

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSHB 549 thru HB 551 406

CSHB

549

SENATE COMMITTEE REPORT

FURTHER

DATE TURNED INTO OFFICE _____

5/3/88
Mr. President:

_____ Finance _____ Committee considered _____ CSHB 549 (JUD)

notice requirements in the use of a mortgage or a deed of trust

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous

[] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Chairman signature and recommendation

[] Committee Backup attached

SENATE COMMITTEE REPORT

FURTHER

FINANCE

DATE TURNED INTO OFFICE

4/29/88

Mr. President:

L&C

Committee considered

CSHB 549 (JUD)

notice requirements in the use of a mortgage or a deed of trust

and recommended

report it back as follows

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

~~[] do pass~~

[] do not pass

[] no recommendation

[x] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [x] attached or [] adopted fiscal note(s)

[] new [] updated or [x] previous

[x] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
~~*[Signature]*~~

1. Mike Szymanski No Rec.
2. Johnson No Rec.

Tim Kelly Do Pass
Chairman signature and recommendation

[] Committee Backup attached

Original sponsor: Rules/House Members of the
Joint Committee on Economic
Recovery

Zero. Same as 4/15/88

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 549 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to notice requirements in the use of
7 a mortgage or a deed of trust."

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

9 * Section 1. AS 34.20 is amended by adding a new section to read:

10 Sec. 34.20.160. NOTICE OF OTHER REMEDIES. (a) When a lender
11 uses a note as evidence of an obligation secured by a mortgage or deed
12 of trust, the note must affirmatively advise the mortgagor or trustor
13 and any other party bound by the note if the mortgagee or beneficiary
14 wants the option to bring suit directly on the note to collect an
15 amount owing under the note without first foreclosing the mortgage or
16 deed of trust. This option must be stated in writing within the note
17 or as a separate document. If a note executed after the effective
18 date of this Act fails to contain the notice specified in this sec-
19 tion, the debt secured by the mortgage or deed of trust may be fore-
20 closed under AS 09.45.170 - 09.45.220 or AS 34.20.070 - 34.20.135.

21 (b) If the mortgagee or beneficiary wishes to collect an amount
22 owing under the note without first foreclosing the mortgage or deed of
23 trust, the following language is sufficient in the note:

24 The mortgagor or trustor (borrower) is personally obligated
25 and fully liable for the amount due under the note. The
26 mortgagee or beneficiary (lender) has the right to sue on
27 the note and obtain a personal judgment against the mort-
28 gator or trustor for satisfaction of the amount due under
29 the note either before or after a judicial foreclosure of

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the mortgage or deed of trust under AS 09.45.170 - 09.45.-
220.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 549 (L&C)
PUBLISH DATE: HOUSE 4/15/88

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: An Act relating to notice BRU: _____
requirements on use of a deed of trust
 Sponsor: Rules Committee Components: Banking
 Requester: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

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

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Lawrence P. Carroll, Acting Director
 Division: Banking, Securities & Corporations

Phone: 465-2521
 Date: 4/11/88

Approved by Commissioner: J. Anthony Smith
 Agency: Department of Commerce & Economic Development

Date: 4/17/88

Distribution (by preparer):

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

3900 Final Note

4/15/88

011103

DFN

ALASKA STATE LEGISLATURE

..15th Legislature ..2nd..Session

HOUSE... **BILL**..... NO. **549**...

By **THE RULES COMMITTEE** BY
**REQUEST OF THE HOUSE MEMBERS OF
 THE JOINT COMMITTEE ON ECONOMIC
 RECOVERY**

"An Act relating to notice re-
 quirements on the use of a deed
 of trust; and providing for an
 effective date."

CSHB 549 (Jud) BY JUDICIARY

Offered: 4/28/88
 For Today's Calendar

"An Act relating to notice
 requirements in the use of a
 mortgage or a deed of trust."

Introduced in the House 3/28., 19 .88

HISTORY IN THE HOUSE

19 88	Read first time and referred to Committee on										
Mar 28	L&C, JUDICIARY										
Apr 15	Reported back with recommendation that <i>Jobs & Commerce, CS/D&T 3 days, 300 to Judiciary</i>										
Apr 28	<i>Judiciary - CS/D&T - 5 days for Today's Calendar</i>										
Apr 28	Read second time and <i>CS/D&T adopted today</i>										
Apr 28	Read third time and										
Apr 28	<table border="0"> <tr><td>PASSED</td><td>Effective Date</td></tr> <tr><td>Yeas 36</td><td>Yeas</td></tr> <tr><td>Nays 0</td><td>Nays</td></tr> <tr><td>Excused 2</td><td>Excused</td></tr> <tr><td>Absent 2</td><td>Absent</td></tr> </table>	PASSED	Effective Date	Yeas 36	Yeas	Nays 0	Nays	Excused 2	Excused	Absent 2	Absent
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Nays	Nays										
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Absent	Absent										
4 28	Reported correctly engrossed										
4 28	Signed by Speaker										
4 28	Sent to Senate <i>Gene Rosten</i>										
	CHIEF CLERK OF THE HOUSE										

