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Availability: Company size has an important influence on funds available for export. Export financing is generally not available or needed by all companies on an equal basis. Typically, smaller firms export noncapital goods and sell their goods for cash, against a letter of credit, for terms not exceeding 180 days. While their needs are short-term, smaller firms and firms with little export experience have the greatest difficulty in obtaining export financing. Many are not aware of the fundamentals of export financing or of available programs. Because of the lack of a track record, marginal financial conditions, and small financing requirements, pre-shipment financing may be particularly difficult for smaller firms. Large firms typically find it relatively easy in comparison to small and mid-sized firms to arrange pre and post shipment export credit and services.

Another important determinant of the availability of funds is the banking system close to the exporter. Regional banks, such as in Alaska, may lack expertise or interest in export financing while large international banks may have a minimum transaction size that exceeds the needs of even medium firms. Lack of a local office of a federal program, such as not having an Eximbank office in Alaska, may also inhibit use of a program.

Availability also often depends on the general state of the economy, both domestic and foreign. When the domestic economy is growing, banks may prefer to finance domestic items rather than more risky foreign business. In addition, when economic conditions in an industry are poor, such as is the case of the timber industry in Alaska, funds often dry up for the industry most in need.

Political and economic stability of the importing country can be an important factor in the availability and need for funds. While Japan, Alaska's primary trading partner, pays cash for many of their U.S. imports, less developed countries, many with debt problems, typically require financing with longer terms.

Availability of financing will also depend on whether the buyer is a subsidiary of a U.S. company. Approximately 40% of U.S. exports are to overseas subsidiaries of U.S. firms. Forty-seven percent of U.S. shipments to Japan were to subsidiaries. In Alaska, Japanese ownership is important in the seafood and timber industries.

Interest Rates: If money is borrowed to produce a product, the interest rate will directly influence the cost of the product. The cost of money, as measured by the interest rate, can determine whether a product is viable or not. Likewise, once a product is ready for sale, the trade credit offered may determine how easily the product sells.

As the international market place becomes increasingly competitive, trade credit is becoming an essential sales tool. Even when the interest rate is a small portion of the total sales price, high rates can hurt the competitiveness of a company's product. Other countries are offering subsidized trade credit, with long maturities, and grace periods.

There are three key criteria in evaluating interest rates: the absolute rate; the rate relative to competing sellers; and whether the rate is fixed or floating. Compared to other countries, the U.S. has not been very competitive. In recent years, U.S. interest rates, including subsidized rates of the Eximbank, have been above those of competing nations. Furthermore, most interest rates offered by U.S. commercial banks are offered on a floating basis at 1 to 3 percent points over prime while many countries offer fixed rates.

Large exporters, by selling to subsidiaries or by having better access to financial markets in other countries, have fewer problems with interest rates than smaller firms.

Maturity: Loans can be classed as short-term (less than one year), mid-term (one to five years), and long-term (more than five years).

Short-term post-shipment financing is generally used for agricultural products, raw materials, parts, and other consumables. Medium-term financing is generally used for capital equipment. Long-term financing is generally needed only for large projects or multi-million dollar high technology products. Most of Alaska's current post-shipment financing needs are short-term.

Lending Limits: Every bank or government agency sets limits upon the amount it will lend. Limits depend on the financial strength of the trade participants, the intended use of the money, the maturity, the track record of the company, the size of the bank, the country of destination, and a host of other factors.

Timing of Financing: Financing can be divided into two categories: pre-shipment and post-shipment. Pre-shipment finance is the financing of production facilities, stocks, and work in progress up to the time when the goods are ready for shipment. In terms of obtaining pre-shipment financing, most financial institutions care little whether the shipment will be consumed domestically or in a foreign market. Because of the risk, in terms of both the viability of the collateral and the possibility of default, pre-shipment financing can be more

difficult to obtain than post-shipment financing. Yet some industries, such as the forest industry in Alaska, are most in need of working capital.

Post-shipment financing is easier to obtain since it is often secured by a product or letter of credit. In terms of post-shipment financing (not much is known how pre-export shipment varies by product), approximately two-thirds of U.S. manufactured exports are paid for in cash (or less than 30 days). Of the amount financed (1980 data), 85% is on terms less than one year and 6% has a term of 1-5 years. The ITA estimated that 68% of food products exports, 66% of lumber products, 66% of paper products, and 58% of chemical products required some type of post-shipment financing. Almost all of the financing for these products is for less than one year. The ITA estimated that 86% of Alaska's manufactured exports had a term of less than one year.

Form of Financing: Export financing can exist in many forms. For example, direct loans, loan guarantees, insurance, tax incentives, interest rate subsidies, and infrastructure development can all be forms of export financing.

Degree of Coverage: Most all loans, guarantees, and insurance programs do not cover 100% of the value of the shipment. The Eximbank and FCIA, for example, assume many of the risks of exporting but coverage of guarantees and insurance is usually less than 90%. Other programs provide much less coverage.

Collateral Required: Some programs require real estate as security while others may be satisfied with a letter of credit, equipment, or partial down payment. Some programs require 100% collateral, others more or less. Small borrowers are critical of many commercial banks' insistence on obtaining personal guarantees to support export borrowing.

Ease of Use: Some programs may not be used up to their limit because of complex reporting requirements or distance to program headquarters.

Speed of Response: The speed with which a program responds to a financing request or to which it makes payments once documents have been approved is critical. One major complaint of the Eximbank is slow response time.

Dependability: Amounts, availability, terms, and conditions of export financing have fluctuated in recent years. In attempting to establish long-term business ties, the dependability of export financing is critical. Some federal programs, such as the Eximbank, change frequently due to political consideration. Recent efforts have even been aimed at eliminating many federal programs.

Repayment Schedule: Some loan programs have grace periods while others only interest need be paid for a time.

Recipient: Some programs are designed to loan money to the exporter while others are designed to loan money to the importer. Some banks will make loans based on the exporters' creditworthiness rather than the foreign buyers' creditworthiness. Some programs will deal only with institutions such as bank or export trading companies rather than individual exporters.

Cost: Besides the interest rate, financing programs often charge fees and premiums. These fees charged for a service can inhibit use of a program.

APPENDIX B

B. EXISTING PROGRAMS AVAILABLE TO FINANCE ALASKAN EXPORTS

Aside from internal financing, firms have an array of state, federal, or private programs from which to attempt to fund exports. These can include direct loans, guarantees, insurance, or infrastructure assistance from federal and state governments; loans from commercial banks; purchase of receivables from factoring houses; or assistance from export trading companies. A brief description of state, federal, and private financing programs follows:

1. State of Alaska Programs

While Alaska does not currently have a specialized export financing facility, the state does offer several types of financial incentives to business and industry that may directly or indirectly benefit exporters. Incentives offered by Alaska generally fall into three categories: loans, infrastructure development, and tax incentives. To the extent possible, these are discussed below in a standard format.

LOAN PROGRAMS

As of the first quarter 1985, Alaska had outstanding economic development loans of about \$650 million.

a. Agricultural Loan Fund

Administered by: Alaska Department of Natural Resources

Purpose: To promote agriculture through low interest loans for product processing, land clearing, chattel (livestock and equipment), farm development, and irrigation.

Eligibility: Individual farmers, homesteaders, partnerships, and corporations who are Alaskan residents and have farming or related business experience.

Amount: Several types of loans are available. Loans for general farm operations may be made up to a maximum of \$200,000. Loans up to \$250,000 may be made for product processing. Land clearing loans may not exceed \$250,000. Farm development, chattel, and irrigation loans have a limit of \$1 million.

Repayment: Short-term loans for general farm operations may be made for up to one year. Loans for product processing have up to 30 years to repay. Land clearing loans may not exceed 20 years. Farm development, chattel, and irrigation loans have a 30 year maximum term.

Interest Rate: All loans currently charge an 8% interest rate.
Collateral: Mortgage on real property or a security interest in equipment.

Outstanding Loans: Currently there are 770 loans outstanding from 270 borrowers for a total of \$48 million. Of this amount, 18.5% is considered delinquent and 10.5% in default.

For further information, contact: Alaska Department of Natural Resources, 915 South Bailey, P.O. Box 2470, Palmer, Alaska 99645, telephone: 745-7200

b. Alaska Commercial Fishing and Agricultural Bank (CFAB)

Administered by: Although established by state statute, CFAB is a private lending cooperative, not a state agency.

Purpose: The cooperative provides its members with such benefits as competitive loan rates at terms and conditions designed to meet the needs of the individual and the industry.

Eligibility: Loans may be made to members for harvesting, marketing, or processing of fish, timber, or agriculture products.

Repayment: Maturity can be up to 15 years and loans can cover up to 75%.

Interest Rates: Interest rates are determined by the periodic sale of Farm Credit bonds in the national market and the rates are floated or adjusted whenever the cost to CFAB changes.

Outstanding Loans: CFAB provides a significant share of working capital needs for fish processors. The timber industry, according to the timber task force report, has experienced major difficulties with CFAB's loan and collateral requirements. As of 1983, CFAB had loans of \$110 million. Loan losses have been severe for the past few years.

For further information, contact: CFAB, P.O. Box 4-2070, Anchorage, Alaska 99509, telephone: 276-2007.

c. Alaska Industrial Development Authority (AIDA)

Administered By: The Alaska Industrial Development Authority (AIDA) is a public corporation of the state established in 1967 to promote the general economic welfare of Alaskans. AIDA has three principal methods to provide financing. Two financing methods involve the use of tax exempt bonds. The third involves purchase by AIDA of federally guaranteed loans. AIDA does not make direct loans to borrowers. It is a requirement that a financial institution be the originator and servicer of any AIDA loan. The Authority's operations are paid for by fees charged to users of AIDA programs.

Bonds

Purpose: AIDA issues two types of tax exempt bonds that assist businesses in securing long-term financing for eligible capital investments such as buildings, plants, property, and equipment at moderate interest rates. Through its bond programs, AIDA has participated in funding such projects as an air cargo facility, engine repair service, bulk fuel facility, commercial warehouse, mini storage unit, shopping center, office building, and manufacturing facility.

Eligibility: Any business entity located in Alaska.

Amount: Loans may be made for up to \$10 million. Under the umbrella program, the total loan amount cannot exceed 75% of the lesser of the purchase price or appraised value of the asset financed. AIDA will buy up to 90% of a loan with the lender holding the remainder. Umbrella bonds are backed by the full faith and credit of the Authority. Under the revenue bond program, the loan can be up to 100% of the eligible, actual costs. AIDA functions only as a bridge between the borrower and lender. The lender must agree beforehand to purchase all the bonds. The full faith and credit of the Authority is not involved in these transactions.

Repayment: Up to 25 years.

Interest Rate: Based on the cost of bond funds.

Collateral: Collateral such as real property of a security interest in machinery is required.

Outstanding loans: As of the first quarter 1985, outstanding loans totaled \$178 million for the Umbrella Program.

Federal Guarantee Program

Purpose: AIDA will purchase the federally guaranteed portion (primarily SBA) of a loan approved by a lending institution. To provide fixed-rate, long-term loans for accounts receivables, inventories, working capital, equipment, and some debt refinancing.

Eligibility: Any business entity meeting SBA requirements.

Amount: Up to \$500,000 per borrower. Generally, these loans have been guaranteed by the U.S. Small Business Administration.

Repayment: Negotiable

Interest Rate: Equal to the most recent index of AA corporate bond yield average plus 1.5% on loans less than \$100,000 and 1% on loans over \$100,000.

Collateral: Negotiated by lending institution and approved by the SBA

Outstanding Loans: As of the first quarter 1985, \$64 million.

For further information, contact: AIDA, 1577 C Street, Suite 304, Anchorage, Alaska 99501-5177, telephone: 907-274-1551.

d. Alaska Municipal Bond Bank Authority

Administered by: The Alaska Municipal Bond Bank Authority is a public corporation created by state law. The full faith and credit of the state is not pledged to secure bonds issues by the bank.

Purpose: To assist Alaskan communities with financing capital projects such as harbors, docks, schools, and public buildings.

Eligibility: Communities with a general obligation bond election

Amount: There is no maximum loan amount.

Repayment: Repayment depends on the amount and terms established at the time of the bond sale.

Interest rates: Determined by national financial markets.

Collateral: The Bank has first claim on funds the community would receive from the state. In addition to a 15% reserve established at the bond sale, the bonds are backed by the municipality's taxing power.

Outstanding loans: As of the first quarter 1985, the Bank had 46 loans totaling \$159 million. None were delinquent or in default.

For further information, contact: The Alaska Municipal Bond Bank Authority, 601 West 5th Ave. Suite 430, Anchorage, Alaska 99501, telephone: 274-7366

e. Commercial Fishing Loans

Administered by: Alaska Department of Commerce and Economic Development.

Purpose: To assist the fishing industry. Programs are available to lend money for the purchase of limited entry permits, purchase or upgrading of vessels, and hatchery construction and operation.

Eligibility: Depends on the particular program. Loans can be made to individual Alaskan residents with commercial fishing experience; or Alaskan individuals or business entities that are dependent on the fishing industry; or a qualified regional association or private nonprofit corporation

Amount: Up to \$300,000 may be borrowed to purchase a limited entry permit. Loans up to \$100,000 may be made to individuals, partnerships, and corporations for the purchase, repair, restoration, or upgrading of vessels and gear. The state will lend up to \$10 million to a qualified regional association or private nonprofit corporation for the planning, construction, and operation of hatchery facilities.

Repayment: Up to 15 years for limited entry permits and vessel purchase or repair. Up to 30 years for fisheries enhancement.
Interest Rates: Loans for fisheries enhancement charge 9.5% with no principal repayment for the first 6 to 10 years. All other loans are 10.5%.

Collateral: Security interest in a limited entry permit, gear, vessel, or mortgage on hatchery.

Outstanding loans: To date, 1,744 loans totaling \$81 million have been issued under the commercial fishing loan program. Of this, 10.7% are delinquent and 1% in default. Eighty-seven loans totaling \$35 million have been made for the fisheries enhancement loan fund. None are delinquent or in default.

For further information, contact: Alaska Department of Commerce and Economic Development, Division of Investments, Juneau, Alaska 99811, telephone: 907-465-2510.

f. Mining Loan Fund

Administered by: The Alaska Department of Commerce and Economic Development

Purpose: To assist mineral exploration, development, or mining

Eligibility: The applicant(s) must be a resident of the state and be able to establish five years of exploration or mining experience in Alaska.

Amount: Up to \$5 million

Repayment: up to 15 years

Interest Rate: 10%

Collateral: Real property, interest in mining claim, or machinery. Loans can not exceed exceed 75% of the appraised collateral value.

Outstanding Balance: Since its inception in 1980, 48 loans totaling \$20 million have been made. Of this, 42% is delinquent and 1.3% in default.

For further information, contact: Alaska Department of Commerce and Economic Development, Division of Investments, 675 7th Ave., Station A, Fairbanks, Alaska 99701, telephone: 907-452-8182.

INFRASTRUCTURE DEVELOPMENT

g. Development of Access Roads to Mineral Areas

Administered by: Alaska Department of Natural Resources

Purpose: To help small operators develop nonoil and gas minerals in areas where mining prospects of valid commercial promise are inaccessible to truck haulage.

Amount: The state can provide 50% or \$50,000, whichever is lower, of the road construction.

Outstanding Loans: To date, although the legislation is still active, has not been funded. Due to the limited loan amount, the program is not expected to be widely used.

For further information, contact: Alaska Department of Natural Resources, Juneau, Alaska, telephone: 907-465-2400

h. Regional Resource Development Authorities

Under legislation passed in 1983, it is possible for local areas to organize a Resource Development Authority for the purpose of building roads, railroads, docks, and other transport facilities required to support resource development activities. The Authority has the power to borrow money and issue bonds for the development of facilities as well as to own and operate facilities. To date, this legislation has not resulted in much activity.

i. Special Funding

Legislation can be passed to aid development of a specific project. For example, this session legislation was passed to transfer money to the Alaska Industrial Development Authority and to permit the Authority to issue bonds up to \$175 million to finance construction of a road and port facility for the Red Dog Mine near Kotzebue, Alaska. The state also contributed to the building of dock facilities in Seward necessary for coal shipments to Korea.

TAX INCENTIVES

j. Special Investment Tax Credit

Administered by: Alaska Department of Revenue

Purpose: A tax credit is available for development of gas processing projects (integrated plant, facilities and equipment) and for the mining of minerals other than oil and gas. Pipelines from oil and gas wells or to or from plant and facilities are explicitly prohibited.

