning and forecasting.
- d. Business management, guidance, and planning.
- e. Economic information related to both industries to be used for planning purposes.

These services will fall within a department headed by an individual trained in the creation and management of such services.

All areas previously described are necessary for the successful operation of a bank such as CFAB and are interrelated. The operation of many of the departments cannot stand alone financially. The overhead is high, yet when spread across a large enough portfolio it can represent little in the way of additional burden.

The current round of planning for development and expansion of State loan programs at highly subsidized rates of interest carries implicit dangers specifically to the success of CFAB as well as to the Alaska financial community in general. These dangers translate directly to both industries served.

As spelled out explicitly by Belden Daniels, Dr. Rogers, Frank Orth, and other consultants to the State directed at financial aspects of agriculture and fisheries development, low interest is not the key ingredient in the success of a business. In fact, highly subsidized loans have the danger of masking normally uncompetitive and non-viable ventures to a point beyond which they could be salvaged. Of equal importance, and maybe of greater importance, these programs drive out other financial institutions leaving the industries totally dependent upon the State for continued support. It is a confirmed fact that the most qualified borrowers go to these programs and, not only take available funds, leaving little for the less qualified and needy borrower, but also leave the other financial institutions with applicants whose inherent risks are beyond prudent business practice to accept as a body. This, in turn, causes those institutions to deemphasize lending to supported industries.

With a lower level of loans in any one area, the banks are unwilling to devote key and well-paid staff to specialize. Concurrently, the special peripheral services necessary to enhance the business are never developed. No better example of this can be given than Alaska's fishing industry.

Despite the size of the industry relative to the State's economy and the degree to which the product is exported, there are within Alaska few lending officers fully conversant with lending to fisheries. Additionally, no Alaskan bank currently has a noticeable international department.

The Alaska Commercial Fishing and Agriculture Bank requires a high level of loans to meet its financial objectives and to repay the support extended by the State. As a cooperative, CFAB does not have an independent profit objective. The profits included in its financial plan are sufficient only to cover its overhead, finance expansion of services, meet reserves, and to protect the present value of its capital. It has no need to augment the market value of its stock or to pay cash dividends to shareholders. As borrower/members, our stockholders will receive the greatest degree of dividends through availability of lendable funds, provision of required services and availability of the lowest commercially available rate of interest.

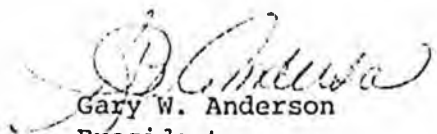
We feel that CFAB was well conceived and that the conception is being carried forward in a logical and timely manner. We feel that the entire financial structure advocated by Belden Daniels and others from which CFAB was created is also the most viable and workable in the long term. The extension of low interest rate loans to Alaskans as a vehicle to return oil wealth could be like feeding candy to a baby. While he enjoys it now, he may have rotten teeth later in life which far overshadows the temporary enjoyment of the sweet.

Improperly conceived and administered, low interest rate loans could pose a competition to CFAB against which it could not operate effectively. This would turn CFAB into an uneconomical venture. Concurrently, the agriculture and fishing industries would be deprived of the other peripheral services necessary to their full development. CFAB should therefore be accounted for in the development programs.

However, in doing so, its status as an independent organization must be maintained. Without that independence, it will lose its credibility in outside markets and its ability to attract the type of people required. Also lost will be its flexibility to meet the changing needs of the two industries served.

With only two industries to serve, the management and staff of CFAB are dedicated to and dependent upon the successful growth of fishing and agriculture within the state. We look forward to working with the Committee on structuring the State's involvement.

Sincerely,



Gary W. Anderson  
President



# RECORDS CERTIFICATION



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James O. Smith  
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3/20/90  
Date

M E M O R A N D U M

TO: Senator Pat Rodey  
Representative Russ Meekins

FROM: Alaska Housing Finance Corporation

DATE: April 21, 1980

SUBJECT: Alaska Housing Finance Corporation Legislation (HB 671  
and SB 384).

The attached bill represents a further development of the concepts for expanded home mortgage financing through Alaska Housing Finance Corporation addressed in the above bills. The changes in the above bills have been the result of intensive conversations between the Corporation, its financial advisor and underwriters, as well as numerous meetings with legislators and legislative staff.

1. In section 2 the draft bill provides for two commissioners and five public members. This, together with the revision in the bills, subjecting the Corporation to the Executive Budget Act, seem to provide for the necessary coordination between the Corporation, the Legislature and the Executive.

2. Section 3, the Special Mortgage Purchase Program of the Corporation is expanded to provide for construction loans by means of loans to mortgage lenders. The power to make construction loans is added in light of the situation which is developing in the State with construction of new homes stalled because of excessively high short-term rates. Although loans for permanent financing of home mortgages have been available through the State for the last several months, plans for new construction have dropped dramatically with the escalation to historic levels of short-term rates. The actual financing of construction loans is, of course, a new departure for the Corporation. Development of a program for this purpose would proceed rapidly if legislative permission is enacted.

3. Section 3(b) establishes the Mortgage Interest Reduction Fund. The Fund can contain actual dollars appropriated by the Legislature to achieve mortgage interest rate reductions. Alternatively, the goal of mortgage interest rate reductions can be achieved through the State Assisted Mortgage Program, outlined in the letter of the Corporation to various legislators April 2, 1980. That letter showed varying

Senator Pat Rodey  
Representative Russ Meekins  
April 21, 1980  
Page 2

levels of interest rate reductions depending on the cost of housing and illustrated the techniques of the program and the advantages of providing a greater reduction for the lower cost housing.

Section 3(c) now provides that the Corporation may fix different levels of interest reduction depending on the cost of housing provided that in no event shall the rate of the mortgage be less than nine and one-half percent (9½%). Various formulas have been suggested for fixing the interest rate reduction including reference to nationally established mortgage auction rates and the like. The volatility of mortgage rates and other lending rates is such that a formula computation at this time would be unrealistic. The rationale of basing the reduction on the cost of housing is fully described in the Corporation's memo of April 2, 1980.