HISTORY IN THE SENATE

19 88	Read first time and referred to Committee on										
4 29	L&C FIN										
5 3	Reported back with recommendation that <i>LR 24 pm, 2 noon PPM to Fin</i>										
	Read second time and										
	Read third time and										
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	Reported correctly engrossed										
	Signed by President										
	Returned to House										
	SECRETARY OF THE SENATE										

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor
 by Governor
	Filed with Lt. Governor
	Chapter No.

HB

550

HOUSE COMMITTEE REPORT

(11)

Date referred: 4/20/88

FURTHER REFERRALS:

DATE: 4-25-88

The Finance Committee has considered HB 550

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

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) _____ a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 4/11/88
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Larson Don Larson

Gall Peter Gall

Swack Al Swack

Boyer Mark Boyer

Brown Kay Brown

Davis Mike Davis

Pouchot Pat Pouchot

Rieger Steve Rieger

Pat Pouchot vice-chair

Chairman's signature

BY THE RULES COMMITTEE BY REQUEST
OF THE HOUSE MEMBERS OF THE JOINT
COMMITTEE ON ECONOMIC RECOVERY

1 IN THE HOUSE

2 HOUSE BILL NO. 550

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. FINDINGS. The legislature finds that

11 (1) some residents of the state who have obtained mortgage loans
12 from the Department of Community and Regional Affairs have mortgages with
13 payment obligations that exceed their present ability to make the required
14 payments;

15 (2) the Department of Community and Regional Affairs does not
16 have statutory authority to reduce interest rates;

17 (3) the costs of foreclosure and resale, including legal ex-
18 penses, publication costs, maintenance costs, repair and renovation costs,
19 sales expenses, closing costs, and costs due to sale in a distressed mar-
20 ket, may be very substantial;

21 (4) it may be in the department's and state's best direct finan-
22 cial interest to avoid foreclosure by modifying loan terms including
23 rescheduling principal payments, reducing interest rates and payment
24 amounts, and adjusting maturity dates to induce existing owners to remain
25 in title to the property and maintain active management of the property.

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

27 Sec. 44.47.525. MODIFICATION OF LOANS. (a) Notwithstanding
28 AS 44.47.410(a) and (b) and 44.47.520(b), on mortgages that it has
29 financed under AS 44.47.360 - 44.47.560 the department may, by loan

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

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

6 (2) the loan modification would be

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

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

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

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

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

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

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

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

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

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

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

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

Alaska State Legislature

STEVE FRANK

DISTRICT 20A
Finance Committee

1125 Sunset Drive
Fairbanks, Alaska 99701



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

House of Representatives

TO: The House Finance Committee

FROM: Rep. Steve Frank

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

DATE: April 25, 1988

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

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

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

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

Thank you for your consideration.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

112 HB 550
STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 485-4700
- 949 E. 38TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

April 4, 1988

POSITION PAPER

RE: House Bill 550

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

Program Effects:

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

Comments:

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

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

HB 550
April 4, 1988
Page Two

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

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


Marty Rutherford
Acting Deputy Commissioner

② HB 550



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

April 4, 1988

TO: Rep. Henry Springer, Chariman HCRA
FROM: David C. Harrison, P. A., HCRA *Deft*
SUBJECT: HB 550 "An Act authorizing the Department of
Community and Regional Affairs to modify the terms
of its mortgage loans; and providing for an
effective date." (H Rules Committee by request)

Section 1. Findings by the legislature indicate a need to provide some relief to the distressed real estate market. It is deemed in the interest of the property owners as well as the state to provide reduced interest rates.

Sec. 2 AS 44..47 as amended relates to modification of the interest on loans under AS 44.47.360 - 44.47.560 - please see attached statutes for your references.

Intent of this bill is that DCRA may by loan modification, reschedule principal payments or reduce interest rates or both, if the department finds it creates conditions that the loan would pay to maturity and induce the borrower to remain in active management and ownership of the property and the loan modification would be in the best financial interest of the department and the state; and considered prudent by private lending standards taking into account the financial circumstances of the borrower and other costly alternatives such as foreclosure.

If this bill passes, it would provide conditions for rescheduling of the borrower's repayment of principal under conditions herein which is not intended to affect the obligation of the borrower to repay the principal amount on the mortgage.