Amount: For each taxable year after December 31, 1984, the tax credits available are:

- a) 100% on the first \$50 million of qualified investment
- b) 80% over \$50 million but less than \$100 million
- c) 70% over \$100 million but less than \$150 million
- d) 60% over \$150 million but less than \$200 million
- e) 40% over \$250 million but less than \$250 million

For further information, contact: Alaska Department of Revenue, Pouch SA, Juneau, Alaska 99811, telephone: 907-465-2300.

2. Federal Programs

Listed below are some of the major federal programs that can be used directly or indirectly to finance exports of U.S. products.

a. Agency for International Development (AID)

Administered by: Agency for International Development (AID)

Purpose: AID administers U.S. foreign economic assistance programs to less developed countries on concessionary terms.

Eligibility: Foreign governments, including mixed private and public entities.

Amount: Appropriations for this agency exceeded \$5 billion in FY '83.

Repayment: Foreign governments can receive 40 year loans with a ten year grace period.

Interest Rates: Interest rates are 2% during the grace period and 3% thereafter.

Supported Exports: In FY '83, AID supported procurement of \$1.6 billion in U.S. goods.

For further information, contact: AID, Washington, D.C. 20523, 202-632-0482.

b. ANILCA 705 (b)

This is a \$5 million revolving loan fund for equipment. The program is pending U.S. congressional funding.

c. Commodity Credit Corp. (CCC)

Administered by: The CCC is a quasi-government corporation set up by the U.S. Department of Agriculture

Purpose: The CCC has three programs that provide for short-term financing (less than 36 months) of U.S. agricultural commodities (including some forest products).

Eligibility: Agricultural and timber products. Financing is influenced by the importing country.

Amount: Approximately \$5 billion was appropriated to these programs in FY '83.

Repayment: Maximum financing period is 36 months

Interest Rates: Either negotiable or set at commercial rates

For further information, contact CCC Operating Division, Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., telephone: 202-447-3224

d. Department of Housing and Urban Development

This program, administered by the Alaska Department of Community and Regional Affairs, offers community development block grants through a competitive bid process for utilities, housing, and economic development.

For more information, contact the Alaska Department of Community and Regional Affairs, 907-465-4700

e. Export-Import Bank (Eximbank)

The Eximbank is a U.S. agency created in 1981 that facilitates expansion of U.S. exports, which would not otherwise occur, through credit supports in the form of loans, guarantees, and insurance. This assistance may, for example, be needed where commercial banks hesitate to make loans because of high risk of nonpayment; the length of financial terms needed; or to match foreign government subsidies (as a recent example, the 5/29/85 Wall Street Journal reported that the Japanese won a contract to build the fifth largest bridge in the world in Turkey by bidding \$100 million less than the nearest competitor and by offering \$205 million in Japanese government loans, at 5% interest, repayable over 25 years, with no payments for the first seven years). In FY '83, the Eximbank supported procurement of \$10.3 billion of U.S. goods. Since its creation, the Eximbank has supported over \$160 billion in exports and paid the U.S. treasury more than \$1 billion in dividends. Only three Alaskan companies are currently using the Eximbank's services.

There is an inherent conflict between the bank's mandate for both self-sufficiency and subsidization. Until FY '82, the Eximbank had been self-sufficient. As world markets have become more competitive, the Eximbank has been forced to subsidize U.S. exports and operate in the red. Since its rate of lending is currently less than the funds it obtains from the Federal Financing Bank, deficits are now all that are expected in the foreseeable future. Deficits, combined with the fact that much

of Eximbank's funding is directed to financing large, profitable companies, have resulted in the Eximbank becoming a center of controversy, with both Presidents Carter and Reagen attempting to reduce the bank's funding levels. The Eximbank's charter must be renewed every five years (the next being 9/88).

The Eximbank acts in conjunction with the Foreign Credit Insurance Association (FCIA), which was formed in 1961, and consists of many of the U.S.'s top insurance companies. FCIA insures repayment of export credit against nonpayment due to political or commercial causes such as deteriorating economic conditions, bad management, devaluations, fires, floods, or confiscation of assets. In FY '83, FCIA supported procurement of \$7.5 billion of U.S. goods.

The Eximbank also operates in conjunction with the Private Export Funding Corporation (PEFCO), a private corporation consisting of commercial banks, industrial companies, and investment banks that participate in export financing.

The importance of U.S. federal export assistance declined between 1975 and 1982. In 1982, the Eximbank's loans and guarantee authorizations were \$4.3 billion or 2% of U.S. exports. This is down from FY '75, when Eximbank's loan and authorizations totaled \$5.4 billion or 5% of U.S. exports. FCIA insurance authorizations changed from \$2.9 billion or 2.7% of U.S. exports in FY '75 to \$5.1 billion or 2.4% of U.S. exports in FY '82. Considering all programs, the U.S. government covered 7.3% of exports in 1982 compared with 9.4% in 1975. Private groups have taken up the slack. In general, the Eximbank offers a more limited set of export supports than most other major trading countries.

Eximbank typically is of most benefit to large-sized exporters of manufactured goods, equipment, and heavy capital goods that need fixed rate financing for 5 to 12 years' maturity. In 1981, only 1% of Eximbank direct loans and 22% of FCIA insurance were to small firms. A special effort is being made to aid small businesses. By 1986, the Eximbank will set-aside 10% of its lending authority for small businesses. To date, however, Eximbank's programs intended for smaller businesses have not been widely used. The Eximbank, however, does have a small business advisory service to provide information on the availability and use of export credit insurance, guarantees, loans, and foreign bank credits.

The Eximbank has entered into master guarantee agreements with hundreds of U.S. banks. When a bank has completed a number of satisfactory export transactions, Eximbank will consider extending delegated authority, subject to prescribed conditions, enabling the bank to commit Eximbank to guarantee specific transactions without prior Eximbank approval.

The Eximbank identifies fifteen programs which are of interest to exporters. These vary by eligible products, applicant eligibility, coverage, collateral required, time frame, recipient, premium, and buyer cash payments. Some of the programs, however, are difficult to distinguish from other programs in the level of detail presented below. A more detailed description of each program is outside the scope of this overview.

Insurance Programs:

FCIA New-to-Export Insurance Policy

Purpose: This program provides a one-year policy insuring against political and commercial short-term export credit sales risk.

Eligibility: Firms that are just beginning to export or have an average annual export sales volume of less than \$750,000 for the past two years. Only exports of consumables, raw materials, spare parts, agricultural commodities, and consumer durables are eligible.

Amount: 100% of political risk; 95% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: The usual term for covered shipments is 180 days.

Cash Payment: None

Premium: The premium typically costs from .25% to 1.00% of the sales value or a minimum of \$500.

FCIA Umbrella Insurance Policy

Purpose: This policy protects exporters that had average annual export credit sales of less than \$2 million in the past two years against a foreign buyer's failure to pay for goods or services for political or commercial reasons.

Eligibility: Any entity capable of administering a policy (for example, banks, export companies, insurance brokers, and trade organizations) on behalf of multiple exporters is eligible. Only exports of consumables, raw materials, spare parts, agricultural commodities, and consumer durables are eligible.

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: The usual term for covered shipments is 180 days.

Cash Payment: None

Premium: From .25% to 1.00% of the sales value or a minimum of \$500.

FCIA Short Term Insurance Policy

Purpose: Provides a one-year policy insuring all eligible short-term export credit sales.

Eligibility: Exporters or financial institutions. Only exports of consumables, raw materials, spare parts, agricultural commodities, and consumer durables are eligible.

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: The usual term for covered shipments is 180 days.

Cash Payment: None

Premium: Premiums are determined on a case specific basis.

FCIA Medium Term Insurance Policy

Purpose: Policy insures a single buyer for individual medium-term export credit sales against political and commercial risk.

Eligibility: Exporters or financial institutions; capital equipment or services

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: Between two and seven years

Cash Payment: 15% at shipment

Premium: Premiums vary from 1% to 6.5% of the export receivable depending on the term and nature of the buyer.

FCIA Combined Short-Term/Medium-Term Insurance Policy

Purpose: The policy is designed to provide commercial and political risk protection for repetitive export sales of capital equipment to dealers or distributors. Policy provides insurance for short-term inventory financing followed by medium-term coverage for receivables.

Eligibility: Exporters or financial institutions; capital equipment

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: Up to 270 days for short-term inventory financing; up to three years for receivables.

Cash Payment: None for short-term; 15% when rolled over to medium-term;

Premium: Depending on the buyer, the premium can vary from 1.25% to 6.5%.

FCIA Master Insurance Policy

Purpose: This policy protects against short-term and medium-term political and commercial risks.

Eligibility: Sizeable exporters; all products

Amount: 100% of political risk; 90% of commercial risk; interest up to U.S. Treasury rate plus 1%.

Repayment: Up to 180 days for short-term sales; from two to seven years for medium term sales

Cash Payment: A 15% cash payment is required on medium term coverage.

Premium: Fees are variable depending on the specific situation.

Loan Guarantee Programs:

Eximbank Working Capital Guarantee Program

Purpose: To provide exporters with access to working capital loans from commercial banks. Loans may be used to purchase materials, products, services, and labor for production of goods or services for current or future export sales. Loan funds may also be used for foreign business development. The guarantee can be for a single export related loan or for a revolving line of credit.

Eligibility: Creditworthy small and medium-sized businesses; All products and services. If an exporter qualifies as a small business, it is possible to combine SBA and Eximbank guarantees.

Amount: The Eximbank protects the commercial bank against default by the exporter: 90% of the principal; up to the U.S. Treasury rate plus 1%;

Repayment: up to 12 months

Cash Payment: None

Premium: A fee of 1% is charged for the first six months and .5% for each additional six months.

Eximbank Medium Term Bank Guarantee Program

Purpose: This program provides commercial banks with medium term export financing guarantees for export financing to individual foreign buyers.

Eligibility: Approved commercial banks in U.S.; capital equipment and services.

Amount: 100% of political risk; variable commercial risk; treasury rate plus 1%;

Repayment: two to seven years

Cash Payment: 15% at shipment

Premium: Premium vary from 1% to 6.5%

Eximbank Financial Guarantee

Purpose: To guarantee export financing extended to foreign buyers. Guarantees are often blended with direct loans to provide a complete financing package.

Eligibility: Domestic or foreign financial institutions for major projects or procurement. Major project or major procurement.

Amount: 100% commercial and political risk protection; treasury rate plus 1%

Repayment: five to 10 years

Cash Payment: 15% at shipment

Premium: Fees include .5% per year on the outstanding balance and a .125% fee on the undisbursed balance.

Funding or Financing

Eximbank Small Business Credit Program

Purpose: To enable U.S. banks to offer medium-term fixed rate export loans at the lowest possible rates. Banks can borrow from the Eximbank at 1% below the rate on the export loan.

Eligibility: Approved U.S. banks financing small business exports; capital equipment and services produced by small businesses

Amount: maximum value is \$2.5 million per transaction. Outstanding balance of the export loan

Repayment: two to seven years

Interest Rates: Minimum interest rates depend on whether the importing country is classed as rich, intermediate, or poor.

Cash Payment: A 15% cash payment is required at shipment.

Premium: Depending on the term of the loan, the premium varies from .15% to .75%.

Eximbank Medium-Term Credit Program

Purpose: To help exporters that face officially supported subsidized foreign competition.

Eligibility: Commercial banks; capital equipment and services; exporters that face subsidized competition.

Amount: Outstanding balance of the export loan. Maximum value is \$10 million per transaction.

Repayment: two to seven years

Interest Rates: Minimum interest rates depend on whether the importing country is classed as rich, intermediate, or poor.

Cash Payment: 15% at shipment

Premium: Depending on the term of the loan, the premium varies from .15% to .75%.

Eximbank Direct Loan

Purpose: To make available long-term, fixed rate loans for export sales facing officially supported foreign competition

Eligibility: Creditworthy foreign buyers for major projects or procurement

Amount: Up to 65% of the export value

Repayment: Repayment can take from five to 10 years.

Interest Rates: The interest rate varies with the status (rich, intermediate, poor) of the borrower's country.

Cash Payment: A 15% cash commitment is required from the borrower.

Premium: The Eximbank charges the borrower a 2% fee when the loan is approved and a .5% annual commitment fee on the undischursed balance.

Engineering Multiplier Program

Purpose: Provides medium-term fixed interest rate direct loans. This service helps U.S. architectural and engineering firms win foreign contracts.

Eligibility: Creditworthy foreign borrowers for project related feasibility studies and pre-construction design and engineering services. It is required that the project have the potential for procurement of U.S. equipment and services of \$10 million.

Amount: Up to \$10 million

Repayment: Varies from two to five years

Interest Rates: Varies with the status (rich, intermediate, poor) of the borrower's country.

Cash Payment: 15% cash commitment is required from the borrower

Premium: The Eximbank charges the borrower a 2% fee when the loan is approved and a .5% annual commitment fee on the undischursed balance.

Private Export Funding Corporation (PEFCO)

Purpose: PEFCO provides financial institutions, U.S. exporters, or creditworthy foreign buyers with medium and long-term fixed interest loans guaranteed by the Eximbank for major projects and procurement.

Eligibility: Financial institutions, U.S. exporters, and creditworthy foreign buyers. Financing is for major projects or procurements such as jet aircraft, railroads, steel mills.

Amount: Loans are typically greater than \$1 million.

Repayment: The loan is made for five to 10 years

Interest Rates: usually averages 1% to 2% over comparable rates for U.S. treasury obligations.

Cash Payment: A 15% cash payment is required at shipment.

Premium: A .5% per annum fee is charged on the undisbursed loan balance.

Other Programs:

Eximbank Preliminary Commitment

Purpose: The Eximbank details in advance of a particular transaction the terms and conditions for direct loans/financial guarantee support. This enables the participants to establish terms of financing for more effective planning or marketing. The commitment is generally valid for 180 days.

Eligibility: The program is intended for major projects or procurements. Eligible applicants for this program include prospective borrower, exporter, or financial institution.

For further information on Eximbank programs, contact: Export-Import Bank of the U.S., 811 Vermont Ave., N.W., Washington, D.C. 20571, telephone: 202 566-8990.

f. Farmers Home Administration (FmHA)

Administered by: The Farmers Home Administration (FmHA), USDA.

Purpose: To create and maintain employment in rural communities.

Eligibility: FmHA requires a local lender to be the lead lender. FmHA can guarantee loans for any type of business activity, in rural areas or communities of 50,000 or less population, except any tourist, recreation or amusement facility.

Amount: The FmHA provides loan guarantees from \$500,000 to \$10,000,000. FmHA guarantees the lender for a maximum of 90% of principal and interest.

Repayments: Maximum maturity is 30 years for land, buildings, and permanent fixtures; 15 years for machinery; and seven years for working capital.

Interest Rate: The interest rate may be either fixed or variable.

Collateral: These loans are generally secured by real property.

For more information, contact the Farmers Home Administration, Palmer, Alaska, telephone: 907-745-2176

g. Federal Job Training Partnership Act

This act is administered by the Alaska Department of Community and Regional Affairs and can cover 50% of a qualified employee's salary for up to six months.

For further information, contact the Alaska Department of Community and Regional Affairs, telephone: 907-465-4700

h. Federal Land Bank (FLB)

Administered by: A federally chartered private institution that is member owned.

Purpose: To make loans to the fishing and agriculture (including timber) industries

Eligibility: All aspects of timber production and agriculture. Because the state has subsidized agricultural loans, the FLB has a difficult time competing. The FLB recently stopped making loans to the timber industry in Alaska due to its belief that the economics were poor and the risk too high. The FLB will also make loans to fishermen.

Amount: The FLB provides direct loans of up to \$30,000,000

Repayments: Up to 30 years

Interest Rate: Loans are currently over 12%.

Collateral: Loans are secured by fee ownership in real estate and the improvements thereon.

For more information, contact, Federal Land Bank, Palmer, AK, telephone: 907-745-3390

i. Foreign Sales Corporations (FSC)

Eligibility: An FSC is a corporation set up in a foreign country or U.S. possession other than Puerto Rico. FSC can be formed by manufacturers, nonmanufacturers, and export groups.

Amount: An FSC can obtain a corporate tax exemption on a portion of earnings generated by the sale or lease of export property with at least 50% U.S. content and some services.

j. National Oceanic and Atmospheric Administration (NOAA)

Administered by: U.S. Department of Commerce

Purpose: NOAA administers two programs of interest to fishermen. The first, called the fisheries obligation program, makes long-term financing available to the U.S. fishing industry by providing U.S. government guarantees of repayment. NOAA also administers a program, the Capital Construction Fund (CCF), which enables fishermen to construct, reconstruct, or acquire fishing vessels with before tax rather than after tax dollars. This is done by allowing fishermen to defer payment of Federal tax. In effect, the government provides an interest free loan.