4. Paragraph (g) of Section 3 provides for interest rate reductions through the State Assisted Mortgage Program. Under financing pursuant to paragraph (g) the Corporation would initially use all of its available assets for the purchase of mortgages at rate levels fixed under the interest reduction formula. Bonds would be issued to fund the mortgages to the extent that the earnings of the mortgages supported debt service on the bonds. In addition, bonds would be supported by a pledge of mortgages transferred to the Corporation. These are mortgages currently held in the State's portfolio which are available to be transferred to support bonds issued to finance mortgages. The operation of the State Assisted Mortgage Program will clearly indicate in each year the level of interest reduction or subsidy. This reduction or subsidy will simply be the difference between the amount of mortgages purchased by the State and the volume of bond issuances at the end of a predetermined period.

5. Section 18.56.098, Insurance, provides for the establishment of an Insurance Fund and accounts within the Fund for the different categories of mortgages which the Corporation would be financing. The Insurance Fund has been an efficient mechanism to date in providing insured mortgage program financing by the Corporation. The legislative bill expands this concept and provides in addition for the creation of the Hazard Mortgage Insurance Fund and Title Mortgage Insurance Fund to better secure mortgages with respect to which there are hazard or title insurance problems. The level of the required insurance compared to the mortgages insured is left to determination by the Corporation. Experience in the past has shown that it is impossible in legislation to fix insurance reserve levels and that this is more efficiently left to determination by the entity providing funds for mortgage loans.

Senator Pat Rodey  
Representative Russ Meekins  
April 21, 1980  
Page 3

6. The bill represents a comprehensive effort to provide for the reduction of mortgage interest rates in all categories of housing on a long-term basis. It provides for the necessary reductions in construction mortgage loan rates which will both assist in the production of new housing and reduce its cost. It is supplementary to existing Corporation legislation and is designed to provide for a stable flow of mortgage funds at reduced interest rate levels even if tax exempt financing of home mortgages is ultimately withdrawn by Congress.

7. The level of financing, of course, will be dictated by the amount of resources which the State can either appropriate or transfer in the form of existing mortgage assets. Similarly, the level of interest reduction will be governed by these same factors. The mechanism for legislative review of the working of the program is well assured because the Corporation is now subject to the Executive Budget Act.

cc: Lieutenant Governor Terry Miller  
Commissioner Charles Webber  
Commissioner Thomas Williams  
Representative Terry Gardiner  
Deputy Commissioner Bertram Wagnon  
Deputy Commissioner Pete Bushre  
Mr. Brantley Barr  
David Ormsby, Esq.  
Mr. Mike Doogan

\_\_\_\_\_ BILL NO. \_\_\_\_\_

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Housing Finance Corporation; and providing for an effective date."

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

\* Section 1. FINDINGS. (a) The legislature finds that the continuance and expansion of the residential mortgage purchase program of the State of Alaska through Alaska Housing Finance Corporation and of residential mortgage lending activities of other mortgage lenders and the reduction of mortgage interest rates are essential to help assure a supply of housing for home purchasers in the state, to protect the welfare of the citizens and promote the economic stability of the state.

(b) The legislature further finds that establishment of a special mortgage purchase program, a mortgage interest reduction program and special housing mortgage insurance programs, including rural housing title and hazard insurance programs, will assist the Alaska Housing Finance Corporation and private mortgage lenders to expand their purchases of residential mortgage loans and enable more Alaskans to achieve home ownership at affordable mortgage interest rates. These programs to be effectuated by bonding and other means provided in this Act will promote stability in the market for homes and identify the amount of assistance necessary for affordable home mortgage interest rates.

\* Sec. AS 18.56.030(a) is amended to read:

(a) The corporation shall be governed by a board of directors. The board of directors of the corporation consists of the Commissioner of the Department of Commerce and Economic Development, and the Commissioner of the Department of Revenue, and [SIX] five members appointed by the governor. If a state officer who is a member of the board is absent or otherwise unable to act, he may designate a deputy commissioner or assistant commissioner in his department to act as a member of the board in his place.

\* Sec. 3. AS 18.56 is amended by adding new sections to read:

Sec. 18.56.097. SPECIAL MORTGAGE PURCHASE PROGRAM. (a) The corporation shall establish a special mortgage purchase program, under which it may purchase mortgage loans for single-family residences, including mobile homes, or owner-occupied residences of up to four dwelling units, which do not exceed the limitations on mortgage loans purchased by the Federal National Mortgage Association as to principal amount and loan-to-value ratio and which meet prudent lending criteria. The corporation may also make loans to mortgage lenders to furnish funds to enable the mortgage lenders to make construction mortgage loans to builders of residences on which permanent mortgage loans would qualify for purchase by the corporation under the special mortgage purchase program. The loans to mortgage lenders shall be made by the corporation under agreements insuring that the mortgage loans made by the mortgage lenders be in the amounts and under other terms and conditions as determined by the corporation and the mortgage lender. The corporation may provide that the loans to mortgage lenders be secured as to repay-

ment in such manner as it may determine. In this section and in AS 18.56.098, "mortgage loan" means a loan made by the corporation as part of its special mortgage purchase program to a mortgage lender or a mortgage loan for financing of a residence purchased by the corporation, and includes a beneficial interest or participation in a mortgage loan. The corporation may purchase, sell, hold or otherwise deal in a mortgage loan made or purchased and in connection with the purchase or sale of a beneficial interest or participation in mortgage loans, the corporation may enter into a trust agreement providing for the custody, control and administration of the mortgage loans. The trust agreement may provide that the corporation or any bank or trust company act as trustor or trustee under the trust and that title to the mortgage loans be considered to have passed as provided in the trust agreement. To the extent provided in the trust agreement, the effect of sale of beneficial interests or participations is the same as the sale of the mortgage loans subject to the trust. The corporation may adopt regulations under AS 18.56.085 prohibiting, limiting, or setting conditions on the right to assume a mortgage loan made or purchased as part of the special mortgage purchase program.