Provides that the department (DCRA) may reduce the interest payable on a mortgage if the modification contains an interest rate opener clause whereby if the interest rate is reduced the borrower and the department shall renegotiate the rate of interest on the mortgage within five years of the date of an interest rate reduction approved by the department.. Also to specify the date the parties are to renegotiate the rate of interest per conditions contained herein and to incorporate a call feature reserving DCRA the

right to demand repayment of the entire principal amount due if the borrower and DCRA are unable to conclude renegotiation of the rate of interest.

Conditions are placed on DCRA under the date call feature of this bill.

The interest rate reduction approved by DCRA under this section cancels the borrower's obligation to pay the amount due that is attributable to the difference between the original interest rate and the interest rate reduction for the period of the rate reduction. Benefit is accrued to the borrower because of reduced interest rate as negotiated.

Renegotiated interest rate may not exceed the original interest rate charged on the mortgage.

Regulations prescribing terms, conditions and procedures applicable to loan modification must be made by DCRA.

Effective date of this bill is July 1, 1988.

§ 44.47.560

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§ 44.47.565

STATE GOVERNMENT

§ 44.47.565

(5) "rural" means

(A) a community with a population of 4,500 or less in the first or second judicial district of the state;

(B) a community with a population of 4,500 or less in the third judicial district of the state that is more than 100 nautical miles from the conforming boundary of jurisdiction of the Municipality of Anchorage; or

(C) a community with a population of 4,500 or less in the fourth judicial district of the state that is more than 35 nautical miles from the conforming boundary of jurisdiction of the City of Fairbanks;

(6) "rural housing" means housing, whether or not it is nonconforming housing, that is located in a rural area of the state. (§ 73 ch 106 SLA 1980; am § 50 ch 113 SLA 1982; am § 7 ch 128 SLA 1984)

Effect of amendments. — The 1982 amendment added paragraphs (5) and (6). The 1984 amendment rewrote paragraph (5).

Article 9. Local Boundary Commission.

Section

565. Local boundary commission
567. Powers and duties
569. Meetings and hearings
571. Minutes and records
573. Notice of public hearings

Section

575. Quorum
577. Boundary change
579. Expenses
581. Hearings on boundary changes
583. When boundary change takes effect

Sec. 44.47.565. Local boundary commission. There is in the department a local boundary commission. The local boundary commission consists of five members appointed by the governor for overlapping five-year terms. One member shall be appointed from each of the four judicial districts described in AS 22.10.010 and one member shall be appointed from the state at large. The member appointed from the state at large is the chairman of the commission. (§ 7 ch 64 SLA 1959; am § 5 ch 200 SLA 1972; am § 100 ch 59 SLA 1982)

Revisor's notes. — Formerly AS 44.10.250. Renumbered in 1980.

Cross references. — For further provisions relating to the local boundary commission and to annexation by local action, see AS 29.68.010. As to appointment, qualifications, and terms of office of members of departmental boards, councils, or

commissions, see AS 39.05.060.

Effect of amendments. — The 1982 amendment substituted "judicial districts described in AS 22.10.010" for "major senatorial election districts" and inserted "member shall be appointed" in the third sentence

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§ 44.47.320

STATE GOVERNMENT

§ 44.47.370

Revisor's notes. — This section was reorganized in 1983 to alphabetize the defined terms.

Effect of amendments. — The 1981 amendment added the definition of "child care facility."

The 1983 amendment substituted "a person" for "any person" in the definition of "child," added "or a minor who has a developmental disability" to the end of that definition, and added the definition of "developmental disability."

Secs. 44.47.320 — 44.47.350. The Temperate Social Activities Revolving Loan Fund. [Repealed, § 72 ch 113 SLA 1982.]

Article 8. Division of Housing Assistance.

Section

- 360. Division of housing assistance created
- 365. Director and deputy director
- 370. Powers of director
- 380. Housing assistance loan fund
- 382. Home ownership assistance fund
- 385. Eligible locations
- 390. Limitations on use of housing assistance loan fund
- 395. Operating loss reserve account
- 400. Security for loans
- 410. Interest on loans
- 420. Title
- 430. Restricted title loss reserve account

Section

- 440. Fire insurance
- 460. Loan origination and servicing
- 470. Appraisals
- 475. Energy audit exemption
- 480. Toll-free telephone number
- 490. Assistance by division personnel
- 500. Demonstration projects and information
- 510. Regional allocation
- 520. Loans for non-owner occupied housing
- 530. Annual report
- 560. Definitions

Cross references. — For provisions on the Alaska Housing Finance Corporation, see 18.56.010 — 18.56.210.

Editor's notes. — As to legislative

findings relating to the Division of Housing Assistance, see § 72, ch. 106, SLA 1980, in Temporary and Special Acts and Resolves.

Sec. 44.47.360. Division of housing assistance created. There is created in the department the division of housing assistance. (§ 73 ch 106 SLA 1980)

Sec. 44.47.365. Director and deputy director. The director and deputy director of the division are in the partially exempt service under AS 39.25. (§ 73 ch 106 SLA 1980)

Editor's notes. — For legislative findings relating to the division of housing assistance, see § 72, ch. 106, SLA 1980 in

the 1980 Temporary and Special Acts and Resolves.