Eligibility: The guarantee is for financing of fishing vessels and fisheries shoreside facilities.

Amount: There is a guarantee limit of 87%.

Repayments: Maximum maturity is 25 years or the useful life of the item being financed.

For further information, contact: National Marine Fisheries Service, Regional Financial Service Division, 1700 Westlake Ave., North, Seattle, Washington 98109, telephone: 206-442-5532

k. Overseas Private Investment Corporation (OPIC)

Purpose: OPIC offers political risk insurance, loan guarantees, and direct loans to encourage U.S. investment in developing countries.

Eligibility: U.S. citizens or corporations exporting to friendly LDC's.

Amount: OPIC will make loans from \$100,000 to \$4 million. These loans are primarily for small businesses. In FY '83, \$25 million had been loaned. In FY '83, OPIC had \$5.5 billion of outstanding insurance. Insurance coverage is for 90% of the total investment cost. Loan guarantees can range from \$1 million to \$50 million and all sized companies are eligible. In FY '83, \$156 million was guaranteed.

Premiums: Rates for insurance are .3% for inconvertibility, .6% for expropriation, and .75% for war. OPIC's fee for loan guarantees ranges from 1.75% to 2.5% per year on the outstanding guaranteed amount.

For further information, contact: Overseas Private Investment Corporation, 1129 20th St., N.W. Washington, D.C. 20527, telephone: 202-653-2800.

1. The Small Business Administration (SBA)

The SBA has three loan programs that are of interest to exporters. All three programs have similar eligibility requirements, interest rates, and premiums.

Eligibility: To qualify, a firm must be classed as small under SBA definitions, be independently owned and operated, and not be dominant in the field. The applicant must show an ability to repay the loan from earnings and that funds are not available on reasonable terms from private sources.

Interest Rates: Interest rates, while set by the lending bank, may not exceed 2.25% over the prime rate for loans with a maturity of less than seven years and 2.75% on loans with maturity of more than seven years.

Premiums: The SBA charges a guarantee fee of .25% on loans of less than 12 months and 1% on loans for more than one year.

Regular Business Loan Guarantee Program:

Purpose: Provides financing for the establishment, operation, or expansion of a small business.

Amount: The SBA can guarantee 90% of a bank line of credit up to \$500,000. In FY '84, the SBA guaranteed about 17,000 loans averaging about \$150,000 each.

Repayments: Maximum 25 years. Working capital loans are generally limited to seven years.

Export Revolving Line of Credit Guarantee Program (ERLC)

Administration: Applications for this loan are filed with the bank, which in turn deals with the SBA.

Purpose: Provides pre-export financing for the manufacture or purchase of goods for sale to foreign markets.

Eligibility: Loan proceeds may not be used to purchase fixed assets, equipment, or to repay-debt.

Amount: In FY '84, 31 of these loans were guaranteed by the SBA with an average value of \$287,000.

Repayments: Maximum maturity of this loan is 18 months.

EM-11/SBA Cooperative Program

Administered by: Done in cooperation with the Eximbank

Amount: Between \$200,000 and \$1,000,000

Repayments: Maximum maturity is 18 months.

For further information on SBA programs, contact: Small Business Administration, 701 C Street, Anchorage, Alaska, telephone: 907-271-4022.

m. Trade and Development Program (TDP)

Administered by: International Development Cooperation Agency
Purpose: TDP promotes economic development in middle income developing countries by financing planning services for developmental projects leading to U.S. exports.
Eligibility: "Friendly" developing countries planning substantial procurement of foreign goods. Must show that a competitor is being assisted by its government.
Amount: In FY '85, appropriations by Congress were \$21 million. As a rule of thumb, TDP expects resulting exports to be 75 to 100 times the amount of TDP funding.
Repayments: Reimbursable grants on cost-sharing basis for activities proposed by investing firms.

For further information, contact: Trade and Development program, International Development Cooperation Agency, Washington, D.C. 20523, telephone: 202-235-3663

14. Trade Adjustment Assistance Program

Administered by: U.S. Department of Commerce
Purpose: Offers technical and financial assistance to domestic manufacturers that have been adversely affected by foreign import competition. Marketing, product development, diversification, computer systems, and export promotion assistance may be given.
Amount: The program can make both direct loans (up to \$1 million) and loan guarantees (up to 90% and up to \$3 million).

For further information, Contact, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Room 4004, Washington, D.C. 20230, telephone: 202-377-4031

3. International Programs

Many international organizations finance trade. Listed below are a few:

a. African Development Bank Group (AFDB & AFDF)

The AFDF promotes the economic development of least developed member countries by making long-term loans on concessionary terms. The bank's activities supported U.S. exports of \$14 million in 1982. U.S. exporters can compete in the competitive bidding process.

For further information, contact: African Development Bank, S.P. NO. 1387, Abidjan, Ivory Coast.

b. Asian Development Bank (ADB)

The ADB promotes economic development in developing Asian countries through conventional and concessional long-term loans, technical assistance, and investment promotion. In FY '84, this bank's activities supported \$75 million of U.S. exports. In order to participate, exporters must compete in a bidding process restricted to contributing countries.

For further information, contact: Asian Development Bank, P.O. Box 789, Manila 2800, Republic of Philippines.

c. Inter-American Development Bank (IDB)

The IDB has several programs that accelerate the development process in member countries by providing long-term loans on conventional and concessional terms. In 1983, loans totaled \$1.4 billion. The IDB's loan contracts provide for competitive public bidding from member countries.

For further information, contact: Inter-American Development Bank, 308 17th St., NW, Washington, D.C. 20577, 202-634-3044.

d. World Bank

Procurement based on World Bank financing is open to international competitive bidding to all suppliers and contractors from member countries. U.S. businesses can be placed on the Bank's mailing list to be informed of project loan approvals. Three of the World Bank's programs are discussed below.

International Bank for Reconstruction and Development (IBRD)

The IBRD promotes economic development of member countries by extending loans on conventional terms for specific high priority projects. Total borrowing through FY '84 were \$10 billion. Interest rates are currently 9.9% per year, but are subject to quarterly revisions. There is also a front end fee of .25%. Most loans run from 20 to 25 years.

International Development Association (IDA)

IDA promotes the economic development of less developed member countries by making credits on concessionary terms. In FY '84, \$4 billion credits were given. Loans are available to member countries with per capita GNP less than \$725. No interest is charged, but there is a .75% yearly fee and a .5% fee on the undisbursed balance. Maturities are for 50 years including a ten year grace period.

International Finance Corporation (IFC)

The IFC encourages growth of productive private enterprises in developing countries by extending loans, equity, and acting as a catalyst for outside financing. In FY '84, 62 investment commitments were made valued at \$696 million. Interest rates are market based. Loans are usually for a period of 7-12 years.

For further information, contact: World Bank, 1818 H St. NW, Washington D.C. 20433, -telephone: 202-477-1234

4. Private Financing Sources

The first source of private financing is the company's own equity or personal savings. After this, there are several private institutions which can provide export financing. These are discussed briefly below.

a. Private Banks

Commercial banks provide the bulk of U.S. export financing. Banks can help finance the production, storage, and shipment of product as well as extend credit to foreign buyers. Not all Alaskan banks are engaged in export financing. National Bank of Alaska and the Alaska Pacific Bancorporation are believed to be the two biggest. In addition to commercial banks, credit unions, savings and loans, mutual savings banks, insurance companies, and pension funds are also potential sources of private capital.

b. Factoring Houses

In addition to banks, factoring houses can also provide financing. These firms purchase accounts receivables with immediate payment and assume full risk and responsibility for their collection. The buyer pays the factoring house directly. Generally these organizations, many of which are subsidiaries of banks, charge 2-4% of the product value as a fee, but negate the need to purchase insurance.

c. Export Trading Companies (ETC)

ETC's are made possible by the 1982 Export Trading Act. Although at least 50 trading firms have been created as a result of the act, not much new export business has been created. There are basically four types of ETC's: bank affiliated; companies receiving Commerce Department antitrust certifications; state and local governments; and major corporations.

The primary advantage of an ETC for the exporter is that the selling process involves only a domestic transaction. ETC's assume the risks associated with international trade by taking title to goods domestically and handling export operations for the business owner. ETC's enjoy economies of scale and low per unit costs due to large export volumes through established networks of overseas offices, transportation, insurance, and warehouses.

Export trading companies can receive guarantees from the Eximbank. Alaska Mutual Bancorporation and Sealaska recently formed an export trading company. The New York-New Jersey Port Authority and the Virginia Port Authority are the only two government ETC's that are operational. The NY-NJ ETC sells on behalf of clients, performs market research, sends market

specialists overseas, and helps with documentation and shipping. Clients are not charged until sales result. The NY-11J also has insurance and loan programs. The Virginia ETC does not sell, but provides market research, arranges insurance, and assists in product design.

For further information, contact the U.S. Department of Commerce, International Trade Administration, Office of Export Trading Company Affairs, telephone: 202-377-5111

d. Export Management Companies (EMC)

An export management company can be a source of financing on a limited basis for a negotiable fee. When EMC's provide financing, they usually become responsible for collection as well, thus reducing the exporter's credit risk.

For more information, contact the National Association of Export Companies, telephone: 212-561-2025

e. Joint Ventures

Joining forces with foreign companies can provide the double advantage of financing and access to markets. The timber, seafood, and mining industries in Alaska have grown through joint venture or outright foreign ownership.

f. Venture Capital

Capital for new exiting businesses is sometimes available from venture capitalists. This source of financing may be especially important for the mining industry.

APPENDIX C

C. APPARENT GAPS AND BOTTLENECKS

1. Generic Assessment

Due to the matrix of existing financial programs, the number of criteria that must be examined, and the different types of financing needed, it is difficult to determine whether in fact there is a lack of available export financing in a cell of the matrix. If one believes in the free market, there will be basically three reasons for an absence of financing in a given situation: lack of profit potential, not enough available capital, or too much risk. A financing shortage would exist if there are profitable situations for which no financing could be found.

The private sector, and to a much lesser degree, the Federal Government are meeting most of the financing requirements of exporters on terms that are generally competitive with other supplier nations. As a means of putting the subject of gaps and bottlenecks in perspective, the following quote from "How to Finance Your Company" (24) is presented:

"There is far too much unsubstantiated talk about the 'deficiencies' of the capital market. . . . most of the so-called 'gaps' are a myth. True, there are thousands of companies which seem unable to find the finance they think they ought to be able to find, but many of them are denied for good reasons. Banks, insurance companies, pension funds and other financial institutions are entrusted with the community's savings; and those savings ought not to be exposed to undue risks. . . .

. . . the biggest 'gap' is the knowledge gap; the ignorance of the would-be borrower of the way the capital market works; of how to present a case;"

Nonetheless, based on the previous discussion, the Alaska Timber Task Force Report, and a recent study by the International Trade Administration, several possible gaps and bottlenecks can be identified in existing funding mechanisms which might inhibit exports.

- o Many small and medium-sized firms have a very low awareness of federal export finance programs due, in part, to a lack of local agencies to help them use these programs.

- o Many smaller firms appear to have difficulty arranging both pre-shipment and post-shipment financing due to commercial banks' concerns about their creditworthiness or the lack of profit in small transactions.
- o Banks that provide export financing typically set a high minimum transaction size requirement which disqualifies many small exporters.
- o Many firms that are small or new to exports are discouraged from obtaining credit insurance because of the complexity and cost of doing business with the Federal Credit Insurance Association and the unavailability of private credit insurance for smaller transactions.
- o Sufficient short and mid term capital in the timber industry is difficult to obtain even when contracts for the sale of products have been signed.
- o Collateral required by financial institutions is often unattainable in the timber industry. Funds are even difficult to obtain when contracts have been signed with foreign purchasers.
- o Commercial banks do not typically offer fixed rate long-term financing. To be competitive, financing must often match that offered by competitors.
- o There is a limited amount of fixed rate medium-term financing available at competitive interest rates.
- o Several possible shortcomings of the Eximbank were identified: lack of an efficient delivery system; excessive paper work; long turn around; high cost; restrictive eligibility requirements; low profits for banks for small transactions; emphasis on large firms;

2. Special Needs of Alaskan Firms

Of the \$591 million of direct export of Alaskan manufactured goods in 1981, the ITA estimated that 41% received some post-shipment financing. Almost all the post-shipment export financing is short-term. Interestingly enough, their estimates showed that Alaskan companies did not make use of any federal programs; all credit was extended by private institutions. The percentage of loans financed by Alaskan banks as opposed to out of state banks is not known.

A possible explanation for the nonexploitation of federal programs is ITA's finding of a correlation between the nearness of a finance office and the extent to which offices are used. Other possible explanations are: lack of awareness of federal programs and adequate private lending services.

A particular company's financing needs will depend on company size, product, labor requirements, age of facilities, markets, methods of payment, management skill, current financial position, and a host of other variables. The adequacy of the financing will depend on the amount, maturity, repayment schedule, interest rate, and security required. The following is a brief discussion of the special financing needs of several of Alaska's resource industries.

Timber Industry

The 1984 Timber Task Report dealt in detail with the issue of financing of timber operations. The findings and recommendations are worth summarizing here.

Several factors characterize the timber industry's financing needs:

- o the industry is seasonal; large sums of working capital are needed for start-up each season;
- o much of the short-term funding needs are not obtainable by financing from banks;
- o large capital outlays for harvesting operations are needed to harvest timber; these have a recovery period of from one to five years;
- o some of the assets in a timber operation are so site specific they have little collateral value;
- o long-term (more than 5 years) financing is needed for production and conversion facilities.

The timber industry has traditionally secured financing through private mechanisms. Small operators have gotten started using a combination of personal assets, purchasers' advances, trade financing, and small operating lines from banks. Large firms have either built equity or have been backed by large firms. Private financial institutions have, in most instances, provided long-term capital to meet the needs of large operators. Sufficient working capital, however, has not been as available from private sources due to the downturn in the industry, inherent riskiness of timber operations and the low loan limits of Alaskan banks.

The Governor's timber task force identified their criteria for adequate financing of the timber industry. These are worth summarizing here:

Amount Financing must be available up to \$1.5-\$2 million for the short-term, \$4-15 million (mid-term), and from \$20 to \$250 million for the long-term.

Term The term must be consistent with the time necessary to amortize the investment.

Repayment schedule:

Delayed repayment is necessary in many instances for mid and long-term financing due to the time lag between investment and sales. Lenders must often be willing to defer payment during hard times. Refinancing may also be necessary to allow restructuring.

Interest Rates

Interest rates must be competitive despite Alaska's remoteness and marginally secured security.

Security Assets of Alaskan operators are often not sufficient, by traditional standards of liquidity and transferability, to secure loans. Loan guarantees are important to overcome this.

The task force recommended that the state consider establishing an export-import bank for the purpose of translating purchaser commitments into funds for production.

Fisheries

Seafood companies are generally able to secure sufficient working capital and long-term financing from commercial banks. These loans typically range from \$100,000 to several million. Many seafood processors have headquarters in Seattle and hence use Seattle banks. Because the seafood trade has such a long tradition, the system for export financing is generally in place. Most payments for seafood exports are made through a letter of credit, cash, or open account. Hence the exporter receives payment soon after shipment. It is also not uncommon for exporters to receive cash advances from importers in addition to an assured price. The sentiment in the seafood industry seems to be that if the state got involved with export financing it would be dealing with the financially weak and risky firms. The state might be able to improve competitiveness by subsidizing loans such as the linked deposit program in Ohio. State guarantees might be helpful for young businesses that are not considered creditworthy.

Minina

The biggest financial needs for the mining industry appear to be for start-up costs. The needs can perhaps be better defined as for venture capital as opposed to export financing.

APPENDIX D

D. PROPOSALS AND PROGRAMS OF OTHER STATES

In the past few years, states have dramatically increased their activities in foreign trade in order to strengthen state economies, provide jobs, increase tax revenues, and exploit opportunities overseas. Most state programs provide market research, overseas trade missions, sister/state relationships, trade fairs, counseling, overseas offices, and developing trade leads.

1. Summary of State Programs

According to estimates by First Washington Associates, a private consulting group, 19 states have passed legislation for export finance programs and another seven have legislation pending. Programs range from financing working capital to providing export insurance and are geared to promote exports from small and medium sized businesses.

Most state programs are administered by a Department of Economic Development (or entity with a similar function). Most states work in cooperation with the U.S. International Trade Administration and the Small Business Administration located in their states. Several activities are common to most states: catalog shows, trade missions, trade fairs, referral services, workshops, and overseas offices. Export finance programs are generally supported through bond sales, direct appropriations, or cash deposits. Aside from these similarities, export finance programs vary widely on details such as percentage guaranteed, fees charged, and loan limits.