(b) There is established in the corporation the "mortgage interest reduction fund". The fund is a trust fund for the uses and purposes of this section. The purpose of the fund is to provide for interest rate reductions to borrowers on mortgage loans made or purchased under the special mortgage purchase program of the corporation, under subsections (d) and (g) which are to be held or sold by the corporation or pledged to secure bonds of the cor-

poration. If the corporation determines to provide for interest rate reductions under subsection (g) amounts in the fund may be transferred by the corporation out of the fund and expended for the purchase of mortgages under subsection (g). The fund shall be funded only from appropriations made by the legislature.

(c) The corporation shall fix from time to time interest rate reductions for mortgage loans made or purchased as part of its special mortgage purchase program in amounts such that the average interest rates on mortgage loans are graduated according to the price of residences being financed, with the lowest priced residences receiving the greater reduction, provided that the reduction shall not be greater than an amount which would provide a nine and one-half percent (9½%) average interest rate for any mortgage loan.

(d) When the corporation has determined to fund interest reductions on a mortgage loan by means of the mortgage interest reduction fund under this subsection, it shall calculate the total amount of the interest reduction payable over the scheduled term of the mortgage loan, together with the total amount of expenses estimated to be payable over the term of the mortgage loan. To the extent investments are available, the corporation shall invest an amount held in the fund in investments earning interest or yielding amounts payable at the times and in the amounts which together with the principal of the investments and cash held in the fund will be sufficient to pay the interest reduction and expenses as they become due. The corporation shall set aside the investments irrevocably in trust or otherwise for the purpose of paying the interest reduction and expenses. The statement of the corporation on

the mortgage note that the amount of the interest reduction is payable from the fund constitutes the obligation of the corporation to pay that amount from the fund according to the terms of the statement, and is conclusive evidence that the amount of the interest reduction is so payable. Interest reductions may be paid only from the fund. In this subsection, "expenses" means servicing fees and administrative expenses estimated to be payable over the term of the mortgage loan.

(e) The fund may be held and invested by the corporation only in investments authorized under AS 37.10.070(a)(1)-(6), except as may be provided in an agreement entered into under (f) of this section.

(f) The corporation may enter into agreements as to the use of money in the fund and as to mortgages purchased as part of the special mortgage purchase program, including, without limitation, trust or custody agreements with banks or trust companies and may pledge, assign or grant the agreement, an interest under the agreement, or an interest in the interest reduction fund and in the mortgages to provide for timely payments of the amounts of the interest reduction and expenses and as may be necessary or appropriate to provide for the payment of and security for bonds of the corporation.

(g) Instead of funding interest rate reductions through the interest rate reduction fund, the corporation may provide for interest rate reductions under this subsection. For this purpose the corporation may make or purchase with amounts available for its special mortgage purchase program, mortgage loans bearing interest

at the rate fixed under subsection (c). Bonds may be issued to provide further funds for mortgage loans and mortgage loans made or purchased with the proceeds of such bonds shall bear the same rate or rates as mortgage loans made or purchased with amounts available to the special mortgage purchase program. Mortgage loans made or purchased with amounts available to the special mortgage purchase program or mortgage loans or other property transferred to or pledged for the benefit of the special mortgage purchase program may be pledged by the corporation to pay principal, interest and redemption premium, if any, on the bonds to the extent considered necessary by the corporation. The discounted present value of the mortgage loans pledged to the bonds in excess of the bond proceeds available for the purchase of mortgage loans shall be the amount of the interest reduction. On or before January 2 of each year, the corporation shall calculate the amount of the interest reduction estimated to be necessary for the next fiscal year based on the anticipated level of mortgage purchases by the corporation for that fiscal year and the estimated interest rate on bonds of the corporation to be issued during that fiscal year and shall certify the amount of the estimated interest reduction to the governor and to the legislature.

Sec. 18.56.098. 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 must 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 18.56.085

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 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 which 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 made or purchased by the corporation as part of its special mortgage purchase program may be insured by the housing insurance fund. Any such mortgage loan on a mobile home or residence located in a remote, underdeveloped, blighted or rural area of the state may also be insured (i) 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 (ii) against title defect by the rural housing title insurance fund when title insurance from other sources satisfactory to pri-

vate 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 funds or the account, equals or exceeds the fund requirement. The fund requirement for each fund or account shall be calculated as the percentage which 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 revenues for the operation of the fund or account, without regard to amounts which 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 (i) 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; (ii) as to mortgages insured by the rural housing title insurance fund, or an account of the rural housing title insurance fund, estimates of defaults and losses by reason of title defects which are otherwise uninsured, estimates of earnings and income of amounts on deposit in the fund or the account, and any other appropriate factors; and (iii) 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 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.

\* Sec. 4. Sec. 18.56.100. ANNUAL BUDGET. The corporation shall prepare and submit an annual budget in accordance with the provisions of the Executive Budget Act (AS 37.07).

\* Sec. 5. AS 18.56.090(26) and (27) are repealed.

\* Sec. 6. This Act takes effect immediately in accordance with AS 01.10.070(c).

WO #8481 OUTLINE

This work draft proposes several changes in the Alaska Housing Finance Corporation. It:

1. Moves the corporation from the Department of Commerce and Economic Development to the Department of Revenue.
2. Changes the board of directors from six public members and one commissioner (Commerce) to four public members and three commissioners (Commerce, Revenue, Administration).
3. Shortens members' terms from three years to one year.
4. Makes members' appointments subject to legislative confirmation.
5. Establishes a loan acceptance committee responsible directly to the board.
6. Places the corporation under the Executive Budget Act.
7. Places the corporation under the Administrative Procedures Act.
8. Specifies the corporation's duties in reporting to the governor, legislature and public.
9. Specifically authorizes the corporation to sell taxable bonds.
10. Removes the corporation's power to finance construction.
11. Removes the commissioner of Revenue's power to loan money to the corporation.
12. Establishes an interest rate reduction account for taxable bond proceeds used for loans.
13. Establishes an interest rate preference for qualifying state veterans.

IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Housing Finance Corporation;  
and providing for an effective date."