Sec. 44.47.370. Powers of director. The director may
(1) adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) to implement AS 44.47.360 — 44.47.560;
(2) make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the director's powers and functions under AS 44.47.360 — 44.47.560;

(3) purchase or participate in the purchase of nonconforming and rural housing mortgage loans in accordance with AS 44.47.360 — 44.47.560;

(4) purchase or participate in the purchase of loans for building materials for nonconforming and rural housing in accordance with AS 44.47.360 — 44.47.560;

(5) procure insurance against loss in connection with the director's functions under AS 44.47.360 — 44.47.560;

(6) acquire real or personal property, or an interest in real or personal property, by purchase, transfer or foreclosure, when the acquisition is necessary or appropriate to protect a loan in which the division has an interest; sell, transfer and convey that property to a buyer; and, if the sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, rent or lease the property to a tenant pending the sale, transfer or conveyance;

(7) do all acts necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in AS 44.47.360 — 44.47.560;

(8) originate and service direct loans made to qualified buyers in accordance with AS 44.47.360 — 44.47.560. (§ 73 ch 106 SLA 1980; am § 15 ch 115 SLA 1981; am §§ 36, 37 ch 113 SLA 1982)

Effect of amendments. — The 1981 amendment added paragraph (8). The 1982 amendment, inserted "and rural" in paragraphs (3) and (4).

Sec. 44.47.380. Housing assistance loan fund. There is created in the department, as a revolving loan fund, the housing assistance loan fund consisting of money appropriated to it by the legislature and repayments of principal on loans made or purchased from the assets of the fund. The director shall administer the housing assistance loan fund in accordance with AS 44.47.360 — 44.47.560 and shall use the money in the housing assistance loan fund to originate, purchase, or participate in the purchase of

(1) nonconforming and rural housing mortgage loans;

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

(3) loans made for renovations or improvements to nonconforming and rural housing;

(4) loans made for the construction of owner-occupied nonconforming and rural housing other than loans to builders or contractors or loans that compensate an owner for the owner's labor or services in constructing the owner's own housing. (§ 73 ch 106 SLA 1980; am § 6 ch 115 SLA 1981; am § 38 ch 113 SLA 1982; am § 12 ch 102 SLA 1983)

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§ 44.47.382

STATE GOVERNMENT

§ 44.47.385

Effect of amendments. — The 1981 amendment added "originate" preceding "purchase" in the second sentence of the introductory language and added paragraph (4).

The 1982 amendment substituted "housing assistance loan fund" for "nonconforming housing loan fund" in one place in the first sentence and in two

places in the second sentence, and inserted "and rural" in paragraphs (1)-(4).

The 1983 amendment, inserted "as a revolving loan fund" in the first sentence, added the language beginning "and repayments of principal" to the end of that sentence, and deleted the former second sentence concerning deposit of interest on loans.

Sec. 44.47.382. Home ownership assistance fund. (a) There is created in the Department of Community and Regional Affairs, the home ownership assistance fund consisting of money appropriated to it by the legislature. Money in the fund shall be used solely to assist persons of lower and moderate income to purchase or construct single-family homes financed under AS 44.47.360 — 44.47.560 by providing a subsidy to those persons.

(b) The subsidy provided by this section may not exceed the amount that is necessary to reduce the annual interest rate paid on the mortgage loan to six percent.

(c) A mortgage loan that is subsidized from the home ownership assistance fund may not exceed \$20,000.

(d) The division shall adopt regulations that establish maximum income-to-loan payment ratios for persons who apply for a subsidy under this section.

(e) In this section, "persons of lower and moderate income" means individuals considered by the division to require assistance under this section because of inadequate income or other limited personal financial resources, taking into consideration

- (1) the amount of total income available for housing needs;
- (2) the size of the family;
- (3) the cost and condition of available housing;
- (4) standards established in various federal programs for determining eligibility based on income;
- (5) the ability to enter the private housing market and to pay market amounts for decent, safe, and sanitary housing; and
- (6) other factors considered relevant by the division. (§ 13 ch 102 SLA 1983)

Sec. 44.47.385. Eligible locations. Not more than 20 percent of the total amount appropriated to the housing assistance loan fund may be allocated in communities other than those defined in AS 44.47.560(5). (§ 17 ch 115 SLA 1981; am § 39 ch 113 SLA 1982; am § 18 ch 102 SLA 1983)

Effect of amendments. — The 1982 amendment, in subsection (a), substituted "housing assistance loan fund" for "nonconforming housing loan fund" and inserted "and rural" in two places.

The 1983 amendment rewrote this section.