Based on an October 1984 report published by the U.S. Small Business Administration, telephone calls to several states, and other sources, only California, Colorado, Illinois, Indiana, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, Ohio, South Carolina, Tennessee, Washington, and Wisconsin have or are close to having specialized export financing activities. While the information may be slightly out of date, it does demonstrate the range of options available.

California (\$18.7 billion in manufactured exports in 1981): While the state does not currently have its specialized export facility geared up, a bill was passed that created an Export Finance Office within the California World Trade Commission. In addition to providing technical assistance and coordination of other funding sources, the office would provide up to \$350,000 of financial assistance such as insurance, co-insurance, and loan guarantees up to 85% of the transaction value. The program is funded for \$2 million; with a 25% reserve ratio, the office will be able to guarantee up to \$8 million.

Colorado (\$1.3 billion in manufactured exports in 1981): The State's Housing Financing Authority recently was authorized to provide counseling on export finance activities.

Illinois (\$10.4 billion in manufactured exports in 1981): The Illinois Export Development Authority is a specialized export financing facility intended to establish a source of guaranteed financing and insurance to support export development. The authority is authorized to sell up to \$100 million in bonds to finance its activities. Both pre-shipment and post-shipment assistance through loans to lenders and loan guarantees to exporters and their banks are provided. Although any sized business is eligible, the program is geared to small and medium sized businesses. The program is just getting started. The authority also provides financial counseling.

Indiana (\$5.0 billion in manufactured exports in 1981): The Employment Development Commission provides loan guarantees for working capital loans for export purposes. The guarantees can cover 80% of the outstanding loan balance but may not exceed \$500,000. The term is less than 18 months and is not renewable. Fees are set annually, but are at least .5% per year of the outstanding principal.

Minnesota (\$2.7 billion in manufactured exports in 1981): The Minnesota Export Finance Authority has a small business pre-export loan guarantee program designed to provide operating capital between the conclusion of a sales agreement and the time of delivery. The program is also open to medium sized manufacturers, service firms, export management companies, and export trading companies. The maximum guarantee is \$250,000 for 12 months and to date, six applications worth \$1 million have been approved since the program began operation in February 1984. There is a fee of from 1% to 3%.

Mississippi (\$1.1 billion in manufactured exports in 1981): The Certified Development Company is authorized to guarantee bank pre-export and export financing. An income tax incentive is also available. The net increase in export sales profits from one year to the next is exempt from the Mississippi State income tax.

Missouri (\$3.0 billion in manufactured exports in 1981): The Missouri Economic Development Commission is authorized to guarantee loans to Missouri businesses for export activities provided the loans are reinsured or reguaranteed by Eximbank. The mechanism to accomplish this, however, is not in place and is in the process of negotiation.

Nebraska (\$0.9 billion in manufactured exports in 1981): Nebraska is investigating an Export Finance Fund to help small firms finance export.

New Jersey (\$4.5 billion in manufactured exports in 1981): The N.J. Division of International Trade uses programs of the N.J. Economic Development Authority.

Ohio (\$10.3 billion in manufactured exports in 1981): This program, which is run by the Ohio treasury, has the authority to invest up to \$100 million of the state's normal cash deposits as certificates of deposits at financial institutions making loans to eligible small businesses. Applications are made to participating lending institutions (in excess of 200). The lending institution applies all the usual lending standards to determine the creditworthiness of each applicant. The state assumes no risk, but merely subsidizes the loan. To date, \$60 million has been loaned. Approved applications are forwarded to the state stating the amount of the loan and the number of jobs created or sustained. The state then places a certificate of deposit with the lending institution in an amount based on the loan, at up to 3% below the current market rate. The lending institution then lends those funds to eligible small businesses at 3% below the current market rate. Loans can range from short-term working capital to longer term (CD's can be un to four years) plant and equipment. The Ohio budget office estimates that for every dollar given up in investment revenue because of lower yielding CD's, \$3 to \$4 are returned to the Ohio treasury in the form of taxes and lower costs associated with unemployment. The Special Industries Group also offers guaranteed loans for fixed assets up to 75% of a project and direct loans up to 50% of a project.

South Carolina (\$2.2 billion in manufactured exports in 1981): The Jobs-Economic Development Authority is permitted to use funds to provide exporters with low interest loans, guarantees, or insurance of up to 90% of a bank's commitment. Although the program exists by law, no funds have yet been allocated to the program.

Tennessee (\$3.3 billion in manufactured exports in 1981): The Tennessee Competitive Export Corporation acts as a marketing or sales agent for all federal export financing plans. Although this corporation has the authority to make loan guarantees to Tennessee banks making export loans, initially it will only help small businesses take advantage of existing programs.

Washington (\$9.0 billion in manufactured exports in 1981):
Washington, by the constitution, is prohibited from making loans and guarantees. Instead, Washington has set up an export assistance center, a nonprofit corporation financed by the state, comprised of three people with a budget of about \$200,000. The center has developed computer software to help guide exporters through the export process and secure private or federal financing. The staff will help exporters determine what information they are lacking and will help prepare a loan application. The center started in October 1984, and has counseled about 120 clients. They have about five cooperating centers such as port authorities or economic development councils that leverage their activities. These cooperating groups are given the software and training and in return purchase a computer, provide office space, and part-time personnel. The cooperating groups provide initial assistance with complex problems referred to the export assistance center. They eventually intend to have 10 or 15 cooperating groups throughout the state. The center will soon facilitate the FCIA program. No fee has been charged for the use of the service yet, but after July 1, 1985 \$25 will be charged for computer access and \$100 for a loan package. The counseling service is of help to mainly small firms.

Wisconsin (\$4.0 billion in manufactured exports in 1981):
The Wisconsin Housing and Economic Development Authority is authorized to issue up to \$50 million in bonds to provide loans to lenders who make export loans. The principal of the loan can cover 85% of the export sale and may not exceed \$5 million. The term may vary from 180 days to five years. Businesses with gross annual sales of less than \$25 million are given preference.

C. Other Ideas for Export Financing

In addition to those activities already mentioned, the state can take many actions that might increase exports. Basically anything the state pays for that a private company would have to pay for is a form of export financing. A number of ideas have been proposed by a variety of groups. Programs the state can initiate are listed below:

The state can:

- o Organize a one stop export-import program: teaming up banks, freight forwarders, and export management groups
- o Use port authorities to issue bonds, promote market research, advertise, provide legal assistance, transportation, trade documentation, freight forwarding, communication services, and to operate as ETC

- o Provide a free assessment of a firm's export potential, assist in business plan preparation, identify distribution channels, financing, licensing
- o Match student interns with marketing expertise to firms wanting cheap market research
- o Initiate workshops on exporting
- o Set up an Export Trading Company
- o Grant industrial tax credits, industrial property tax exemptions
- o Expand the CFAB
- o Create a state agency to guarantee performance and payment bonds for more than one year and more than \$1 million
- o Join forces with the the Eximbank to provide training, technical assistance, promotional efforts, joint delivery systems, information sharing, to assist states set up and operate export finance programs.
- o Set up an export finance facilitator to:
 - provide details of export financing programs
 - refer requests to the proper agency
 - work closely with banks
 - provide current data
- o Subsidize the market interest rate to adjust for the strong dollar or relatively high interest rates
- o Organize cooperatives for the purpose of financing and guaranteeing the exports of members
- o States could facilitate the use of foreign currencies to finance exports
- o Offer mixed credits, ie., the combination of two or more sources of financing for a single export project
- o Participate as equity partner in new export ventures
- o Issue international trade bonds, a new tax exempt security
- o Issue monthly publications -- these can contain updates on conferences, planned trade missions, visiting foreign business persons, trade opportunities

- o Compile a list of prospective Alaskan exporters, best prospects for their products
- o Form Foreign Trade Zone, such as in Valdez,
- o Hold seminars on world economic trends, marketing techniques, export controls, documentation, transportation, specific countries, potentials of specific products, export financing
- o Have catalogue shows and trade fairs to get face to face meetings between buyers and exporters. These provide a forum for discussion of pricing, quality, performance, and competitiveness
- o Getting experienced exporters to meet with those new to exporting as a type of mentor program
- o Encourage foreign investment in Alaska (according to the U.S. Department of Commerce, in 1981 Alaska ranked third in the nation in the value of foreign owned property. This investment resulted in 8,573 jobs).

APPENDIX E

E. OPTIONS FOR ALASKA

The ITA compared the requirements of personnel, operating expenses, risk, and operating funds for these five types of programs:

| <u>Program</u> | <u>Personnel</u> | <u>Admin. Expense</u> | <u>Risk</u> | <u>Operating Funds</u> |
|---------------------|------------------|---------------------------|-------------|----------------------------|
| Counseling | low | low | low | low |
| Guarantees | high | high | high | low |
| Medium-term funding | medium | medium | low | high |
| Insurance | high | high | medium | low |
| Delivery Programs | high | high | medium | low |

The 1983 ITA study also estimated the costs and benefits of these State programs to support \$10 million in exports. The chart below shows that medium-term funding can be operated on a profitable basis.

| <u>Program</u> | <u>Revenue to State</u> | <u>Cost to State *</u> (\$) | <u>Net Cost to State</u> |
|---------------------|-----------------------------|------------------------------------|------------------------------|
| Counseling | 9,000 | 65,000 | (56,000) |
| Guarantees | 127,500 | 216,200 | (89,300) |
| Medium-term funding | 1,020,000 | 939,800 | 80,200 |
| Insurance | 127,500 | 214,800 | (87,300) |
| Delivery Programs | 127,500 | 308,300 | (180,800) |

* Does not include potential cost of loan losses. Costs would probably be higher in Alaska. Additional costs would be borne by the Federal Government

In considering ways to design and implement export finance programs, it is useful to look at how other states have gone about it.

California: Meetings were held with representatives from manufacturers, service companies, potential exporters, banks, the FCIA, and the state to determine needs and to propose initiatives for legislation.

Illinois: Legislation was the work of the state house and the U.S. Department of Commerce. Hearings were held throughout the state.

Indiana: Proposals came from state legislators and the U.S. Department of Commerce

Minnesota: Programs had the support of the Governor, Senate leader, business groups, and banks.

New York: A governor's advisory panel on state export finance was formed consisting of leaders in state government, business, and banks. The panel held six meetings, evaluated studies on export finance, met with federal officials, endorsed a range of programs, and recommended legislation.

Ohio: Legislation was drafted through the cooperation of members of the legislature, state Department of Commerce, and the U.S. Department of Commerce.

Wisconsin: Legislative initiatives came from the Governor's Advisory Committee on International Trade. The committee members included executives from industry, academia, and state government. The committee met eight times to listen to export specialists, evaluate reports, meet with federal officials, formulate a written program, and advise legislation.

These committees need information: the supply and demand for export financing, exports by company size, typical terms of financing, financing by product, and financing sources.

(7) "reserve fund" means the Alaska municipal bond bank reserve fund established under AS 44.85.280;

(8) "revenues" means all fees, charges, money, profits, payments of principal of or interest on municipal bonds and other investments, gifts, grants, contributions, appropriations and all other income derived or to be derived by the bond bank authority under this chapter. (§ 1 ch 79 SLA 1975; am § 2 ch 48 SLA 1978; am §§ 1, 2 ch 23 SLA 1980)

Revisor's notes. — Formerly AS 44.58.410. Renumbered in 1980.

Effect of amendments. — The 1980 amendment in subparagraph (B) of paragraph (3), inserted "other than diesel-powered generation" following "generation purposes," substituted "pledges" for "is a pledge of" following "a

municipality which," inserted "and which is" following "capital improvement," substituted "the revenue of the revenue-producing capital improvement" for "unpledged revenue of the public facility for which the obligations are issued" at the end of the subparagraph; and added subparagraph (D) in paragraph (3).

Sec. 44.85.420. Short title. This chapter may be cited as the Alaska Municipal Bond Bank Authority Act or the Alaska Municipal Bond Bank Act. In transactions involving general obligation bonds of municipalities, the Alaska Municipal Bond Bank Authority created by this chapter may be referred to as the Alaska Municipal Bond Bank with the same legal effect as if the reference were to Alaska Municipal Bond Bank Authority. (§ 1 ch 79 SLA 1975; am § 3 ch 48 SLA 1978)

Revisor's notes. — Formerly AS 44.58.420. Renumbered in 1980.

Chapter 88. Alaska Industrial Development Authority.

Article

1. Creation and Organization (§§ 44.88.010 — 44.88.050)
2. Purpose and Powers (§§ 44.88.070 — 44.88.085)
3. Financial Provisions (§§ 44.88.090 — 44.88.159)
4. General Provisions (§§ 44.88.160 — 44.88.220)

Article 1. Creation and Organization.

Section

10. Legislative finding and policy
20. Creation of authority
30. Membership of authority

Section

40. Chairman and vice-chairman
50. Meetings, compensation, officers and employees

Sec. 44.88.010. Legislative finding and policy. (a) The legislature finds, determines and declares that

(1) there exist areas of the state in which seasonal and nonseasonal unemployment exist;

(2) this unemployment is a serious menace to the health, safety and general welfare, not only to the people in those areas, but also to the people of the entire state;

(3) the state lacks the basic manufacturing, industrial, and business enterprises and the other facilities referred to in (5) of this subsection necessary to permit adequate development of its natural resources and the balanced growth of its economy;

(4) the establishment and expansion of industrial, manufacturing, and business enterprises in Alaska and the other facilities referred to in (5) of this subsection are essential to the development of the natural resources and the long-term economic growth of the state, and will directly and indirectly alleviate unemployment in the state;

(5) the achievement of the goal of full employment, and of establishment and continuing operation and development of industrial, manufacturing, and business enterprises in the state, including, without limitation, facilities for transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, facilities for industrial parks, mass commuting vehicles, facilities for local district heating or cooling, parking facilities, or a storage or training facility relating to a plant or facility, will be accelerated and facilitated by the creation of an instrumentality of the state with powers to incur debt, to own and operate facilities, to make and insure loans to finance, and to assist private lenders to make loans to finance, the establishment, operation, and development of industrial, manufacturing, and business enterprises, including, without limitation, facilities for transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, facilities for industrial parks, mass commuting vehicles, facilities for local district heating or cooling, parking facilities, or a storage or training facility relating to a plant or facility;

(6) it is in the public interest to promote the prosperity and general welfare of all citizens of the state by stimulating commercial and industrial growth and expansion by encouraging an increase of private investment by banks, investment houses, insurance companies, and other financial institutions, including pension and retirement funds, to help satisfy the need for economic expansion;

(7) it is in the state's interest to import private capital to create new economic activity which would not otherwise take place in the state.

(b) It is declared to be the policy of the state, in the interests of promoting the health, security and general welfare of all the people of the state, and a public purpose, to increase job opportunities and otherwise to encourage the economic growth of the state, including the development of its natural resources, through the establishment and expansion of manufacturing, industrial, and business enterprises and the other facilities referred to in (a)(5) of this section by creating the public corporation with power, duties and functions as provided in AS

44.88.010 — 44.88.220. (§ 1 ch 64 SLA 1967; am § 1 ch 64 SLA 1977; am §§ 44 — 48 ch 106 SLA 1980; am § 28 ch 115 SLA 1981; am § 3 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.010. Renumbered in 1980.

Effect of amendments. — The 1980 amendment deleted "and" following "manufacturing" near the beginning of paragraph (3) of subsection (a), inserted "small business, tourism, mining, and commercial fishing" preceding "enterprises" near the middle of paragraph (3) of subsection (a), inserted "and other facilities referred to in AS 44.88.010(a)(5)" following "enterprises" near the middle of paragraph (3) of subsection (a); deleted "and" preceding "manufacturing" near the beginning of paragraph (4) of subsection (a), substituted "small business, tourism, mining, and commercial fishing enterprises" for "plants" preceding "in Alaska" near the beginning of paragraph (4) of subsection (a), inserted "facilities for" following "transportation" near the middle of paragraph (4) of subsection (a), substituted "facilities" for "and" following "waste disposal" near the middle of paragraph (4) of subsection (a), deleted "electric energy or" following "local furnishing of" near the middle of paragraph (4) of subsection (a), inserted "facilities for water, and facilities for industrial parks" preceding "is essential to" near the middle of paragraph (4) of subsection (a); rewrote paragraph (5) of subsection (a); added paragraphs (6) and (7) of subsection (a); deleted "and" preceding "industrial" near the middle of subsection (b), inserted "small business, tourism, mining, and commercial fishing" preceding "enterprises" near the middle of subsection (b), and inserted "and the other facilities referred to in AS 44.88.010(a)(5)" following "enterprises" near the end of subsection (b).