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

\*Section 1. FINDINGS AND INTENT. The legislature finds that

(1) there exists in the state a serious shortage of capital to finance owner-occupied, single-family residential housing and owner-occupied, duplex residential housing; interest rates are often far above levels which are affordable to persons of most income levels; these conditions are inimical to the stability, prosperity and economic welfare of the residents of the state and to the sound growth of urban and rural communities in the state;

(2) private enterprise has not been able to provide, without assistance, adequate owner-occupied, single-family residential housing and owner-occupied, duplex residential housing to meet the basic housing and shelter needs of most Alaskans, or to consistently provide, without assistance, capital for these purposes at rates of interest which people of most income levels can afford; existing state and federal programs are inadequate to meet the housing needs of most Alaskans; it is imperative that housing at a reasonable price be made available to promote stable economic growth and that coordination and cooperation among private enterprise, state government and local government be encouraged to finance residential housing for all Alaskans;

(3) the shortage of affordable financing for housing is most acute for state residents of low and moderate income and for state residents who reside in the state's rural and blighted areas; although the Alaska Housing

Finance Corporation should endeavor to assist all Alaskans in securing affordable financing for housing, it is the intention of the legislature that the corporation make a special effort to assist these Alaskans;

(4) the creation of the Alaska Housing Finance Corporation with the powers granted to it by this Act is essential to assist private enterprise in the financing of residential housing at a reasonable cost for all Alaskans and serves a public purpose in benefiting the people of the state; in this Act, 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.

\*Sec. 2. AS 18.56.020 is amended to read:

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 (COMMERCE AND ECONOMIC DEVELOPMENT), 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.

\*Sec. 3. AS 18.56.030. CORPORATION GOVERNING BODY. (a) The corporation shall be governed by a board of directors consisting of the commissioners of revenue and commerce and economic development, or their designees, and five members appointed by the governor. The appointment or reappointment of a member to the board, including an ex officio member, is subject to confirmation by a majority vote of the members of the legislature in joint session. If the legislature fails to confirm the appointment of an ex officio member, the governor shall appoint another member from the public to replace the ex officio member. However, the public member who replaces the ex officio member may not be reappointed unless the legislature again fails to confirm the appointment of the ex officio member.

(b) All board members serve three-year terms. The terms expire on February 1 of each year.

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

(d) Board members serve without compensation except that each member 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.

\*Sec. 4. AS 18.56.060 is amended to read:

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.

\*Sec. 5. AS 18.56.070 is amended to read:

Sec. 18.56.070. PERSONNEL EXEMPT FROM STATE PERSONNEL ACT. The personnel of the corporation are exempt from AS 39.25 (TO THE SAME EXTENT AS THE PERSONNEL OF THE ALASKA STATE HOUSING AUTHORITY).

\*Sec. 6. AS 18.56.080 is amended to read:

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, (MAY) reimburse departments, agencies, and public corporations of the state for services or facilities provided, loans advanced or (FOR) expenses incurred on the corporation's behalf, at its request.

\*Sec. 7. AS 18.56 is amended by adding a new section to read:

Sec. 18.56.089. EXECUTIVE BUDGET ACT. The operating budget of the corporation is subject to the Executive Budget Act (AS 37.07).

\*Sec. 8. AS 18.56 is amended by adding new sections to read:

Sec. 18.56.097. SPECIAL MORTGAGE PURCHASE PROGRAM. (a) The corporation shall establish a special mortgage purchase program, under which it may purchase mortgage loans for owner-occupied single-family and duplex residences and mobile homes, which do not exceed the limitations on mortgage loans purchased by the Federal National Mortgage Association as to principal amount and loan-to-value ratio and which meet prudent lending criteria. In this section and in AS 18.56.098, "mortgage loan" means a loan made by the corporation as part of its special mortgage purchase program loan for financing of a residence purchased by the corporation, and includes a beneficial interest or participation in a mortgage loan. The corporation may purchase, sell, hold or otherwise deal in a mortgage loan made or purchased and in connection with the purchase or sale of a beneficial interest or participation in mortgage loans, the corporation may enter into a trust agreement providing for the custody, control and administration of the mortgage loans. The trust agreement may provide that the corporation or any bank or trust company act as trustor or trustee under the trust and that title to the mortgage loans be considered to have passed as provided in the trust agreement. To the extent provided in the trust agreement, the effect of sale of beneficial interests or participation is the same as the sale of the mortgage loans subject to the trust. The corporation may adopt regulations under AS 18.56.085 prohibiting, limiting or setting conditions on the right to assume a mortgage loan made or purchased as part of the special mortgage purchase program.

(b) The corporation shall fix from time to time interest rates for mortgage loans made or purchased as part of its special mortgage purchase program in amounts such that the average interest rates on mortgage loans are graduated according to the price of

residences being financed, with mortgage loans on the lowest priced residences receiving the lowest interest rates but no mortgage loan shall bear an average interest rate less than nine and one-half percent. The legislature may establish other interest rates. The corporation may adopt regulations under AS 18.56.085 to implement this paragraph.

(c) The corporation may provide for below market level interest rates through the appropriations made to it, mortgage loans of the State transferred or assigned to it and the issuance of bonds for its special mortgage purchase program by the means provided in this subsection. For this purpose the corporation may make or purchase with amounts available for its special mortgage purchase program, mortgage loans bearing interest at the rates fixed under subsection (b). Bonds may be issued to provide further funds for mortgage loans and mortgage loans made or purchased with the proceeds of such bonds shall bear the same rate or rates as mortgage loans made or purchased with amounts available to the special mortgage purchase program. Mortgage loans made or purchased with amounts available to the special mortgage purchase program or mortgage loans or other property transferred to or pledged for the benefit of the special mortgage purchase program may be pledged by the corporation to pay principal, interest and redemption premium, if any, on the bonds to the extent considered necessary by the corporation. The sum of (i) the discounted present value of the existing, transferred or assigned mortgage loans and (ii) the unamortized principal amount of new mortgage loans made from amounts appropriated, pledged to the bonds, in excess of the bond proceeds available for the purchase of mortgage loans shall be the amount of the interest reduction. On or before January 2 of each year, the corporation shall calculate the amount of the interest reduction estimated to be necessary for the next fiscal year based on the anticipated level of mortgage purchases by the corporation for that fiscal year and the estimated interest rate on bonds of the corporation to be issued during that fiscal year and shall certify the amount of the estimated interest reduction to the governor and to the legislature.