Effect of amendments. — The 1981 amendment added "originated or" preceding "purchased in whole" once in subsection (a) and twice in subsection (b).

Sec. 44.47.410. Interest on loans. (a) The interest rate on a mortgage loan originated or purchased in whole or in part under AS 44.47.380 for a nonconforming housing that is not rural housing is one-quarter percent more than the interest rate, as determined under AS 18.56.098(g)(1) — (4), on a mortgage loan purchased under AS 18.56.098(a) from the proceeds of the most recent applicable issue of taxable bonds before the origination or purchase of the mortgage loan originated or purchased under AS 44.47.380.

(b) The interest rate on a mortgage loan originated or purchased in whole or in part under AS 44.47.380 for rural housing is one percent less than the interest rate, as determined under AS 18.56.098(g)(1) — (4), on a mortgage loan purchased under AS 18.56.098(a) from the proceeds of the most recent applicable issue of taxable bonds before the origination or purchase of the mortgage loan originated or purchased under AS 44.47.380. (§ 73 ch 106 SLA 1980; am § 21 ch 115 SLA 1981; am § 41 ch 113 SLA 1982; am § 16 ch 102 SLA 1983)

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

The 1982 amendment designated the former provisions of this section as subsection (a), inserted "for nonconforming housing that is not rural housing" and substituted "AS 18.56.098(a)" for "AS 18.56.098(g)" in that subsection, and added subsection (b).

The 1983 amendment substituted "one-quarter percent more than" for "equal to" in subsection (a) and the language beginning "one percent less than the interest rate" for "10-1/2 percent" at the end of subsection (b).

Sec. 44.47.420. Title. (a) Before the director originates or purchases a nonconforming or rural housing mortgage loan in whole or in part, the director may require a borrower to show marketable title to real property offered as security for the loan to be purchased.

(b) A borrower may show marketable title to real property for the purposes of (a) of this section

(1) by purchasing title insurance from a title insurance company authorized to do business in the state; or

(2) by delivering to the director a copy of a letter of intent signed by an authorized representative of the United States Department of the Interior which shows the transfer of title to the property from the United States government to the borrower if

(A) the borrower is an Alaska Native; and

(B) title to the property was originally transferred from the United States government, directly or indirectly, to the borrower under federal law.

(c) For the purposes of this section, a deed which federal law prohibits or limits the power to transfer or encumber and which would otherwise constitute marketable title to real property is considered

marketable title to real property if the United States Bureau of Indian Affairs or another appropriate federal agency waives immunity under the federal law from foreclosure or other alienation of the real property. (§ 73 ch 106 SLA 1980; am § 22 ch 115 SLA 1981; am § 42 ch 113 SLA 1982)

Effect of amendments. — The 1981 amendment added "originates or" preceding "purchases a nonconforming" in subsection (a). The 1982 amendment inserted "or rural" in subsection (a).

Sec. 44.47.430. Restricted title loss reserve account. (a) There is established in the division the restricted title loss reserve account. The restricted title loss reserve account consists of money appropriated to it by the legislature and shall be administered by the director.

(b) The director may withdraw money from the restricted title loss reserve account in an amount equal to the loss to the division on a nonconforming or rural housing mortgage loan originated or purchased in whole or in part by the division if marketable title to the real property used to secure the loan was shown in accordance with AS 44.47.420(b)(2). Money withdrawn from the restricted title loss reserve account under this section shall be deposited in the housing assistance loan fund. (§ 73 ch 106 SLA 1980; am § 23 ch 115 SLA 1981; am § 43 ch 113 SLA 1982)

Effect of amendments. — The 1981 amendment added "originated or" preceding "purchased in whole" in the first sentence of subsection (b). The 1982 amendment inserted "or rural" in the first sentence and substituted "housing assistance loan fund" for "nonconforming housing loan fund" at the end of the second sentence

The 1982 amendment, in subsection (b).

Sec. 44.47.440. Fire insurance. Before purchasing or participating in the purchase of a nonconforming or rural housing mortgage loan, the director may require the borrower to agree to purchase and maintain fire insurance for the real property for which the loan is made in an amount not less than the outstanding principal balance of the loan. (§ 73 ch 106 SLA 1980; am § 44 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "or rural."

Sec. 44.47.460. Loan origination and servicing. (a) Before purchasing or participating in the purchase of a loan, the director shall enter into a loan servicing agreement with the private financial institution from which the loan is to be purchased.

(b) The director may execute service agreements with private lending institutions or with regional native housing authorities established under AS 18.55.996 to service loans originated by the division or loans originated under AS 18.55.997.

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Sec. 44.47.490. Assistance by division personnel. (a) The director may establish field offices under this chapter, may hire one or more lending officers, and may contract for the services of

(1) real property appraisers who are familiar with rural construction; and

(2) engineers who are familiar with engineering problems in arctic and subarctic regions.