The 1981 amendment substituted "and" for "small" preceding "business" and

deleted "tourism, mining, and commercial fishing" preceding "enterprises" in paragraphs (3), (4) and (5) of subsection (a). The amendment also added "the" preceding "other facilities" and substituted "(5) of this subsection" for "AS 44.88.010(a)(5)" in paragraph (3) of subsection (a). In subsection (a)(4), the amendment substituted "and the other facilities referred to in (5) of this subsection are" for "including facilities for air and water transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, and facilities for industrial parks, is" preceding "essential to the development." The amendment deleted "for private operation" following "facilities for industrial parks" near the end of subsection (a)(5). In subsection (b), the amendment added "and expansion" preceding "of manufacturing," substituted "and" for "small" preceding "business" deleted "tourism, mining, and commercial fishing" preceding "enterprises" and substituted "(a)(5) of this section" for "AS 44.88.010(a)(5)" preceding "by creating the public corporation."

The 1984 amendment, in paragraph (5) of subsection (a), substituted "without limitation, facilities for" for "facilities for air and water" twice and "to own and operate facilities" for "and," deleted "and" following "water" near the beginning and end of the paragraph, inserted "mass commuting vehicles, facilities for local district heating or cooling, parking facilities, or a storage or training facility relating to a plant or facility," and added "mass commuting vehicles, facilities for local district heating or cooling, parking facilities, or a storage or training facility relating to a plant or facility" at the end of the paragraph.

NOTES TO DECISIONS

Former state development corporation law construed. — See *DeArmond v. Alaska State Dev. Corp.*, Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962); *Walker v. Alaska State Mtg. Ass'n*, Sup.

Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966); *City of Nome v. Block*, No. H., Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

Collateral references. — 72 Am. Jur. 2d, States, Territories and Dependencies, §§ 90, 91.
 81A C.J.S., States, § 297 et seq.

Sec. 44.88.020. Creation of authority. There is created the Alaska Industrial Development Authority. The authority is a public corporation of the state and a body corporate and politic constituting a political subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence. (§ 1 ch 64 SLA 1967; am § 104 ch 218 SLA 1976)

Revisor's notes. — Formerly AS 44.61.020. Renumbered in 1980.
Editor's notes. — Section 42, ch. 106, SLA 1980 provides: "On August 20, 1980, the Alaska State Development Corporation (AS 44.86.010) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). On August 20, 1980, the Small Business Development Corporation (AS 44.87.020) shall transfer its assets and

liabilities to the Alaska Industrial Development Authority (AS 44.88.020). On August 20, 1980, the Alaska Toll Bridge Authority (AS 44.84.010) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). The Alaska Industrial Development Authority is responsible for the management of the assets and liabilities transferred to it under this section."

Sec. 44.88.030. Membership of authority. (a) The membership of the authority consists of

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

(2) one other person appointed by the governor who serves as the head of a principal department of the executive branch; and

(3) two public members appointed by the governor.

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

(c) Members of the authority described in (a)(2) and (a)(3) of this section serve two-year terms. However, the initial appointment of one member described in (a)(3) of this section shall be for a one-year term.

(d) If a vacancy occurs in the membership of the authority, the governor shall immediately appoint a member for the unexpired portion of the term. (§ 1 ch 64 SLA 1967; am § 7 ch 207 SLA 1975; am § 2 ch 64 SLA 1977; am § 49 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.030. Renumbered in 1980.

Effect of amendments. — Section 49, ch. 106, SLA 1980, rewrote the section.

Editor's notes. — Section 50, ch. 106, SLA 1980, purported to add a subsection (e); it was effective, however, on the effective date of the amendment to the Alaska

Constitution proposed in 1980 Legislative Resolve No. 43, which was defeated at the general election held in November, 1980.

Sec. 44.88.040. Chairman and vice-chairman. The members of the authority shall elect a chairman from among themselves. A vice-chairman may be elected by the authority from among its other members. The vice-chairman presides over all meetings in the absence of the chairman and has other duties which the authority may direct. (§ 1 ch 64 SLA 1967; am § 105 ch 218 SLA 1976; am § 51 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.040. Renumbered in 1980.

Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 44.88.050. Meetings, compensation, officers and employees. (a) A majority of the members of the authority constitutes a quorum for the transaction of business or the exercise of a power or function at a meeting of the authority. In case of a tie vote on a motion or resolution pending before the authority the motion or resolution shall be presented to the governor and if approved, is considered adopted by the authority. The authority may meet and transact business by electronic media if (1) public notice of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location; (2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and (3) copies of pertinent reference materials, statutes, regulations, and audio-visual materials are reasonably available to participants and to the public. A meeting by electronic media as provided in this subsection has the same legal effect as a meeting in person.

(b) The public members of the authority receive \$100 compensation for each day spent on official business of the authority and may be reimbursed by the authority for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180.

(c) The authority may appoint persons as officers it considers advisable, including an executive director, and may employ professional advisors, counsel, technical experts, agents, and other employees it considers advisable. The executive director and employees of the authority are in the exempt service under AS 39.25.010 — 39.25.220.

(d) The authority shall keep minutes of each meeting and send a certified copy to the governor and to the Legislative Budget and Audit Committee. (§ 1 ch 64 SLA 1967; am §§ 52, 53 ch 106 SLA 1980; am §§ 29, 30 ch 115 SLA 1981)

Revisor's notes. — Formerly AS 44.61.050. Renumbered in 1980.

Effect of amendments. — The 1980 amendment rewrote subsection (b), and in subsection (c), deleted "or executive vice-president" following "executive direc-

tor" in the first sentence and added the second sentence.

The 1981 amendment added the third and fourth sentences of subsection (a) and added subsection (d).

Article 2. Purpose and Powers.

Section

- 70. Purpose of the authority
- 80. Powers of the authority
- 85. Administrative procedure

Sec. 44.88.070. Purpose of the authority. The purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment, and to create additional employment by providing various means of financing and means of facilitating the financing of industrial, manufacturing, and business enterprises and the other facilities referred to in AS 44.88.010(a)(5) within the state, and by owning and operating the enterprises and other facilities. (§ 1 ch 64 SLA 1967; am § 54 ch 106 SLA 1980; am § 31 ch 115 SLA 1981; am § 4 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.070. Renumbered in 1980.

Effect of amendments. — The 1980 amendment substituted "various" for "a" preceding "means of financing" near the middle of the section, inserted "means of facilitating the financing of" near the middle of the section, and substituted "small business, tourism, mining, and commercial fishing enterprises and the other facilities referred to in AS 44.88.010(a)(5) within the state" for "plant construction, conversion or expansion

within the state, including the acquisition of real property, for lease or sale to business enterprises for industrial or manufacturing purposes" at the end of the section.

The 1981 amendment substituted "and" for "small" preceding "business," and deleted "tourism, mining, and commercial fishing" preceding "enterprises."

The 1984 amendment added "and by owning and operating the enterprises and other facilities" at the end of the section.

Sec. 44.88.080. Powers of the authority. In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers:

- (1) to sue and be sued;
- (2) to have a seal and alter it at pleasure;
- (3) to make and alter bylaws for its organization and internal management;
- (4) to adopt regulations governing the exercise of its corporate powers;
- (5) to acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift or lease;
- (6) to lease to others a project acquired by it for the rentals and upon the terms and conditions the authority may consider advisable, including, without limitation, provisions for options to purchase or renew;

(7) to issue bonds, in accordance with AS 44.88.090, to pay the cost of a project and to secure payment of the bonds as provided in this chapter;

(8) to sell, by installment sale or otherwise, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other security interest, real or personal property owned by it, or in which it has an interest, including a project, when, in the judgment of the authority, the action is in furtherance of its corporate purposes;

(9) to accept gifts, grants or loans from, and enter into contracts or other transactions regarding them, with a federal agency or an agency or instrumentality of the state, a municipality, private organization or other source;

(10) to deposit or invest its funds, subject to agreements with bondholders;

(11) to enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter;

(12) to purchase or insure loans to finance the costs of manufacturing, industrial, and business enterprise projects;

(13) to enter into loan agreements with respect to one or more projects upon the terms and conditions the authority considers advisable;

(14) to acquire, manage, and operate projects as the authority considers necessary or appropriate to serve a public purpose;

(15) to assist private lenders to make loans to finance the costs of projects through loan commitments, short-term financing, or otherwise;

(16) to accept gifts, grants, or loans from a federal agency, from an agency or instrumentality of the state or of a municipality, or from any other source;

(17) to enter into contracts or other transactions with a federal agency, with an agency or instrumentality of the state or of a municipality, or with a private organization or other entity consistent with the exercise of any power under this chapter;

(18) to facilitate the expansion of a secondary market for the resale of federally or commercially insured loans made to finance the costs of projects in Alaska held by federal and state chartered financial institutions or by the Alaska Commercial Fishing and Agriculture Bank;

(19) to charge fees or other forms of remuneration for the use or possession of the projects described in (14) of this section in accordance with the agreements described in (11) and (17) of this section, other agreements pertaining to the projects, covenants, or representations made in bond documents pertaining to the projects, or regulations of the authority pertaining to the projects. (§ 1 ch 64 SLA 1967; am §§ 55-59 ch 106 SLA 1980; am §§ 32, 33 ch 115 SLA 1981; am § 5 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.080. Renumbered in 1980.

Effect of amendments. — The 1980 amendment substituted "adopt" for "make rules and" at the beginning of paragraph (4), rewrote paragraph (5), inserted "in accordance with AS 44.88.090" following "to issue bonds" near the beginning of paragraph (7), deleted "acquiring by construction, purchase or lease or improving and equipping" following "the cost of" near the middle of paragraph (7), inserted "by installment sale or otherwise" following "to sell" at the beginning of paragraph (8), inserted "including a project" following "has an interest" near the middle of paragraph (8), and added paragraphs (12) through (18).

The 1981 amendment substituted "and"

for "small" preceding "business" and deleted "tourism, mining, and commercial fishing" preceding "enterprise projects" in paragraph (12). In paragraph (18), the amendment added "made to finance the costs of projects in Alaska" following "commercially insured loans" and substituted "federal and state chartered financial institutions or by the Alaska Commercial Fishing and Agriculture Bank" for "commercial banks in Alaska."

The 1984 amendment substituted "projects as the authority considers necessary or appropriate to serve a public purpose" for "a project when it becomes necessary or desirable to do so to safeguard the authority from losses" in paragraph (14) and added paragraph (19).

Sec. 44.88.085. Administrative procedure. (a) Except for AS 44.62.310 and 44.62.312 regarding public meetings, and except for AS 44.62.320(a) regarding legislative review of regulations, the provisions of the Administrative Procedure Act regarding the adoption of regulations (AS 44.62.040 — 44.62.320) do not apply to the authority. The authority shall make available to members of the public copies of the regulations adopted under (b) — (e) of this section. Within 45 days after adoption of a regulation under (b) — (e) of this section, the chairman of the authority shall submit the regulation adopted to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 — 24.20.460.

(b) The authority may adopt regulations under this section by motion or by resolution or in any other manner permitted by its bylaws.

(c) The authority may adopt regulations to carry out the purposes of this chapter, and shall adopt regulations necessary for the following purposes:

- (1) determination of borrower eligibility;
- (2) loan guidelines and terms including, but not limited to, maximum loan amounts and required loan-to-value ratios, but excluding loan interest rates;
- (3) characteristics of projects eligible for loans or purchase of loans; and
- (4) the qualifications of loan originators and servicers and the method of allocating amounts available for the purchase of loans.

(d) Except as provided in (e) of this section, at least 15 days before the adoption, amendment, or repeal of a regulation on a subject specified in (c) of this section, the authority shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the authority. The public notice must include a statement

of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and must include an informative summary of the subject of the proposed action. On the date and at the time and place designated in the notice, the authority shall give each interested person or an authorized representative of the person, or both, the opportunity to present statements, arguments, or contentions orally or in writing and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The authority shall consider all relevant matter presented to it before taking the proposed action on the regulation. At a hearing under this subsection, the authority may continue or postpone the hearing to a time and place determined by the authority and announced at the hearing before taking the action to continue or postpone the hearing. A regulation adopted, amended, or repealed by the authority may vary from the informative summary specified in this subsection if the subject matter of the action taken on the regulation remains the same and if the original notice of the proposed action was written so as to assure that members of the public are reasonably notified of the subject matter of the proposed action in order for them to determine whether their interests could be affected by the authority's proposed action on that subject.

(e) The adoption, amendment, or repeal of a regulation on a subject specified in (c) of this section may be made as an emergency regulation if, in the order of adoption, the authority states the facts constituting the emergency and makes a finding that the adoption of the regulation is necessary for the immediate preservation of the orderly operation of the authority's loan and bonding programs. The requirements of (d) of this section do not apply to the initial adoption of an emergency regulation covering a subject specified in (c) of this section; however, upon adoption of an emergency regulation under this subsection, the authority shall, within 10 days after that adoption, publish notice of the adoption in accordance with the notice procedures specified in (d) of this section. An emergency regulation adopted under this subsection may not remain in effect for more than 120 days unless, before the expiration of that period, the authority adopts that regulation as a permanent regulation in accordance with the procedures specified in (d) of this section.

(f) A regulation adopted under (b) — (e) of this section takes effect immediately upon its adoption by the authority or at such other time as specified by the authority in its order of adoption. (§ 53 ch 113 SLA 1982)

Article 3. Financial Provisions.

| Section | Section |
|---|--|
| 90. Bonds of the authority | 150. Bonds legal investments for fiduciaries |
| 100. Trust indentures and trust agreements | 155. Enterprise development fund |
| 105. Capital reserve funds and capital reserve fund requirement | 156. Multi-family housing loan account |
| 110. Validity of pledge | 157. Loan insurance and loan insurance account |
| 120. Nonliability on bonds | 158. Small enterprise loan account |
| 130. Pledge of the state | 159. Interest rates |
| 140. Exemption from taxation | |

Sec. 44.88.090. Bonds of the authority. (a) Subject to (g) of this section, the authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable, (1) exclusively from the income and receipts or other money derived from the project financed with the proceeds of the bonds, (2) exclusively from the income and receipts or other money derived from designated projects whether or not they are financed in whole or in part with the proceeds of the bonds, or (3) from its income and receipts or other assets generally, or a designated part or parts of them.

(b) Bonds shall be authorized by resolution of the authority, and be dated and shall mature as the resolution may provide, except that a bond may not mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

(d) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the authority may determine.

(e) Before the issuance of any bonds, the authority shall make provision by lease or other agreement regarding the project or projects being financed by the issue of the bonds for rentals or other considerations at least sufficient, in the judgment of the authority, to pay the principal of and interest on the bonds as they become due and to create and maintain the reserves therefor as the authority considers necessary or desirable and to meet all obligations in connection with the lease or other agreement and all costs necessary to service the bonds unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(f) The superior court shall have jurisdiction to hear and determine suits, actions or proceedings relating to the authority, including suits, actions or proceedings brought to foreclose or otherwise enforce a mort-

gage, pledge, assignment or security interest or brought by or for the benefit or security of a holder of its bonds or by a trustee for or other representative of the holders.

(g) The authority may not

(1) issue bonds, other than refunding bonds, in any 12-month period beginning after June 30, 1982, in an amount that exceeds the amount of bonds authorized to be issued during the preceding 12-month period, unless a different amount is authorized by the legislature; or

(2) issue revenue bonds other than refunding bonds for a project under this chapter in an amount greater than \$50,000,000 during any 12-month period beginning after June 30, 1981, unless the issuance is included separately in the estimates required in the report of the authority under AS 44.88.210(b) and unless the legislature, by law, approves the issuance.

(h) The authority may combine, for the purposes of a single offering, bonds financing more than one project under AS 44.88.010 — 44.88.220. (§ 1 ch 64 SLA 1967; am §§ 60, 61 ch 106 SLA 1980; am § 35 ch 115 SLA 1981)

Revisor's notes. — Formerly AS 44.61.090. Renumbered in 1980.

Effect of amendments. — The 1980 amendment substituted "Subject to (g) of this section, the" for "The" at the beginning of subsection (a), deleted

"therefor" following "may issue bonds" near the beginning of subsection (a), and added subsections (g) and (h).

The 1981 amendment rewrote paragraph (1) of subsection (g).