Sec. 18.56.098. 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 must 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 18.56.085 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 which 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 made or purchased by the corporation as part of its special mortgage purchase program may be insured by the housing insurance fund. Any such mortgage loan on a mobile home or residence located in a remote, underdeveloped, blighted or rural area of the state may also be insured (i) 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 (ii) 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 funds or the account, equals or exceeds the fund requirement. The fund requirement for each fund or account shall be calculated as the percentage which 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 revenues for the operation of the fund or account, without regard to amounts which 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 (i) 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; (ii) as to mortgages insured by the rural housing title insurance fund, or an account of the rural housing title insurance fund, estimates of defaults and losses by reason of title defects which are otherwise uninsured, estimates of earnings and income of amounts on deposit in the fund or the account, and any other appropriate factors; and (iii) 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.

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(f) On December 1 of each year the corporation shall ascertain the amount on deposit in each fund 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.

Sec. 18.56.099. COLLATERAL FOR LOANS. Under procedures established by regulations of the corporation 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 he holds to receive title to land he 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 village 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) 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.

\* Sec. 9. AS 18.56.100(b) is amended to read:

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

(1) defray development costs of sponsors, builders, and developers of residential housing;

(2) 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

(3) purchase, make, or participate in the making of mortgage (AND CONSTRUCTION) loans which are not federally insured or guaranteed to sponsors, builders, purchasers and developers of land development or residential housing, if the corporation determines that such loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

\*Sec. 10. AS 18.56.100(e) is amended to read:

(e) The corporation may provide for the issuance, at one time or from time to time, of housing development fund notes for the purpose of providing money (FUNDS) for the fund. The commissioner of revenue is authorized to purchase fund notes with surplus funds in the state treasury but only to the extent the amount necessary to purchase the notes has been appropriated by the legislature. (BEFORE SUBMISSION OF THE EXECUTIVE BUDGET TO THE LEGISLATURE, THE COMMISSIONER OF REVENUE SHALL ANNUALLY RECOMMEND TO THE GOVERNOR THE ANTICIPATED AMOUNTS OF SURPLUS FUNDS AVAILABLE FOR PURCHASE OF FUND NOTES IN THE FISCAL YEAR ENCOMPASSED BY THE BUDGET. IN MAKING HIS RECOMMENDATION TO THE GOVERNOR, THE COMMISSIONER OF REVENUE SHALL CONSIDER THE EXPENDITURE AND REVENUE PROJECTIONS CONTAINED IN THE MOST RECENT REVENUE SOURCE DOCUMENT PREPARED FOR AND SUBMITTED TO THE LEGISLATURE BY THE ADMINISTRATION. IF THE GOVERNOR AGREES WITH THE RECOMMENDATION OF THE COMMISSIONER OF REVENUE HE SHALL FORWARD THE RECOMMENDATION TO THE CORPORATION.)

\*Sec. 11. AS 18.56.200 is amended by adding new subsections to read:

(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 independent outside auditor, a statement of corporation investments in mortgage loans under this chapter,

including a determination at 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 amounts needed for the interest reduction for the ensuing 12 month period.

\*Sec. 12. AS 18.56.090(26) and (27) are repealed.

\*Sec. 13. This Act takes effect immediately in accordance with AS 01.10.070(c).

EW  
5/6/80

IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Housing Finance Corporation;  
and providing for an effective date."

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

\*Section 1. FINDINGS AND INF. NT. The legislature finds that

(1) there exists in the state a serious shortage of capital to finance owner-occupied, single-family residential housing and owner-occupied, duplex residential housing; interest rates are often far above levels which are affordable to persons of most income levels; these conditions are inimical to the stability, prosperity and economic welfare of the residents of the state and to the sound growth of urban and rural communities in the state;

(2) private enterprise has not been able to provide, without assistance, adequate owner-occupied, single-family residential housing and owner-occupied, duplex residential housing to meet the basic housing and shelter needs of most Alaskans, or to consistently provide, without assistance, capital for these purposes at rates of interest which people of most income levels can afford; existing state and federal programs are inadequate to meet the housing needs of most Alaskans; it is imperative that housing at a reasonable price be made available to promote stable economic growth and that coordination and cooperation among private enterprise, state government and local government be encouraged to finance residential housing for all Alaskans;

(3) the shortage of affordable financing for housing is most acute for state residents of low and moderate income and for state residents who reside in the state's rural and blighted areas; although the Alaska Housing

Finance Corporation should endeavor to assist all Alaskans in securing affordable financing for housing, it is the intention of the legislature that the corporation make a special effort to assist these Alaskans;

(4) the creation of the Alaska Housing Finance Corporation with the powers granted to it by this Act is essential to assist private enterprise in the financing of residential housing at a reasonable cost for all Alaskans and serves a public purpose in benefiting the people of the state; in this Act, 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.

\*Sec. 2. AS 18.56.020 is amended to read:

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 (COMMERCE AND ECONOMIC DEVELOPMENT), 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.

\*Sec. 3. AS 18.56.030. CORPORATION GOVERNING BODY. (a) The corporation shall be governed by a board of directors consisting of the commissioners of revenue and commerce and economic development, or their designees, and five members appointed by the governor. The appointment or reappointment of a member to the board, including an ex officio member, is subject to confirmation by a majority vote of the members of the legislature in joint session. If the legislature fails to confirm the appointment of an ex officio member, the governor shall appoint another member from the public to replace the ex officio member. However, the public member who replaces the ex officio member may not be reappointed unless the legislature again fails to confirm the appointment of the ex officio member.

(b) All board members serve three-year terms. The terms expire on February 1 of each year.

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

(d) Board members serve without compensation except that each member 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.

\*Sec. 4. AS 18.56.060 is amended to read:

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.

\*Sec. 5. AS 18.56.070 is amended to read:

Sec. 18.56.070. PERSONNEL EXEMPT FROM STATE PERSONNEL ACT. The personnel of the corporation are exempt from AS 39.25 (TO THE SAME EXTENT AS THE PERSONNEL OF THE ALASKA STATE HOUSING AUTHORITY).