(b) The personnel described in (a) of this section may make visits to the regions established under AS 44.47.510(a) to provide preconstruction and post-construction inspections of real property for which loans are originated or purchased by the division in whole or in part under AS 44.47.380 and to provide assistance to private financial institutions and their borrowers in the regions. Authority for final approval of loans may not be exercised by the personnel described in this section. (§ 73 ch 106 SLA 1980; am § 26 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment substituted "may establish field offices under this chapter, may" for "shall" preceding "hire" deleted "at least" following "hire." added "or more" preceding "lending." substituted "officers" for "officer" following "lending" and substituted "may" for "shall" preceding "contract" in the introductory language of

subsection (a). In subsection (b), the amendment substituted "may" for "shall" following "of this section." deleted "regular" preceding "visits." deleted "each of" preceding "the regions established." added "originated or" preceding "purchased by" and added the second sentence of the subsection.

Sec. 44.47.500. Demonstration projects and information. The director may enter into agreements with public and private agencies to provide demonstration projects and information concerning housing construction in each of the regions established under AS 44.47.510(a). (§ 73 ch 106 SLA 1980)

Sec. 44.47.510. Regional allocation. (a) The commissioner of community and regional affairs, by regulations adopted in accordance with the Administrative Procedure Act (AS 44.62), shall establish and may amend the boundaries of reasonably compact and contiguous regions in the state.

(b) Unless otherwise required by an appropriation, the director shall allocate the money in the housing assistance loan fund among the regions established under (a) of this section for the purpose of originating or purchasing each type of loan described in AS 44.47.380. In making an allocation under this subsection, the director shall consider the past and potential lending activity of private financial institutions in the region as well as the need for loans in the region. The director may reallocate the money among the regions as the director considers necessary. (§ 73 ch 106 SLA 1980; am § 27 ch 115 SLA 1981; am § 48 ch 113 SLA 1982)

Effect of amendments. — The 1981 amendment added "originating or" preceding "purchasing each type" in the first sentence of subsection (b).

The 1982 amendment substituted "housing assistance loan fund" for "nonconforming housing loan fund" in the first sentence of subsection (b).

Sec. 44.47.520. Loans for non-owner occupied housing. (a) In addition to the powers authorized by AS 44.47.370 the director may adopt regulations allowing the use of money in the housing assistance loan fund to make loans for the purchase or development of non-owner occupied housing in rural areas of the state.

(b) The rate of interest on a loan authorized by this section may not exceed 10-1/2 percent.

(c) The principal amount of loans made for non-owner occupied housing under this section may not exceed 20 percent of the total principal amount of loans made for nonconforming and rural housing under AS 44.47.360 — 44.47.560.

(d) In this section

(1) "development" means the construction of a new residence or the repair, remodeling, rehabilitation, or expansion of an existing residence;

(2) "non-owner occupied housing" means a single-family residence or a multi-family residence having up to eight dwelling units, that is not nonconforming housing, and is not occupied by the owner; the director may modify this definition if the director determines that there is a special need for non-owner occupied housing and that a change in the definition is necessary to enable the division to meet that need. (§ 49 ch 113 SLA 1982)

Sec. 44.47.530. Annual report. To further ensure effective budgetary decision making by the legislature, the division shall present a complete accounting of the housing assistance revolving fund to the legislature by January 10 of each year. The accounting shall be audited by an independent outside auditor and shall include a full description of all mortgage loan interest and principal repayments and program receipts, including mortgage loan commitment fees, received by or accrued to the division during the preceding fiscal year, and all income earned on assets of the division during that period. (§ 17 ch 102 SLA 1983)

Sec. 44.47.560. Definitions. In AS 44.47.360 — 44.47.560,

(1) "director" means the director of the division of housing assistance;

(2) "division" means the division of housing assistance;

(3) "housing" means owner-occupied, single-family housing and owner-occupied duplexes;

(4) "nonconforming housing" means housing that does not conform to minimum building standards under any state or federal program that provides loans for housing purchases;

③ HB 550

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 29, 1988

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

TO: Representative Steve Frank
ATTN: Rick Solie

FROM: Jack Chenoweth
Legislative Counsel

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

The sources of the principal residential mortgage loan programs are:

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

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

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

-- the Alaska Permanent Fund Corporation;

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

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

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

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

Alaska Housing Finance Corporation mortgage loans:

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

consent to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of the mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

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

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

The pledge of assets or revenue of the corporation to the payment of the principal or interest on any obligations of the agency is valid and binding from the time the pledge is made and the assets or revenue are

immediately subject to the lien of the pledge without physical delivery or further act. . . .