Sec. 44.88.100. Trust indentures and trust agreements. In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee (hereinafter in this section referred to as "trust agreement") by means of which the authority may:

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

(B) the fixing and collection of rents or other consideration for, and the other terms to be incorporated in a lease or contract of sale of a project;

(C) the assignment by the authority of its rights in the lease or contract of sale of a project or in a mortgage or other security interest created with respect to a project to a trustee for the benefit of bondholders;

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(D) the terms and conditions upon which additional bonds of the authority may be issued;

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance and all other rights of the authority or of the bondholders, under a lease, contract of sale, mortgage, security agreement, or trust agreement with respect to a project by mandamus or other proceeding or by taking possession of by agent or otherwise and operating a project and collecting rents or other consideration and applying the same in accordance with the trust agreement:

(2) pledge, mortgage or assign money, leases, agreements, property or other assets of the authority either presently in hand or to be received in the future, or both; and

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS
44.61.100. Renumbered in 1980.

Sec. 44.88.105. Capital reserve funds and capital reserve fund requirement. (a) For the purpose of securing one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and other money which may be made available to the authority from other sources for the purposes of the capital reserve funds. A capital reserve fund may be established only if the authority determines that the establishment of the fund would enhance the marketability of the bonds, and if those costs of a project, as defined in AS 44.88.220, which are to be financed with the proceeds of the bonds, do not exceed \$10,000,000. Money in a capital reserve fund, except as provided in this section, may be used as required only for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds; (2) the purchase or redemption of the bonds; or (3) the payment of a redemption premium required to be paid when the bonds are redeemed before maturity. However, money in a capital reserve fund may not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve requirement, except for the purpose of making payment, when due, of principal, interest, redemption premiums on the bonds, and sinking fund payments when other money of the authority is not available for the payments. Income or interest earned by, or increment to, a capital reserve fund, from the investment of all or part of the fund, may be transferred by the authority to other funds or accounts of the authority if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

Revisor's notes. — Enacted as AS 44.61.105. Renumbered in 1980.

Effect of amendments. — The 1981 amendment added "and if those costs of a project, as defined in AS 44.88.220, which are to be financed with the proceeds of the

bonds, do not exceed \$10,000,000" following "marketability of the bonds" in the second sentence of subsection (a) and added subsections (f) and (g).

The 1984 amendment added subsection (h).

Sec. 44.88.110. Validity of pledge. It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.110. Renumbered in 1980.

Sec. 44.88.120. Nonliability on bonds. (a) Neither the members of the authority nor a person executing the bonds are liable personally on the bonds or are subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state (except the authority) to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.120. Renumbered in 1980.

Sec. 44.88.130. Pledge of the state. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds, together with the

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(b) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the capital reserve fund requirement, unless the authority, at the time of issuance of the bonds, deposits in the capital reserve fund from the proceeds of the bonds to be issued or from other sources, an amount which, together with the amount then in the fund, is not less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the fund is invested shall be valued by a reasonable method established by the authority by resolution. Valuation shall include the amount of interest earned or accrued as of the date of the valuation.

(d) The chairman of the authority shall annually, no later than January 2, certify in writing to the governor and the legislature the amount, if any, required to restore a capital reserve fund to the capital reserve fund requirement. The legislature may appropriate to the authority the amount certified by the chairman of the authority. The authority shall deposit the amounts appropriated under this subsection during a fiscal year in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

(e) In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation as determined by resolution of the authority.

(f) The authority may not establish a capital reserve fund to secure an issue of bonds in an amount in excess of \$1,000,000 unless at least 20 percent of the principal amount of the loan for the project is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank.

(g) The authority may establish reserve funds, other than capital reserve funds, to secure one or more issues of its bonds. The authority may deposit in a reserve fund established under this subsection the proceeds of sale of its bonds and other money which may be made available from any other source. A reserve fund established under this subsection must comply with (a) — (c) of this section. The authority may allow a reserve fund established under this subsection to be depleted without complying with (d) of this section.

(h) Notwithstanding any other provision of this section, the authority may waive or modify the requirements of (a) of this section establishing maximum costs of \$10,000,000 for a project and the requirements of (f) of this section as it considers appropriate and prudent in order to finance a project if the authority intends to own the project. However, if the authority intends to lease or otherwise permit the state to use or occupy a majority of the project, the authority may only establish a reserve fund under (g) of this section to secure bonds issued to finance a project. (§ 62 ch 106 SLA 1980; am §§ 36, 37 ch 115 SLA 1981; am § 6 ch 162 SLA 1984)

Revisor's notes. — Enacted as AS 44.61.105. Renumbered in 1980.

Effect of amendments. — The 1981 amendment added "and if those costs of a project, as defined in AS 44.88.220, which are to be financed with the proceeds of the

bonds, do not exceed \$10,000,000" following "marketability of the bonds" in the second sentence of subsection (a) and added subsections (f) and (g).

The 1984 amendment added subsection (h).

Sec. 44.88.110. Validity of pledge. It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties. (§ 1 ch 64 SLA 1967)

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(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state (except the authority) to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.120. Renumbered in 1980.

Sec. 44.88.130. Pledge of the state. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds, together with the

interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders, and insofar as it relates to a federal agency, in a contract with the federal agency. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.130. Renumbered in 1980.

Sec. 44.88.140. Exemption from taxation. (a) The real and personal property of the authority and its assets, income and receipts are declared to be the property of a political subdivision of the state and, together with any project financed under this chapter and a leasehold interest created in a project applicant or other person under this chapter, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project and leasehold interests shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing units. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income or any other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project or lease whether or not financed under this chapter.

(b) The authority may enter into agreements with a proposed project applicant or project applicant providing for payments, computed on a formula basis or otherwise, in lieu of taxes, which the authority may consider appropriate. The agreement may provide that the payments be made to the political subdivision of the state in which a project is or is to be located or to any other taxing unit of the state including, without limitation, a borough, city, municipality, school district or public utility district, the area of which is coterminous in whole or in part with that of the political subdivision.

(c) [Repealed, § 126 ch 6 SLA 1984.] (§ 1 ch 64 SLA 1967; am § 3 ch 64 SLA 1977; am §§ 63, 64 ch 106 SLA 1980; am § 126 ch 6 SLA 1984)

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Revisor's notes. — Formerly AS 44.61.140. Renumbered in 1980.

Effect of amendments. — The 1980 amendment substituted "applicant" for "occupant" following "project" near the middle of the first sentence in subsection

(a) and twice near the beginning of subsection (b).

The 1984 amendment repealed former subsection (c), relating to exempted property being considered taxable real and personal property.

NOTES TO DECISIONS

Cited in City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

Sec. 44.88.150. Bonds legal investments for fiduciaries. The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.150. Renumbered in 1980.

Sec. 44.88.155. Enterprise development fund. (a) The enterprise development fund is established in the authority. The enterprise development fund is a trust fund for the uses and purposes of AS 44.88.010 — 44.88.220. The enterprise development fund consists of money or assets appropriated or transferred to the authority and other money or assets deposited in it by the authority.

(b) The authority may establish in the enterprise development fund a small enterprise loan account, a loan insurance account, and other accounts it considers appropriate.

(c) Money and other assets of the enterprise development fund may be used to secure bonds of the authority, and shall be held and invested by the authority in the types of investments described in AS 37.10.070(a) and AS 39.35.110(a)(9) and (14) or shall be used to purchase loans for projects as defined in AS 44.88.220.

(d) A loan purchased in whole or in part by the authority, other than a loan which is financed with the proceeds of bonds of the authority and secured only by a project applicant or a project

(1) may not exceed

(A) \$10,000,000; or

(B) \$500,000 if the loan is purchased under AS 44.88.158;

(2) may not exceed the cost of the project or 75 percent of the appraised value of the project, whichever is less, unless the amount of the loan in excess of this limit is federally insured or guaranteed or is insured by a qualified mortgage insurance company;

(3) may not be for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date the loan is made, whichever is earlier;

(4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower;

(5) shall be in the form and contain the terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, secondary liens and other matters the authority prescribes;

(6) shall be secured as to repayment by a mortgage or other security instrument in the manner the authority determines is feasible to assure timely repayment under a loan agreement entered into with the borrower;

(7) may not be made unless

(A) at least 10 percent of the principal amount of the loan is retained by the originator of the loan; or

(B) 100 percent of the principal amount of the loan is guaranteed by the United States or an agency or instrumentality of the United States;

(8) must be

(A) at least partially guaranteed by the United States or an agency or instrumentality of the United States, subject to the provisions of AS 44.88.158; or

(B) financed from the proceeds of bonds; or

(C) expected by the authority to be financed from the proceeds of bonds.

(e) The authority may adopt regulations for the administration of the enterprise development fund which may include, without limitation, provisions for fees and agreements relating to application, loan commitment, servicing, and origination of loans by other lenders.

(f) The authority may enter into agreements as to the use of the money in the enterprise development fund, including without limitation, trust or custody arrangements with banks or trust companies. It may also pledge, assign, or grant the agreement, interests under an agreement, or interests in the enterprise development fund as may be necessary or appropriate to provide for payment and security for bonds of the authority.

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(g) Notwithstanding any other provision of this section, the authority may waive or modify the requirements of this section as it considers appropriate and prudent in order to finance a project if the authority intends to own the project. (§ 65 ch 106 SLA 1980; am § 38 ch 115 SLA 1981; am § 7 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.155. Renumbered in 1980. The 1984 amendment added subsection (g).

Effect of amendments. — The 1981 amendment rewrote this section.

Sec. 44.88.156. Multi-family housing loan account. (a) In addition to the findings and declarations in AS 44.88.010, the legislature finds, determines, and declares that

(1) there exists in the state a serious shortage of decent, safe, and sanitary multifamily housing units, and that this shortage is inimical to the safety, health, welfare, and prosperity of the residents of the state and to the sound growth of communities in the state; and

(2) it is necessary to give the Alaska Industrial Development Authority the power to provide a means for financing additional multifamily housing projects in the state.

(b) In addition to the purposes specified in AS 44.88.070, the purpose of the authority is to promote, develop, and maintain an adequate supply of decent, safe, and sanitary multifamily housing projects during times of shortage of such projects in the state, by providing various means of financing and facilitating the financing of multifamily housing projects in the state.

(c) In addition to the powers conferred on the authority under AS 44.88.080 and its other powers, the authority has the following powers:

(1) to make loans and to participate in the making of loans in conjunction with other lenders, the Alaska State Housing Authority, or a municipality of the state to assist in the financing of multifamily housing projects;

(2) to own a multifamily housing project with sponsors, developers, builders, or other persons or to own a multifamily housing project alone, for the purpose of maintaining a security interest in that multifamily housing project;

(3) to borrow money, to issue its bonds, and to provide security for bonds it issues in connection with the financing of multifamily housing projects, except that the authority may not issue bonds for the construction financing for a multifamily housing project unless the bonds are, in the opinion of the authority, adequately secured by a letter of credit or equivalent security;

(4) to make loans and to participate in the making of loans from the proceeds of tax-exempt bonds for a multifamily housing project at interest rates determined or agreed to by the authority;

Sec. 44.88.156. Multi-family housing loan account. (a) In addition to the findings and declarations in AS 44.88.010, the legislature finds, determines, and declares that

(1) there exists in the state a serious shortage of decent, safe, and sanitary multifamily housing units, and that this shortage is inimical to the safety, health, welfare, and prosperity of the residents of the state and to the sound growth of communities in the state; and

(2) it is necessary to give the Alaska Industrial Development Authority the power to provide a means for financing additional multifamily housing projects in the state.

(b) In addition to the purposes specified in AS 44.88.070, the purpose of the authority is to promote, develop, and maintain an adequate supply of decent, safe, and sanitary multifamily housing projects during times of shortage of such projects in the state, by providing various means of financing and facilitating the financing of multifamily housing projects in the state.

(c) In addition to the powers conferred on the authority under AS 44.88.080 and its other powers, the authority has the following powers:

(1) to make loans and to participate in the making of loans in conjunction with other lenders, the Alaska State Building Authority, or a municipality of the state to assist in the financing of multifamily housing projects;

(2) to own a multifamily housing project with sponsors, developers, builders, or other persons or to own a multifamily housing project alone, for the purpose of maintaining a security interest in that multifamily housing project;

(3) to borrow money, to issue its bonds, and to provide security for bonds it issues in connection with the financing of multifamily housing projects, except that the authority may not issue bonds for the construction financing for a multifamily housing project unless the bonds are, in the opinion of the authority, adequately secured by a letter of credit or equivalent security;

(4) to make loans and to participate in the making of loans from the proceeds of tax-exempt bonds for a multifamily housing project at interest rates determined or agreed to by the authority;

(5) to acquire, sell, or otherwise dispose of an interest in a multifamily housing project as necessary or appropriate to provide financing for the housing project;

(6) to enter into agreements with respect to a multifamily housing project on terms and conditions that the authority considers advisable;

(7) to assist private lenders, the Alaska State Building Authority, and municipalities of the state to make loans to finance the costs of multifamily housing projects;

(8) to use assets of the multifamily housing loans security fund to establish capital reserve funds to secure bonds issued in connection

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with the financing of multifamily housing projects and to provide a loan loss reserve for loans purchased by the multifamily housing loan account of the enterprise development fund.

(d) With respect to the issuance of bonds to finance one or more multifamily housing projects, in order to facilitate the financing of a multifamily housing project the authority may waive or modify, as it considers appropriate and prudent, the requirements of AS 44.88.090(e), 44.88.155(d), and 44.88.160.

(e) A capital reserve fund established under this section to secure bonds issued in connection with the financing of multifamily housing projects is not subject to the \$10,000,000 limitation stated in AS 44.88.105(a). The provisions of AS 44.88.105(f) do not apply to capital reserve funds established to secure bonds issued to finance one or more multifamily housing projects.

(f) A multifamily housing loan account is established in the enterprise development fund of the authority (AS 44.88.155), consisting of money and other assets of the enterprise development fund that the authority deposits into it. The multifamily housing loan account shall be used only to purchase or originate loans for multifamily housing projects. The authority may not use proceeds from the sale of bonds of the authority to finance secondary loans for multifamily housing. Notwithstanding the provisions of AS 44.88.155(d), a loan purchased or originated by the authority for the multifamily housing loan account

(1) may not be for a term longer than 30 years from the date the loan is made;

(2) shall be secured by a mortgage or other security instrument in the manner the authority determines is feasible to assure timely repayment under a loan agreement entered into with the borrower; the mortgage or other security instrument constitutes a first lien against the multifamily housing project, except that it may be subordinated by the authority to a loan made directly or indirectly with the proceeds of a sale of bonds by the authority, the Alaska State Building Authority, or a municipality of the state during the time when the loan from these proceeds is outstanding, and may be subordinated to a loan that refinances the original loan, if the authority considers it appropriate to do so;

(3) shall provide for a schedule of payments of principal and interest that is satisfactory to the authority, and that may include, without limitation, deferrals or reductions of payments, variable payments, balloon payments, sharing in equity appreciation, and other arrangements;

(4) shall be in the form and contain the terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, secondary liens, and other matters as the authority prescribes.

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(g) The interest rate on a loan for one or more multifamily housing projects financed from the proceeds of tax-exempt bonds or expected by the authority to be financed from the proceeds of tax-exempt bonds may be at a higher or lower rate, as the authority considers appropriate, than the cost of funds as defined in AS 44.88.159(a), with respect to that loan.

(h) The multifamily housing loans security fund is established in the authority. The multifamily housing loans security fund consists of money and assets appropriated or transferred to it, the income produced from its investments and holdings, and deposits that the authority may make from repayments of multifamily housing loans purchased by the multifamily housing loan account of the enterprise development fund. The assets of the multifamily housing loans security fund may be used to establish capital reserve funds to secure bonds issued in connection with the financing of multifamily housing projects. The assets of the multifamily housing loans security fund may also be used to provide a loan loss reserve for the enterprise development fund for multifamily housing loans made by the authority from the multifamily housing loan account of the enterprise development fund. The multifamily housing loans security fund is not a general asset of the authority and may not be pledged or committed in any way except as provided in this subsection. The authority may

(1) establish separate accounts in the multifamily housing loans security fund for multifamily housing loans, as it finds appropriate, and may establish other accounts that it considers appropriate;

(2) hold and invest money and other assets of the multifamily housing loans security fund at competitive national market rates in the types of investments described in AS 37.10.070(a).

(i) If a multifamily housing loan from the multifamily housing loan account of the enterprise development fund of the authority is not fully repaid, including accrued interest, and is not fully satisfied after the enforcement of any security that the authority has acquired under (f)(2) of this section, the executive director of the authority shall certify the facts regarding the loan in writing. Upon the certification an amount equal to the unpaid balance, accrued interest, and costs attributable to that loan shall be paid from the multifamily housing loans security fund to the enterprise development fund of the authority, or if the balance in the multifamily housing loans security fund is less than the amount of the unpaid balance, accrued interest, and costs attributable to the loan, the remaining balance of the multifamily housing loans security fund shall be paid to the enterprise development fund of the authority. The authority shall consider a loan fully discharged for purposes of (j) of this section upon payment from the multifamily housing loans security fund to the enterprise development fund under this subsection.