\*Sec. 6. AS 18.56.080 is amended to read:

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, (MAY) reimburse departments, agencies, and public corporations of the state for services or facilities provided, loans advanced or (FOR) expenses incurred on the corporation's behalf, at its request.

\*Sec. 7. AS 18.56 is amended by adding a new section to read:

Sec. 18.56.039. EXECUTIVE BUDGET ACT. The operating budget of the corporation is subject to the Executive Budget Act (AS 37.07).

\*Sec. 8. AS 18.56 is amended by adding new sections to read:

Sec. 18.56.097. SPECIAL MORTGAGE PURCHASE PROGRAM. (a) The corporation shall establish a special mortgage purchase program, under which it may purchase mortgage loans for owner-occupied single-family and duplex residences and mobile homes, which do not exceed the limitations on mortgage loans purchased by the Federal National Mortgage Association as to principal amount and loan-to-value ratio and which meet prudent lending criteria. In this section and in AS 18.56.098, "mortgage loan" means a loan made by the corporation as part of its special mortgage purchase program loan for financing of a residence purchased by the corporation, and includes a beneficial interest or participation in a mortgage loan. The corporation may purchase, sell, hold or otherwise deal in a mortgage loan made or purchased and in connection with the purchase or sale of a beneficial interest or participation in mortgage loans, the corporation may enter into a trust agreement providing for the custody, control and administration of the mortgage loans. The trust agreement may provide that the corporation or any bank or trust company act as trustor or trustee under the trust and that title to the mortgage loans be considered to have passed as provided in the trust agreement. To the extent provided in the trust agreement, the effect of sale of beneficial interests or participation is the same as the sale of the mortgage loans subject to the trust. The corporation may adopt regulations under AS 18.56.085 prohibiting, limiting or setting conditions on the right to assume a mortgage loan made or purchased as part of the special mortgage purchase program.

(b) The corporation shall fix from time to time interest rates for mortgage loans made or purchased as part of its special mortgage purchase program in amounts such that the average interest rates on mortgage loans are graduated according to the price of

residences being financed, with mortgage loans on the lowest priced residences receiving the lowest interest rates but no mortgage loan shall bear an average interest rate less than nine and one-half percent. The legislature may establish other interest rates. The corporation may adopt regulations under AS 18.56.085 to implement this paragraph.

(c) The corporation may provide for below market level interest rates through the appropriations made to it, mortgage loans of the State transferred or assigned to it and the issuance of bonds for its special mortgage purchase program by the means provided in this subsection. For this purpose the corporation may make or purchase with amounts available for its special mortgage purchase program, mortgage loans bearing interest at the rates fixed under subsection (b). Bonds may be issued to provide further funds for mortgage loans and mortgage loans made or purchased with the proceeds of such bonds shall bear the same rate or rates as mortgage loans made or purchased with amounts available to the special mortgage purchase program. Mortgage loans made or purchased with amounts available to the special mortgage purchase program or mortgage loans or other property transferred to or pledged for the benefit of the special mortgage purchase program may be pledged by the corporation to pay principal, interest and redemption premium, if any, on the bonds to the extent considered necessary by the corporation. The sum of (i) the discounted present value of the existing, transferred or assigned mortgage loans and (ii) the unamortized principal amount of new mortgage loans made from amounts appropriated, pledged to the bonds, in excess of the bond proceeds available for the purchase of mortgage loans shall be the amount of the interest reduction. On or before January 2 of each year, the corporation shall calculate the amount of the interest reduction estimated to be necessary for the next fiscal year based on the anticipated level of mortgage purchases by the corporation for that fiscal year and the estimated interest rate on bonds of the corporation to be issued during that fiscal year and shall certify the amount of the estimated interest reduction to the governor and to the legislature.

Sec. 18.56.098. 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 must 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 18.56.085 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 which 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 made or purchased by the corporation as part of its special mortgage purchase program may be insured by the housing insurance fund. Any such mortgage loan on a mobile home or residence located in a remote, underdeveloped, blighted or rural area of the state may also be insured (i) 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 (ii) 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 funds or the account, equals or exceeds the fund requirement. The fund requirement for each fund or account shall be calculated as the percentage which 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 revenues for the operation of the fund or account, without regard to amounts which 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 (i) 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; (ii) as to mortgages insured by the rural housing title insurance fund, or an account of the rural housing title insurance fund, estimates of defaults and losses by reason of title defects which are otherwise uninsured, estimates of earnings and income of amounts on deposit in the fund or the account, and any other appropriate factors; and (iii) 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 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.

Sec. 18.56.099. COLLATERAL FOR LOANS. Under procedures established by regulations of the corporation 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 he holds to receive title to land he 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 village 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) 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.

\* Sec. 9. AS 18.56.100(b) is amended to read:

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

(1) defray development costs of sponsors, builders, and developers of residential housing;

(2) 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

(3) purchase, make, or participate in the making of mortgage (AND CONSTRUCTION) loans which are not federally insured or guaranteed to sponsors, builders, purchasers and developers of land development or residential housing, if the corporation determines that such loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

\*Sec. 10. AS 18.56.100(e) is amended to read:

(e) The corporation may provide for the issuance, at one time or from time to time, of housing development fund notes for the purpose of providing money (FUNDS) for the fund. The commissioner of revenue is authorized to purchase fund notes with surplus funds in the state treasury but only to the extent the amount necessary to purchase the notes has been appropriated by the legislature. (BEFORE SUBMISSION OF THE EXECUTIVE BUDGET TO THE LEGISLATURE, THE COMMISSIONER OF REVENUE SHALL ANNUALLY RECOMMEND TO THE GOVERNOR THE ANTICIPATED AMOUNTS OF SURPLUS FUNDS AVAILABLE FOR PURCHASE OF FUND NOTES IN THE FISCAL YEAR ENCOMPASSED BY THE BUDGET. IN MAKING HIS RECOMMENDATION TO THE GOVERNOR, THE COMMISSIONER OF REVENUE SHALL CONSIDER THE EXPENDITURE AND REVENUE PROJECTIONS CONTAINED IN THE MOST RECENT REVENUE SOURCE DOCUMENT PREPARED FOR AND SUBMITTED TO THE LEGISLATURE BY THE ADMINISTRATION. IF THE GOVERNOR AGREES WITH THE RECOMMENDATION OF THE COMMISSIONER OF REVENUE HE SHALL FORWARD THE RECOMMENDATION TO THE CORPORATION.)