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

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

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

Department of Community and Regional Affairs mortgage loans:

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

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

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

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

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

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

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

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

Representative Steve Frank

Page 5

February 29, 1988

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

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

Investments of the Alaska Permanent Fund Corporation:

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

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

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

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

Representative Steve Frank
Page 6
February 29, 1988

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

Retirement Funds investments:

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

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

JBC:bb
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FOOTNOTES

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

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

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

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

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

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

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

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

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

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

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

Representative Steve Frank
Page 8
February 29, 1988

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

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

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

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550 S

FISCAL NOTE

REQUEST:

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

Agency Affected: Community & Regional Affairs
BRU: Housing Assistance

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

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

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

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

Date: 4/04/88

Distribution (by preparer):

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

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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JUNEAU, ALASKA 99811-2100
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- 849 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

April 4, 1988

POSITION PAPER

RE: House Bill 550

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

Program Effects:

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

Comments:

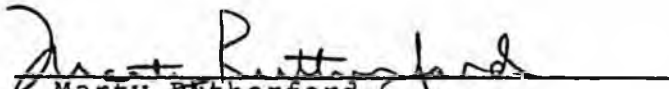
This bill would correct an inconsistency between the provisions of the Housing Assistance Loan Program and other State housing loan programs, such as those offered by the Alaska Housing Finance Corporation. This would give the Housing Assistance Loan Program more options when assisting a distressed borrower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

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

HB 550
April 4, 1988
Page Two

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

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


Marty Rutherford
Acting Deputy Commissioner

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

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

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

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

6 (2) the loan modification would be

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

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

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

16 (c) The department

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

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

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

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

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

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

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

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

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

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

Alaska State Legislature

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



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

Senate Community and Regional Affairs Committee

May 3, 1988

TO: Members,
Senate Community and Regional Affairs Committee

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

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

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

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

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 38TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

April 4, 1988

POSITION PAPER

RE: House Bill 550

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

Program Effects:

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

Comments:

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

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

HB 550
April 4, 1988
Page Two

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

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


Marty Rutherford
Acting Deputy Commissioner

State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
HOUSE JUDICIARY
HOUSE RULES



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

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

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

MEMORANDUM

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

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

DATE: APRIL 28, 1988

RE: JOINT COMMITTEE LEGISLATION

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

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

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

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

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

Thanks.

attachment

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 29, 1988

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

TO: Representative Steve Frank
ATTN: Rick Solie

FROM: Jack Chenoweth
Legislative Counsel

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

The sources of the principal residential mortgage loan programs are:

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

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

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

-- the Alaska Permanent Fund Corporation;

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

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

Representative Steve Frank
Page 2
February 29, 1988

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

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

Alaska Housing Finance Corporation mortgage loans:

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

consent to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of the mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

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

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

The pledge of assets or revenue of the corporation to the payment of the principal or interest on any obligations of the agency is valid and binding from the time the pledge is made and the assets or revenue are

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

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

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

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

Department of Community and Regional Affairs mortgage loans:

Representative Steve Frank
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February 29, 1988

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

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

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

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

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

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

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

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

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

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

Investments of the Alaska Permanent Fund Corporation:

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

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

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

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

Representative Steve Frank
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February 29, 1988

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

Retirement Funds investments:

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

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

JBC:bb
wkb3/047

FOOTNOTES

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

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

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

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

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

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

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

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

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

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

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

Representative Steve Frank
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February 29, 1988

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

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

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

JBC:bb
wkb3/047

BILL: HB 550

NAME:

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

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

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

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

Selection=>

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

Current Status: (S) CRA

	Jrn-Date	Jrn-Pg	Action
1	03/28/88	2725	(H) READ THE FIRST TIME - REFERRAL(S)
2	03/28/88	2725	(H) C&RA THEN LABOR & COMMERCE, FINANCE
3	04/11/88	2886	(H) CRA RPT 3DP 1NR
4	04/11/88	2886	(H) ZERO FISCAL NOTE PUBLISHED 4/11/88
5	04/20/88	3042	(H) L&C RPT 2DP 3NR
6	04/26/88	3143	(H) FIN RPT 8DP
7	04/27/88		(H) RULES TO CALENDAR 4/27/88
8	04/27/88	3182	(H) READ THE SECOND TIME
9	04/27/88	3182	(H) ADVANCED TO THIRD READING UNAN CONSENT
10	04/27/88	3182	(H) READ THE THIRD TIME HB 550
11	04/27/88	3182	(H) PASSED Y39 N- A1
12	04/27/88	3182	(H) EFFECTIVE DATE SAME AS PASSAGE
13	04/27/88	3197	(H) TRANSMITTED TO (S)
14	04/28/88	3242	(S) READ THE FIRST TIME - REFERRAL(S)
15	04/28/88	3242	(S) CRA, THEN FINANCE

Selection=>

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

BILL HISTORY - HOUSE ACTION:

HB 550

HOUSE CALENDAR: APRIL 27, 1988 - WEDNESDAY

HOUSE JOURNAL MARCH 28, 1988

HB 550

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

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

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

HOUSE JOURNAL APRIL 11, 1988

HB 550

The Community & Regional Affairs Committee has considered:

HOUSE BILL NO. 550

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

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

No recommendation (1): Collins

A zero fiscal note was published April 11, 1988.