(j) Not later than 60 days after all multifamily housing loans that have been made from the multifamily housing loan account of the enterprise development fund of the authority have been discharged, or considered to be discharged under (i) of this section, any balance remaining in the multifamily housing loans security fund shall be transferred by the authority to the state general fund.

(k) In this section,

(1) "authority" means the Alaska Industrial Development Authority;

(2) "multifamily housing project" means a specific building, structure, work, or improvement of five or more dwelling units, or a group of these buildings, structures, works, or improvements; the primary purpose of which is to provide rental dwelling accommodations and which qualifies for tax-exempt financing under sec. 103 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 103), or sec. 11(b) of the National Housing Act of 1937, as amended; "multifamily housing project" includes the acquisition, construction, or rehabilitation of land, buildings, and improvements for rental dwellings, accommodations, and other facilities that may be incidental or appurtenant to rental dwelling accommodations. (§ 69 ch 113 SLA 1982; am §§ 22 — 26 ch 102 SLA 1983)

Editor's notes. — This section is set out to reflect the change in the name of the former "Alaska State Housing Authority" to the "Alaska State Building Authority" made by § 1, ch. 103, SLA 1936. Implementation of this legislative action is made by the revisor of statutes under AS 01.05.031.

Part 9. Miscellaneous Provisions.

Chapter

99. Miscellaneous Provisions (§§ 44.99.001, 44.99.100)

Chapter 99. Miscellaneous Provisions.

Article

- 1. Miscellaneous Provisions (§ 44.99.001)
- 2. General State Policy (§ 44.99.100)

Article 1. Miscellaneous Provisions.

Section

- 01. Administration of highway safety program

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(j) Not later than 60 days after all multifamily housing loans that have been made from the multifamily housing loan account of the enterprise development fund of the authority have been discharged, or considered to be discharged under (i) of this section, any balance remaining in the multifamily housing loans security fund shall be transferred by the authority to the state general fund.

(k) In this section,

(1) "authority" means the Alaska Industrial Development Authority;

(2) "multifamily housing project" means a specific building, structure, work, or improvement of five or more dwelling units, or a group of these buildings, structures, works, or improvements, the primary purpose of which is to provide rental dwelling accommodations and which qualifies for tax-exempt financing under sec. 103 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 103), or sec. 11(b) of the National Housing Act of 1937, as amended; "multifamily housing project" includes the acquisition, construction, or rehabilitation of land, buildings, and improvements for rental dwellings, accommodations, and other facilities that may be incidental or appurtenant to rental dwelling accommodations. (§ 69 ch 113 SLA 1982; am §§ 22-26 ch 102 SLA 1983)

Editor's notes. — This section is conditionally repealed by §§ 73 and 75, ch. 113, SLA 1982.

Sec. 44.88.157. Loan insurance and loan insurance account.

(a) The purpose of the loan insurance account is to provide insurance of mortgage loans and other loans made or purchased by the authority, or made by others and approved for insurance by the authority, for a project. The authority may enter into agreements as to the use of money in the loan insurance account and may pledge, assign, or grant interests in the loan insurance account as provided in this section. The authority may adopt regulations and enter into agreements with respect to the exercise of any power or approval relating to the loan insurance account under this section, including, without limitation, agreements as to the use of money in the loan insurance account, agreements with respect to the terms and conditions upon which

payments from a loan in subaccounts : loans or as to agreements r the authority agreement, or may be pled; holders of bo

(b) The au borrower, in repayments r lender with authority pr — 44.88.220

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(2) may ne of the proje whichever is

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(c) In adde loans, the : insured und a loan insur ance premi insured. Lo miums shal trustee, or :

(d) If, at the loan ir recovers an the loan ir recovered ir state for ap repay the l

payments from the loan insurance account will be made with respect to a loan insured under this section, agreements as to separate subaccounts in the loan insurance account for different categories of loans or as to loans made by the authority or any other person, and agreements regarding the payment of and security for bonds issued by the authority. An agreement, the rights of the authority under an agreement, or payments received or to be received under an agreement may be pledged or assigned by the authority for the benefit of the holders of bonds issued by the authority.

(b) The authority may, upon application of a borrower or proposed borrower, insure and make advance commitments to insure loan repayments required under the terms of a loan made by it or by another lender with respect to a project, upon the terms and conditions the authority prescribes. To be eligible for insurance under AS 44.88.010 — 44.88.220, a loan for a project

(1) shall be held by the authority or by a lender approved by the authority as responsible and able to service the loan;

(2) may not exceed \$10,000,000 for a project, or 90 percent of the cost of the project or 90 percent of the appraised value of the project, whichever is less;

(3) may not be made for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date of issuance of the insurance, whichever is earlier;

(4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower; and

(5) shall be in the form and contain the terms with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, additional and secondary liens, and other matters that the authority prescribes.

(c) In addition to other fees which the authority may charge on loans, the authority may collect or cause to be collected on loans insured under this section, either a loan insurance commitment fee or a loan insurance premium or both. Loan insurance fees and loan insurance premiums are not required to be uniform among the various loans insured. Loan insurance commitment fees and loan insurance premiums shall be deposited in the insurance account by the loan servicer, trustee, or agent designated by the authority to receive them.

(d) If, at any time after receipt by the authority of a payment from the loan insurance account with respect to a loan, the authority recovers an amount on the loan or portion of it from a source other than the loan insurance account, the authority shall apply the amount recovered in the following order: first, to repay the general fund of the state for appropriations made under (g) of this section, and second, to repay the loan insurance account.

(e) Loans may be insured only when the amount either in the loan insurance account insuring the loans or a subaccount in the loan insurance account insuring the loans, as a percentage of the sum of the loans to be insured and all unpaid principal on loans insured by the loan insurance account or the subaccount, equals or exceeds the fund requirement. The fund requirement is calculated as a percentage which the authority determines is actuarially sound for operation of the loan account or a subaccount.

(f) When the authority determines what is actuarially sound with respect to the operation of the loan insurance account or a subaccount in the loan insurance account, it shall consider means of providing sufficient revenue for the operation of the account or subaccount, without regard to amounts which may have been or may, after the date of determination of actuarial soundness, be appropriated under (g) of this section. The authority shall also consider factors including, without limitation, estimates of future defaults and losses of loans insured under this section based on actual default and loss experience on those loans or on similar loans in the state or elsewhere, estimates of recoveries on defaulted or foreclosed loans based on actual default and foreclosure experience on those loans or similar loans in the state or elsewhere, the terms and conditions of the loans insured under this section, estimates of earnings and income of amounts on deposit in the loan insurance account, and other appropriate factors.

(g) On December 1 of each year the authority shall determine the amount on deposit in the loan insurance account and in each subaccount in the loan insurance account. If the amount in the loan insurance account or the amount in a subaccount in the loan insurance account is less than the fund requirement for the account or for the subaccount, the authority shall transfer the amount necessary to restore the loan insurance account or the subaccount to the fund requirement. The transfer shall be made from available money which is not encumbered or restricted for other use under the terms of contracts with bondholders or others. If sufficient money is not available for transfer, the chairman of the authority 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 the account or a subaccount to the fund requirement. The legislature may appropriate the amount certified and the authority shall deposit in the account or proper subaccount the amounts appropriated by the legislature for the purposes of this subsection during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state.

(h) A contract of insurance executed by the authority under this section is conclusive evidence of eligibility for the insurance. The validity of a contract of insurance executed by the authority or of an advance commitment to insure is incontestable from the date of the execution of the contract or commitment, except for fraud or

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misrepresentation on the part of the insured or, as to commitments to insure, noncompliance with the terms of the advance commitment or authority regulations in force at the time of issuance of the advance commitment.

(i) In this section:

(1) "loan insurance commitment fee" means a fee which is a percentage of the principal amount of a loan to be insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account;

(2) "loan insurance premium" means an annual insurance premium which is a percentage of the portion of the unpaid principal amount of a loan insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account or any subaccount.

(j) Notwithstanding (a) — (i) of this section, the authority may establish additional insurance accounts to secure special obligation bonds, and may pay into an insurance account established under this subsection money made available from an appropriation or any other source. An insurance account established under this subsection is not subject to the requirements of (d) and (g) of this section.

(k) A loan may not be insured from a loan insurance account within the enterprise development fund if the loan is for a project the cost of which exceeds \$10,000,000.

(l) A loan in excess of \$1,000,000 may not be insured from a loan insurance account within the enterprise development fund unless at least 20 percent of the principal amount of the loan is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank. (§ 65 ch 106 SLA 1980; am § 39 ch 115 SLA 1981)

Revisor's notes. — Formerly AS 44.61.157. Renumbered in 1980. Effect of amendments. — The 1981 amendment added subsections (j) — (l).

Sec. 44.88.158. Small enterprise loan account. (a) A small enterprise loan account is established in the enterprise development fund. The account may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the small enterprise loan account, the unpledged income of the enterprise development fund, and other money or assets deposited in it by the authority.

(b) The authority may use money in the small enterprise loan account to purchase the guaranteed portion of a loan made by a private financial institution after June 30, 1981, to a small enterprise to pay the cost of a project, as defined in AS 44.88.220, if the loan is guaranteed by the United States or an agency or instrumentality of the United States, including, but not limited to, the Small Business Administration, the National Marine Fisheries Service, and the Farmers Home Administration.

(c) The authority may purchase loans originated by the Alaska Rural Rehabilitation Corporation which are made to agricultural enterprises. Loans purchased under this subsection may be secured by substitute collateral if the amount of the loan does not exceed 75 percent of the value of the total collateral for the loan. Loans may be purchased under this subsection only from money appropriated to the small enterprise loan account for that purpose. (§ 65 ch 106 SLA 1980; am § 40 ch 115 SLA 1981)

Revisor's notes. — Formerly AS 44.61.158. Renumbered in 1980.

Effect of amendments. — The 1981 amendment rewrote this section.

Sec. 44.88.159. Interest rates. (a) The interest rate on a loan financed from the proceeds of tax-exempt bonds or expected by the authority to be financed from the proceeds of tax-exempt bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing.

(b) The interest rate on a loan financed from the proceeds of taxable bonds or expected by the authority to be financed from the proceeds of taxable bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on taxable bonds, plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing costs.

(c) The interest rate on a loan purchased by the authority with money in the small enterprise loan account that is not from the proceeds of the sale of a series of bonds is equal to the most recent index of Aa corporate bond yield averages as published by Moody's Investors Service. (§ 41 ch 115 SLA 1981; am § 54 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "expected" for "excepted" in the first sentence of subsection (a).

Article 4. General Provisions.

| Section | Section |
|---|---|
| 160. Findings of the authority | 177. Operation of projects |
| 165. Delinquent loans | 180. Conflicts of interest |
| 170. Purchase of project and leases | 190. Operation of certain statutes excepted |
| 172. Economic development fund | 200. Annual audit |
| 173. Finance plan | 205. Operating budget |
| 174. Regional resource advisory council | 210. Reports and publications |
| 175. Requirements prior to approval of projects | 212. Fees charged by authority |
| 176. Hearing to consider proposed project | 220. Definitions |

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Sec. 44.88.160. Findings of the authority. Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project for which bonds are agreed to be issued by the authority in an amount in excess of \$6,000,000, or before approving insurance or a commitment to insure a loan as provided in AS 44.88.157(b) with a principal amount in excess of \$6,000,000, there must have been filed with the authority a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location (which consent need only refer to the general nature of the project ultimately to be acquired as set out in a request of the proposed project applicant). Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project, the authority must find, on the basis of all information reasonably available to it, that

- (1) the project and its development under this chapter will be economically advantageous to the state and the general public welfare and will contribute to the economic growth of the state;
- (2) the project applicant is financially responsible;
- (3) provision to meet increased demand upon public facilities that might result from the project is reasonably assured;
- (4) the project will provide or retain employment reasonably related to the amount of the financing by the authority considering the amount of investment per employee for comparable facilities and other relevant factors; and
- (5) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state. (§ 1 ch 64 SLA 1967; am § 66 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.160. Renumbered in 1980.
Effect of amendments. — The 1980 amendment divided the former section into two sentences by deleting "and"; in the present first sentence, inserted "as provided in AS 44.88.090(e)" near the beginning, substituted the language beginning "for which bonds are agreed to be issued" and ending "principal amount in excess of \$6,000,000" for "as mentioned

in AS 44.88.090(e)" near the middle, and substituted "applicant" for "occupant" at the end; and in the second sentence, added "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project" to the beginning, substituted "applicant" for "occupant" in paragraph (2), deleted "and" from the end of paragraph (2), and added paragraphs (4) and (5).

Sec. 44.88.165. Delinquent loans. If more than two percent of the total outstanding balance of loans purchased from a financial institution under this chapter becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution for which it has not already made a purchase commitment and may not make new commitments to purchase loans from that financial institution until the delinquency is reduced to less than two percent. (§ 42 ch 115 SLA 1981; am § 55 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "for which it has not already made a purchase commitment and may not make new commitments to purchase loans from that financial institution."

Sec. 44.88.170. Purchase of project and leases. (a) Nothing in this chapter prevents the inclusion in a lease or other agreement relating to a project of a provision granting the right to purchase the project, or to renew or extend the lease or agreement, upon the terms and conditions which may be provided for in the lease or agreement.

(b) A lease with respect to a project may provide for two or more lessees with the legal relationship between themselves and the authority which the authority may approve, including without limitation, provisions to the effect that the obligations of the lessees under the lease for payment of rental or otherwise between themselves and the authority are several, joint, or joint and several and that the lessees lease the project as tenants-in-common, or otherwise. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.170. Renumbered in 1980.

Sec. 44.88.172. Economic development fund. (a) The economic development fund is established in the authority. The fund consists of money or assets appropriated, loaned, or transferred to the authority, and other money or assets deposited in the fund by the authority. The fund may only be used to finance, acquire, manage, and operate projects that the authority intends to own and operate. The term "operate" includes operation directly by the authority, or by an agent of the authority.

(b) If a project is financed or developed through use of the assets of the economic development fund, the authority may not pledge or use other assets of the authority to assist in the financing, development, or operation of the project. However, whether or not the authority uses the economic development fund, it may issue bonds to finance a project and may secure the bonds with a mortgage, pledge, or assignment of the project or of revenues, money, or agreements attributable to the project or the bonds as provided in Sec. 10 of this Act. (§ 8 ch 162 SLA 1984)

Cross references. — For requirement of legislative approval prior to the issuance of bonds to finance projects under this section, and for expression of legislative intent, see §§ 10 and 11, ch. 162, SLA 1984 in the Temporary and Special Acts.

Sec. 44.88.173. Finance plan. (a) Before approving a project financed under AS 44.88.172, the authority shall prepare a finance plan. The finance plan must include an estimate of the total cost of the project, and a description of the sources of money that will be used to

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finance the total cost of the project. The finance plan must also include an estimate of the operational costs of the completed project, as well as a description of the source of the money that is to be used to pay the operational costs.

(b) The authority shall give preference to a project that does not require financial assistance from the state. If the authority determines that a project requires state financial assistance, and if the authority further determines that it is desirable to finance the project, the authority shall recommend a method of financing that minimizes cost to the state. A finance plan required under (a) of this section must identify the method of financing that minimizes the cost to the state.

(c) The authority shall submit a finance plan prepared under this section to the state bond committee, the governor, and the legislature before issuing bonds or otherwise incurring debt for the project. If a project requires financial assistance from the state, the state financial assistance must be available before bonds are issued for the project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.174. Regional resource advisory council. (a) Within 30 days after the authority adopts a resolution certifying that a project in the unorganized borough is eligible for financing under AS 44.88.172, the governor shall appoint a Regional Resource Advisory Council in the area of the state where the project is to be located and for which a regional housing authority has been established under AS 18.55.996. The purpose of a council is to assist the authority in reviewing a project that has been proposed for development in its area of the state.

(b) A Regional Resource Advisory Council consists of five members registered to vote in the region. The governor shall appoint the members to reflect the economic and geographic diversity of the region. Council members serve three-year terms at the pleasure of the governor, except that the initial members may be appointed for less than three years so that the term of at least one of the members expires each year. The governor shall appoint a chairperson who shall call meetings as required and preside over the deliberations of the council. A majority of the council constitutes a quorum for conducting the business of the council.

(c) Members of a Regional Resource Advisory Council do not receive compensation for their services on the council, but are entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180. (§ 8 ch 162 SLA 1984)

Sec. 44.88.175. Requirements prior to approval of projects. (a) Before entering into an agreement to finance or to develop a proposed project with a cost in excess of \$10,000,000 that is financed under AS 44.88.172, the authority shall obtain the approval of each Regional Resource Advisory Council or municipality in the area in which the

proposed project is to be located. Approval under this subsection must be evidenced by a certified copy of a resolution of the council or of the governing body of the municipality.