\*Sec. 11. AS 18.56.200 is amended by adding new subsections to read:

(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 independent outside auditor, a statement of corporation investments in mortgage loans under this chapter,

including a determination at 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 amounts needed for the interest reduction for the ensuing 12 month period.

\*Sec. 12. AS 18.56.090(26) and (27) are repealed.

\*Sec. 13. This Act takes effect immediately in accordance with AS 01.10.070(c).

WO #8481 OUTLINE

This work draft proposes several changes in the Alaska Housing Finance Corporation. It:

1. Moves the corporation from the Department of Commerce and Economic Development to the Department of Revenue.
2. Changes the board of directors from six public members and one commissioner (Commerce) to four public members and three commissioners (Commerce, Revenue, Administration).
3. Shortens members' terms from three years to one year.
4. Makes members' appointments subject to legislative confirmation.
5. Establishes a loan acceptance committee responsible directly to the board.
6. Places the corporation under the Executive Budget Act.
7. Places the corporation under the Administrative Procedures Act.
8. Specifies the corporation's duties in reporting to the governor, legislature and public.
9. Specifically authorizes the corporation to sell taxable bonds.
10. Removes the corporation's power to finance construction.
11. Removes the commissioner of Revenue's power to loan money to the corporation.
12. Establishes an interest rate reduction account for taxable bond proceeds used for loans.
13. Establishes an interest rate preference for qualifying state veterans.

## Interest Rate Reduction Account

The interest rate reduction account found in WO #8481 would work as follows:

The legislature would appropriate a sum to the account and specify the amount of interest rate reduction to be applied. The corporation would sell bonds and make loans. The borrower would pay interest, minus the amount reduced, to the corporation. The corporation would take that interest plus the amount reduced from the account and pay its bondholders.

Example: The legislature sets the interest rate reduction at 3 per cent (4 per cent for veterans) and appropriates to the interest rate reduction account. The corporation sells taxable bonds at 14 per cent. Seller/servicer and other charges add 1 per cent. The corporation buys loans at 12 per cent (11 per cent for veterans).

Notes: First, the interest rate reduction applies only to taxable bond financed loans.

Second, those who can afford to pay the corporation's full cost of money receive no interest rate reduction.

Third, the interest rate reduction does not apply if the corporation's cost of money is 9.5 per cent (8.5 per cent for veterans) or less.



# Alaska State Legislature

## House of Representatives

### Committee on Finance

Pouch V  
State Capitol  
Juneau, Alaska 99811

May 6, 1980

MEMO TO: REPRESENTATIVE RUSS MEEKINS

FROM: MIKE DOOGAN

SUBJECT: COMMENTS OF WO #8481

During the course of a conference call May 5 with members of the Alaska Mortgage Bankers' Association legislative committee, the following comments were offered with regard to changes in WO #8481.

First, the members expressed concern with the effect of the restructuring of AHFC's board. They prefer existing terms of membership and the addition of the Commissioner of Revenue to the current board.

Second, the members recommended the removal of the loan acceptance committee and the insertion of an appeals committee made up of persons from outside the corporation.

Third, the members recommended the loan limit be changed from \$100,000 to the FNMA limit.

Fourth, the members recommended once again that the interest rate charge be pegged at some fixed rate and raised quarterly. Although they took no official position on the figures, the sentiment seemed to be for 9.5 per cent starting rate with a .25 per cent quarterly increase.

# nuveen

John Nuveen & Co. Incorporated

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(907) 586-1636

(907) 586-1708

May 5, 1980

Mike Doogan  
House Finance  
Alaska State Legislature  
State of Alaska  
Pouch V  
Juneau, Alaska 99811

Re: Comments on House Bill \_\_\_\_\_ Alaska Housing Finance Corporation

\*Sec. 3. 18.56.030. CORPORATION GOVERNING BODY.

(a) Describes the rights and duties of the board of directors, but doesn't define ex officio members as being either the public members or government members. Who is "ex officio"?

(b) Requires all board members to serve one year terms. The word "all" includes the Commissioners of Revenue, Commerce and Economic Development and Administration. Their terms cannot possibly be one year terms for constitutional reasons. A one year term for the board members also creates instability in the institution. It takes a good six to eight months for the board to understand its functions. This provision gives more power to the staff and commissioners.

(d) I feel the board members should receive some compensation other than expenses to insure that you will get board members who have the time and interest to serve.

\*Sec. 4. 18.56.060. ADMINISTRATION OF AFFAIRS.

I feel a loan acceptance committee is unworkable for this type of corporation. The regulations spell out the type of loans that are generally eligible. The credit judgment of many bank lending officers already pre-screens these loans. Additionally, the corporation in itself has lending officers who are capable of making credit decisions. What we are adding here is a third level of bureaucracy to approve a standard product which is a consumer loan to purchase a house, secured by mortgage insurance for 25% of the assets, plus the house itself. The loan acceptance committee can only slow down the process and add to the confusion about the corporation.

Mike Doogan  
May 5, 1980  
Page Two

The loan acceptance committee board size is not determined. As I read the bill, the corporation can appoint as many as it likes to the committee. Two members of the loan acceptance committee constitute a quorum. Decisions of the board are made by a majority vote. With a quorum of two, which one is the majority?

\*Sec. 6. 18.56.060. EMPLOYMENT OF PERSONNEL.

The Executive Director serves at the pleasure of the board. An additional safeguard for the corporation may require that the Director also have a term of office in addition to serving at the pleasure of the board, so that at the end of the term, there has to be a conscious decision to re-employ him after weighing the alternatives.

\*Sec. 9. 18.56.089. EXECUTIVE BUDGET ACT.