HB 550 was referred to the Labor & Commerce Committee.

HOUSE JOURNAL APRIL 20, 1988

HB 550

The Labor & Commerce Committee has considered:

HOUSE BILL NO. 550

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

Recommending do pass (2): Davidson, Boucher

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

HB 550 was referred to the Finance Committee.

HOUSE ACTION APRIL 25, 1988

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

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

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

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

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

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

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

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

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

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

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

HOUSE LABOR AND COMMERCE COMMITTEE MEETING - APRIL 19, 1988

HB 550

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

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

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

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

Rep. Frank stated that fairness and equity should be the

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

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

SENATE COMMITTEE REPORT

5-2052 N

FURTHER

FINANCE

DATE TURNED INTO OFFICE 5/6/88

4/28/88
Mr. President:

C&RA Committee considered HB 550

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

and recommended

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

attached amendment(s) and + moving do pass.

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

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

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Mil. S. J. [Signature]
[Signature]
[Signature]

[Signature]

[Signature]
Chairman signature and recommendation

Committee Backup attached

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

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

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

6 (2) the loan modification would be

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

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

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

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

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

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

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

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

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

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

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

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

HB

551

HOUSE COMMITTEE REPORT

(11)

Date referred: 3/28/88

FURTHER REFERRALS:

DATE: 4/6/88

The Finance Committee has considered HB 551

"An Act making fiscal year 1988 supplemental operating appropriations for the Medicaid program; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title -
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

ADAMS *[Signature]*

POURCHOT *[Signature]*

LARSON *[Signature]*

GOLL *[Signature]*

WALLIS *[Signature]*

BOYER *[Signature]*

SWACK *[Signature]*

FRANK *[Signature]*

SIGNING OTHER RECOMMENDATIONS:

RIEGER *[Signature]*

[Signature]

Chairman's signature

Funding Information
General Fund \$ 8,345,000
Other Funds 10,089,600
\$18,434,600

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 HOUSE BILL NO. 551

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making fiscal year 1988 supplemental operat-
7 ing appropriations for the Medicaid program; and
8 providing for an effective date."

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

10 * Section 1. The sum of \$9,940,000 is appropriated to the Department of
11 Health and Social Services, Medicaid nonfacility program, to pay for unmet
12 program costs for the fiscal year ending June 30, 1988, from the following
13 sources:

14 Federal Receipts \$4,970,000

15 General Fund Match 4,970,000

16 * Sec. 2. The sum of \$8,494,600 is appropriated to the Department of
17 Health and Social Services, Medicaid facility program, to pay for unmet
18 program costs for the fiscal year ending June 30, 1988, from the following
19 sources:

20 Federal Receipts \$5,119,600

21 General Fund Match 3,375,000

22 * Sec. 3. The appropriations made by this Act lapse June 30, 1988.

23 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

MEMORANDUM

State of Alaska

TO: Karen Perdue, Deputy Commissioner
Department of Health and
Social Services

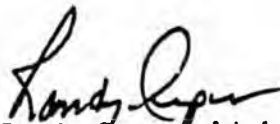
DATE March 24, 1988

FILE NO.

TELEPHONE NO: 465-3355

THRU:

SUBJECT: FY88 Medicaid Balances


FROM: Randy Super, Administrative Officer
Division of Medical Assistance

The following represents the FY88 Medicaid balances:

<u>Component</u>	<u>3/24 AKSAS</u>	<u>3/21 Checkwrite</u>	<u>Balance</u>
Medicaid Facility	\$2,986.4	\$1,309.1	\$1,677.3
Medicaid Non-Facility	\$2,574.4	\$ 648.8	\$1,925.6
			<u>\$3,602.9</u>

The average weekly checkwrite for Medicaid Facility and Medicaid Non-Facility are \$1,360.5 and \$692.7 respectively. Assuming those rates of expenditure, the Division of Medical Assistance will be able to meet the checkwrite of March 28 and approximately three quarters of the April 4 checkwrite:

Balance	\$3,602.9
Less 3/28 weekly	<u>\$2,053.2</u>
Subtotal	\$1,549.7
Less 4/4 weekly	<u>\$2,053.5</u>
Final Balance	(\$ 503.8)

A revised program transferring funds from another component would be necessary at that time to balance the books. The Division will have to suspend claims payments after the checkwrite of April 4 until such time as the supplemental funds request is available on AKSAS.

Funding Information
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Other Funds 10,089,600
\$18,434,600

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