(b) Before approving a project financed under AS 44.88.172 for which bonds must be issued, the authority shall

- (1) obtain approval under (a) of this section;
- (2) find, on the basis of all information reasonably available to it, that
 - (A) the project and its development under this chapter will be economically advantageous to the state and to the general public welfare and will contribute to the economic growth of the state;
 - (B) the project applicant is financially responsible;
 - (C) the project is economically and financially feasible and able to produce revenue adequate to repay the bonds or loans with which it is financed;
 - (D) increased demand on public facilities that might result from the project will be provided for;
 - (E) the project will provide or retain employment reasonably related to the amount of the financing by the authority, considering the amount of investment per employee for comparable facilities, and other relevant factors;
 - (F) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state;
 - (G) the project is in compliance with applicable law; and
 - (H) issuance of the bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds. (§ 8 ch 162 SLA 1984)

Sec. 44.88.176. Hearing to consider proposed project. Before considering a resolution regarding the approval or rejection of the development or financing of a proposed project with a cost in excess of \$10,000,000, that is financed under AS 44.88.172, a Regional Resource Advisory Council shall conduct a public hearing within the region. If a proposed project is located within a municipality, the governing body of a municipality shall conduct a hearing on the proposed project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.177. Operation of projects. If a project is financed under AS 44.88.172, the authority shall solicit the review and advice of the Regional Resource Advisory Council or governing body in the area in which a project is located before the execution of contracts, agreements, resolutions, or other matters that directly concern the development, maintenance, and operation of a project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.180. Conflicts of interest. (a) A member of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the

member is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation or association that may be a party to the contract or lease. A resolution of the authority that is approved by a majority of the members who are not barred from voting under this subsection is a valid action of the authority for all purposes. (§ 1 ch 64 SLA 1967; am § -56 ch 113 SLA 1982)

Revisor's notes. — Formerly AS 44.61.180. Renumbered in 1980.

Effect of amendments. — The 1982 amendment, in subsection (a), substituted "A member of the authority may not" for "No member of the authority may," "the member" for "he," and "that may be" for "which may be" in the first sentence, rewrote the second sentence, which formerly read, "If a person may not vote because of this prohibition, for all purposes regarding action of the authority relating

to adoption of the resolution, the position of the persons as a member shall be transferred to the first one of the following state officers who is not then acting as a member and would not be prohibited from voting on the resolution because of the same prohibition. commissioner of administration, attorney general, commissioner of revenue, commissioner of health and welfare, commissioner of labor, commissioner of public works, commissioner of public safety."

Sec. 44.88.190. Operation of certain statutes excepted. (a) The authority shall not be considered or constitute (1) a political subdivision of the state as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision of the state as the terms are used in AS 29, or (3) except as provided in AS 44.88.205, a state agency as the term is used in AS 37, but for all other purposes the authority constitutes a political subdivision and an instrumentality of the state as provided in this chapter.

(b) The funds, income or receipts of the authority shall not be considered or constitute money of the state, nor shall real property in which the authority has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way lands belonging to the state, or state lands referred to in Art. VIII of the Alaska Constitution. (§ -1 ch 64 SLA 1967; am § 67 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.190. Renumbered in 1980.

Effect of amendments. — The 1980

amendment inserted "except as provided in AS 44.88.205" preceding "a state agency" near the middle of subsection (a).

Sec. 44.88.200. Annual audit. The authority shall have its financial records audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any time. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.200. Renumbered in 1980.

Sec. 44.88.205. Operating budget. For fiscal years beginning after June 30, 1981, the operating budget of the authority is subject to the Executive Budget Act (AS 37.07). (§ 68 ch 106 SLA 1980)

Revisor's notes. -- Formerly AS 44.61.205. Renumbered in 1980.

Sec. 44.88.210. Reports and publications. (a) By January 10 of each year, the authority shall publish a report 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 the authority's investments under this chapter including an appraisal of the investments at market value, a comparison of the authority's performance with the goals of the authority and the levels of bonding and investment activities anticipated in the previous year's report under (b) of this section, and any other information the members of the authority believe would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the authority shall be published in at least one newspaper in each judicial district. The authority may also publish other reports it considers desirable to carry out its purpose.

(b) The authority shall include in its annual report under (a) of this section

(1) an estimate of the investment activity of the authority under this chapter for the following 12-month period; and

(2) an estimate of the amount of bonds to be issued during the following 12-month period. (§ 1 ch 64 SLA 1967; am § 69 ch 106 SLA 1980)

Revisor's notes. -- Formerly AS 44.61.210. Renumbered in 1980. Effect of amendments. -- The 1980 amendment rewrote the section.

Sec. 44.88.212. Fees charged by authority. (a) An application fee may not be charged for an application for authority participation in a loan under AS 44.88.158.

(b) The commitment fee for a loan commitment by the authority may not exceed two percent of the principal amount of the loan. (§ 34 ch 115 SLA 1981)

Revisor's notes. -- Enacted as AS 44.88.085. Renumbered in 1981.

Sec. 44.88.220. Definitions. In AS 44.88.010 -- 44.88.220

(1) "authority" means the Alaska Industrial Development Authority created by AS 44.88.010 -- 44.88.220;

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(2) "business enterprise" means a single proprietorship, corporation, firm, partnership, or other association of persons organized in any manner, for any business purpose, other than on a nonprofit basis;

(3) "commercial activity" includes work in process or activity involving stock in trade, accounts receivable, or the refinancing of existing indebtedness, subject to the provisions of AS 44.88.158;

(4) "federal agency" means the United States and any officer, department, agency or instrumentality of the United States;

(5) "governing body of a political subdivision" means, when used with respect to the location of a project, the council of a city if the project is to be located in a city in the unorganized borough, or the assembly if the project is to be located in an organized borough or a unified municipality;

(6) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;

(7) "plant" or "facility" means real property, whether above or below mean high water, or an interest in it, and the buildings, improvements and structures constructed or to be constructed on or in it, and may include fixtures, machinery, and equipment on it or in it, and tangible personal property, regardless of whether the tangible personal property is attached to or connected with real property, if the owner has agreed not to remove the tangible personal property permanently from the state for the period the authority sets; "plant" or "facility" does not include work in process or stock in trade;

(8) "project" means

(A) a plant or facility used or intended for use

(i) in connection with making, processing, preparing, or producing in any manner, goods, products or substances of any kind or nature or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature;

(ii) as an industrial park; in connection with transportation; for the prevention, limitation or control of pollution; for the disposal of sewage or solid waste; for the local furnishing of gas; for the furnishing of water; as or in connection with mass commuting vehicles; for local district heating or cooling; as a parking facility; or as a storage or training facility directly related to a plant or facility described in this paragraph;

(B) a plant or facility used or intended for use in connection with a business enterprise;

(C) commercial activity by a small enterprise;

(9) "project applicant" means a business enterprise or enterprises proposing to

(A) use or occupy a project; or

(B) agree to permit others to use or occupy a project;

(10) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by the authority to be necessary to finance the construction, expansion, or acquisition of a project, including without limitation the cost of acquiring real or tangible personal property, and, in connection with real property, the cost of constructing buildings and improvements, the cost of constructing means of access to and from the project, the cost of constructing extensions of utility systems to the site of the project; the cost of a project includes, without limitation, the cost of financing the project, interest charges before, during or after construction, expansion, or acquisition of the project, costs related to the determination of the feasibility, planning, design or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation of the project and expenses of installation, replacement or rehabilitation, and all other costs, charges, fees and expenses which may be determined by the authority to be necessary to finance the construction, expansion, or acquisition;

(11) "real property" means land and rights and interests in land, including, without limitation, interests less than full title such as easements, uses, leases, and licenses;

(12) "small enterprise" means a business enterprise which is a project applicant with gross income of \$10,000,000 or less for its annual reporting period ending immediately before the application to the authority for a loan. (§ 1 ch 64 SLA 1967; am §§ 4, 5 ch 64 SLA 1977; am § 70 ch 106 SLA 1980; am §§ 43 — 47, 51 ch 115 SLA 1981; am § 9 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.220. Renumbered in 1980.

Reorganized in 1984 to alphabetize the defined terms.

Effect of amendments. — The 1980 amendment, in paragraph (2), inserted "single proprietorship" and substituted "which is not organized on a nonprofit basis" for "or a single proprietorship"; in paragraph (4), deleted "borough" preceding "assembly" and added "or a unified municipality" to the end; so changed paragraphs (5), (6), and (9) as to make a detailed comparison impracticable; deleted former paragraph (7), which defined "project"; in paragraph (8), substituted "or tangible personal property" for "property" and "the cost of a project includes, without limitation, the

cost of financing the project" for "the cost of financing the project, including, without limitation"; in paragraph (11), deleted "real" preceding "property" in two places; and added paragraphs (12)-(15).

The 1981 amendment substituted "for any business purpose, other than" for "which is not organized" in paragraph (2). The amendment rewrote paragraphs (8) and (12). In paragraph (10), the amendment added "expansion" following "construction" in three places. The amendment also added paragraph (13).

The 1984 amendment divided the formerly undivided subparagraph (A) of paragraph (8) into introductory language and items (i) and (ii) and, in item (ii), added "as or in connection with mass commuting vehicles; for local district heating or cooling; as a parking facility; or



LAWS OF ALASKA

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Source

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Chapter No.

162

AN ACT

Authorizing the construction of the Knik Arm Crossing and relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority.

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

THE ACT FOLLOWS ON PAGE 1, LINE 17

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 6, 1984
Actual Effective Date: October 4, 1984

that is legally provided for the same purposes for which the bonds are authorized except for any accrued interest paid on the bonds to the purchaser. The money in the construction fund is used to pay the cost of acquiring, constructing, and equipping facilities authorized by AS 37.15.720 and 37.15.730 and costs incidental to those activities including costs of the authorization, issuance, and sale of the bonds. To the extent allowed in the bond resolution, money in the construction fund may also be used for the payment of interest on the bonds during the time of actual construction, and for any additional interest not exceeding one year after construction is completed. Money in the construction fund may also be transferred to the bond redemption fund as permitted by the bond resolution, to establish a reserve for the payment of the principal and interest on the bonds.

(b) The bond resolution may provide for the investment of money in the construction fund as the committee determines. The interest earned upon or any profit derived from the sale of the investments deposited in the construction fund.

Sec. 37.15.630. REVENUE FUND. (a) The toll facilities revenue fund is established and shall be set apart from all other money of the state. The toll facilities revenue fund is a trust fund for the purposes under AS 37.15.610 - 37.15.760, where all revenue, fees, charges, and rentals are deposited that are derived by the state from the ownership, lease, use, and operation of the facilities authorized by AS 37.15.720 and 37.15.730. The revenue, fees, tolls, charges, and rentals may not include the proceeds of any state tax or license. Money in the revenue fund may only be used to

(1) pay or secure the payment of the principal of and interest on the toll facilities bonds and principal of and interest on other revenue bonds issued by authorization of the legislature

provide money to acquire, construct, and equip facilities authorized by AS 37.15.720 and 37.15.730 and to be payable out of the revenue fund;

(2) pay the normal and necessary costs of maintaining and operating the facilities acquired, constructed, or equipped under AS 37.15.610 - 37.15.760;

(3) pay the costs of renewals, replacements, and extraordinary repairs to facilities acquired, constructed, or equipped under AS 37.15.610 - 37.15.760;

(4) redeem before their fixed maturities any and all revenue bonds issued for the purpose of acquiring, constructing, and equipping facilities authorized by AS 37.15.720 and 37.15.730;

(5) provide money to acquire, construct, and equip necessary additions and improvements to facilities authorized by AS 37.15.720 and 37.15.730; and

(6) provide money to pay any and all other costs relating to the ownership, use, and operation of the facilities.

(b) The investment of money in the revenue fund may be made as the committee determines. The interest earned upon or any profits derived from the sale of an investment under this subsection shall be deposited in the revenue fund.

Sec. 37.15.640. BOND REDEMPTION FUND. The toll facilities revenue bond redemption fund is established for deposit in trust of money for paying and securing the payment of principal of and interest and redemption premium, if any, on bonds and is set apart from all other money of the state. The committee, on behalf of the state, shall obligate the state to set aside and pay into the bond redemption fund from the revenue fund an amount of money sufficient to pay the principal of and interest and redemption premium, if any, on the bonds

interests of the state and its inhabitants, and those that will accomplish the most advantageous sale of the bonds, with due regard, however, (1) to necessary or normal costs of maintenance and operation; (2) to renewals and replacements of and repairs to the facilities; (3) to all improvements to toll facilities and proper toll facilities owned, used, operated, or leased in connection with toll facilities; and (4) to the future growth and expansion of the facilities and the possibility of additional revenue bond financing for toll facilities purposes. A decision of the committee expressed in any bond resolution, is final when any bonds have been issued under the bond resolution.

(e) A bond resolution may provide that the bonds issued contain a recital that they are issued under AS 37.15.610 - 37.15.760, and bonds containing this recital are conclusively considered to be valid and to have been issued in conformity with AS 37.15.610 - 37.15.760.

(f) The validity of the authorization and issuance of bonds is not affected by any proceeding for the acquisition or construction of the additions, improvements, or facilities for which the bonds have been issued or by any contract in connection with the acquisition or construction.

Sec. 37.15.660. BOND RESOLUTION. The committee is authorized and directed to adopt the bond resolution and prepare all other documents and proceedings necessary for the issuance, sale, and delivery of the bonds or any part or series of them. The bond resolution shall fix the principal amount, denomination, date, maturities, places of payment, rights of redemption, if any, terms, form, conditions, and covenants of the bonds or each series of them. The committee shall also determine and provide for the date and manner of sale of the bonds, and shall provide whether the notice of sale is to be

published elsewhere in addition to the publication required by AS 37.15.650.

Sec. 37.15.670. ENFORCEMENT BY HOLDER. The holder of any bonds or the trustee for the holders of the bonds or any series of them, may, by appropriate proceedings in the courts of record of the state, compel the transfer, setting aside, and payment of money and the enforcement of all of the terms, conditions, and covenants as required and provided in AS 37.15.610 - 37.15.760 and in the bond resolution.

Sec. 37.15.680. AMOUNTS REQUIRED FOR PAYMENTS. The committee shall, before December 31 of each year, commencing with the year in which the bonds are issued, certify to the commissioner of revenue and the commissioner of transportation and public facilities the amounts required in the next ensuing calendar year by a bond resolution to be paid out of the revenue fund into the bond redemption fund and to be paid into and maintained in any reserve fund or account or any other fund or account created by a bond resolution. The committee shall also certify to the commissioners the last date upon which payments may be made.

Sec. 37.15.690. BOND NEGOTIABILITY. The bonds and the coupons attached to them are fully negotiable instruments under the laws of the state.

Sec. 37.15.700. REFUNDING. (a) The bonds or any part of them may be refunded at or before their maturity by the issuance of refunding revenue bonds of the state if in the opinion of the committee refunding is advantageous to and in the best interest of the state and its inhabitants.

(b) The issuance of refunding bonds need not be authorized by an act of the legislature, and the committee shall adopt the resolution and prepare all other documents and proceedings necessary for the

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



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Chapter No.

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AN ACT

Authorizing the construction of the Knik Arm Crossing and relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority.

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

THE ACT FOLLOWS ON PAGE 1, LINE 12

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Approved by the Governor: July 6, 1984
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AN ACT

Authorizing the construction of the Knik Arm Crossing and relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority.

Section 1. AS 37.15 is amended by adding new sections to read:

ARTICLE 4. TOLL FACILITIES REVENUE BONDS.

Sec. 37.15.610. BOND AUTHORIZATION. For the purpose of providing part or all of the money to be used, with or without any grants or other money that may become available, the issuance and sale of revenue bonds of the state in the total principal sum of not to exceed \$500,000,000 is authorized to acquire, construct, equip, and install the additions, improvements, extensions, and facilities authorized in AS 37.15.720 and 37.15.730. The principal of and interest on these bonds are paid out of and secured by the gross revenues derived by the state from the ownership, use, and operation of the toll facilities, and out of any other revenue or money that the state legislature may provide exclusive of any state tax or license. Bonds may not be issued to assist in the acquisition, financing, or operation of projects without prior approval from the legislature.

Sec. 37.15.620. CONSTRUCTION FUND. (a) The toll facilities construction fund is established for deposit of proceeds of the sale of the bonds authorized by AS 37.15.610 and any grant or other money