This section provides that the operating budget of the corporation be subject to the Executive Budget Act (AS 37.07). I have no problems with this provision as long as the source of the funds is the revenues from the Authority, and it is clearly understood by the Legislature that they have a contractual responsibility to the bondholder. Approval cannot be unreasonably withheld and expenses necessary to service for the existing bonds will be adequate. Otherwise, the bondholders have a cause of action against the State which the bondholders would win.

\*Sec. 12. 18.56.095. MORTGAGE INSURANCE.

I don't see the need for two state mortgage insurance funds. In fact, it is a detriment to the success of the insurance fund. The tax exempt bond insurance fund has proved that the fund is very sound actuarially. Earnings on the 8 million dollar insurance fund presently add to the strength of the fund and could be used to sell taxable mortgages. I feel it is a detriment to have more than one fund.

(c) I feel that the requirement to repay the General Fund to the extent on the recovery of bad loans detracts from the fund as an insurance fund. This paragraph describes how the proceeds of a recovery from the loan proceed first to the State to pay back any appropriation and next to restore the insurance fund. The State didn't set up the insurance fund to be paid off by bad loans but to provide insurance to investors that all outstanding loans be paid off.

\*Sec. 13. 18.56.097. LIMITATIONS ON POWERS TO MAKE OR PURCHASE MORTGAGE LOANS.

(a) This limits the purchasing of loans to \$100,000.00. This provision wipes out the ability of the corporation to purchase duplex, triplex, or

Mike Doogan  
May 5, 1980  
Page Three

four-plex loans because the loans will have to be greater than \$100,000.00.

(b) It requires a ten percent down payment of owner occupied duplex and mobile home owners. However, this subsection can waive the ten percent requirement if this section will interfere with the sale of the bonds. If anything, the bond market may require a higher downpayment, not a lower one as the paragraph suggests.

\*Sec. 13. 18.56.098. COLLATERAL FOR LOANS.

This paragraph seeks to allow the pledging of the preference rights conveyed to a person by a village corporation under the ANSCA Act as security for a loan. I don't feel this provision is adequate security for the sale of the bonds. I feel the activity is akin to title insurance and should be treated as such with a new insurance fund.

\*Sec. 14. 18.56.100. HOUSING DEVELOPMENT FUND.

(b) Subsection one allows the development fund to defray the costs of developers and builders for housing for persons of lower and moderate income or persons located in remote, underdeveloped or blighted areas of the State. Paragraph three on the other hand, takes away the ability to help on construction loans. These two stands are inconsistent.

The housing development fund over the years has been used for serving different programs. The fund has proved successful for limited developmental programs such as teacher and elderly housing and other special uses in the development of adequate housing in the State. Several of the ASHA projects for elderly housing were made on loans from the State to ASHA. The way the paragraph is presently constructed, this practice would be discontinued.

The provisions of this section also prevent AHFC from participating in the Federal 235 Housing Program, if it is ever reactivated. It allows the Federal Government to pay part of the interest on loans in family housing.

\*Sec. 15. 18.56.110.

(a) (2) The corporation should be allowed to issue mortgage pass-through certificates if it finds it is in the State's best interests to do so.

\*Sec. 18. 18.56.195. INTEREST DIFFERENTIAL ACCOUNT.

(a) This paragraph requires that the corporation purchase mortgages from the public at its cost of funds. This destroys the financial soundness of the corporation. While I will not argue that the corporation needs the full 1½% as allowed under the Internal Revenue Service regulations, the corporation needs an amount that may vary from time to time to maintain financial soundness of the

Mike Doogan  
May 5, 1980  
Page Four

corporation. The corporation needs the spread to pay the operating expenses and build up a net worth over time. AHFC is viewed as one of the soundest public housing authorities in the United States due to its large reserves. I feel these reserves are necessary for the financial soundness of the corporation. If this paragraph passes, the corporation would slowly eat its present reserves to pay operating expenses and may violate some of the covenants of prior issued bonds, and if it doesn't, it certainly violates the spirit.

(b) (2) This provision allows a person to purchase any size home in the State, and obligates the State to pay the difference to get payments down to 25% of annual income. I don't feel this was your intent. Please clarify your intent in this instance.

(c) Under the Alive Voluntary Decision vs. State of Alaska, the concurrent resolution approving bonds being sold is required to be a law.

\*Sec. 21. Repealing AS 18.56.010:

The findings removed all reference to the purpose of the corporation to provide safe and sanitary housing but left in only reference to the price of housing.

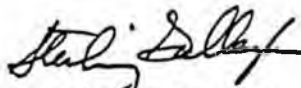
Repealing 18.56.085: Gives the commissioner the power to invest surplus funds into housing. Deleting this section gives him the responsibility of housing, but no authority to do anything about it.

Repealing 18.56.088: Removing the Administrative Procedure Act makes it fall under the General Administrative Procedure Act. I would like an adequate explanation of what this accomplishes. The old procedure worked well with the bond market plus gave everyone adequate notice.

GENERAL NOTE: Another way to accomplish the interest reduction account is to appropriate additional collateral to the housing fund. This collateral would be invested in high earning assets and the resultant cash flow would give adequate coverage for the bonds.

Respectfully submitted,

JOHN NUVEEN & CO., INCORPORATED

  
Sterling Gallagher  
Vice President

## Interest Rate Reduction Account

The interest rate reduction account found in WO #8481 would work as follows:

The legislature would appropriate a sum to the account and specify the amount of interest rate reduction to be applied. The corporation would sell bonds and make loans. The borrower would pay interest, minus the amount reduced, to the corporation. The corporation would take that interest plus the amount reduced from the account and pay its bondholders.

Example: The legislature sets the interest rate reduction at 3 per cent (4 per cent for veterans) and appropriates to the interest rate reduction account. The corporation sells taxable bonds at 14 per cent. Seller/servicer and other charges add 1 per cent. The corporation buys loans at 12 per cent (11 per cent for veterans).

Notes: First, the interest rate reduction applies only to taxable bond financed loans.

Second, those who can afford to pay the corporation's full cost of money receive no interest rate reduction.

Third, the interest rate reduction does not apply if the corporation's cost of money is 9.5 per cent (8.5 per cent for veterans) or less.