

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1147 SCOMM 34: HOUSE SPEC. COMMITTEE ON STATE LOANS 1983-84 / 314



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


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STATE OF ALASKA
FISCAL NOTE

APR 27 1983

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 208
Title: Small Business Loans
Sponsor: Duncan, Miller, Clocksin & Koponen
Requestor:

II. FISCAL DETAIL

Commerce &

Agency Affected: Economic Development
Program Category Affected: Development
BRU, Program of Subprogram(s) Affected:
Loans & Veterans' Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		205.9	218.3	231.4	245.3	260.0
200 TRAVEL		19.4	20.6	21.8	23.1	24.5
300 CONTRACTUAL		10.8	11.4	12.1	12.8	13.6
400 COMMODITIES		2.6	1.0	1.1	1.2	1.3
500 EQUIPMENT		26.1	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		13.5	14.3	15.2	16.1	17.1
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		278.3	265.6	281.6	298.5	316.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	278.3	265.6	281.6	298.5	316.5
FEDERAL FUNDS					
OTHER (Specify Source)					

POSITIONS:

FULL-TIME	5	5	5	5	5
PART-TIME					
TEMPORARY					

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: D. A. Hostak
Division: Loans & Veterans' Affairs
Approved by Commissioner: Richard A. Lyon
Department: Commerce & Economic Development

Phone: 465-2510
Date: 4-5-83
Date: 4/22/83

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

HB Fiscal Note Analysis

Provides for three Loan Examiner III positions, a Loan Closer I and an Accounting Tech I. The loan examiner positions would be responsible for processing loan applications. The loan closer position would handle the documentation and loan closings and the accounting position would handle the loan set-up, accounting and payment processing. These positions are based on the assumption that there will be an open-ended appropriation. All figures are based on a 6% inflation increase per year. FY '85 figures are lower than FY '84 due to the elimination of one-time expenditures for equipment and commodities.

1.	POSITION TITLE Accounting Technician I				RANGE/STEP 12 A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary	1,889/mo.	22,668							
6.	Benefits		3,514							
7.	Supplemental Benefits		1,390							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01	30,452						
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04	520						
13.	Equipment		05	5,089						
14.	Other	Space Rental		2,700						
15.	TOTAL COST			38,761						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004			38,761					
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER - - - - -										

**13 REQUEST FOR
NEW POSITION**

AGENCY Commerce & Economic Development

PROGRAM Economic Development

BRU Loans & Veterans' Affairs

COMPONENT _____

FY 84

Page 1 of 5

Revised Date _____

1.	POSITION TITLE Loan Closer I	RANGE/STEP 10 A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.		
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT		
3.	CONTINUATION LEVEL	ADDITION	JUSTIFICATION						
4.	TYPE OF EXPENDITURE							AMOUNT	
	1	2						3	
	PERSONAL SERVICES								
5.	Salary	1,673/mo.						20,076	
6.	Benefits							3,112	
7.	Supplemental Benefits							1,231	
8.	Fixed Benefits							2,880	
9.	TOTAL PERSONAL SERVICES	01						27,299	
10.	Travel	02						6,840	
11.	Contractual	03						1,450	
12.	Commodities	04						520	
13.	Equipment	05						5,089	
14.	Other	Space Rental						2,700	
15.	TOTAL COST							43,898	
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		43,898					
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER									

**13 REQUEST FOR
NEW POSITION**

AGENCY Commerce & Economic Development

PROGRAM Economic Development

BRU Loans & Veterans' Affairs

COMPONENT _____

Page 2 of 5

Revised Date _____

FY 84

1.	POSITION TITLE Loan Examiner III				RANGE/STEP 19 A	BARG. UNIT G	FORM 12 PAGE/LINE	COV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary	3,475/mo.	41,700							
6.	Benefits		6,464							
7.	Supplemental Benefits		2,556							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		53,600					
10.	Travel		02		4,204					
11.	Contractual		03		3,103					
12.	Commodities		04		520					
13.	Equipment		05		5,300					
14.	Other	Space Rental			2,700					
15.	TOTAL COST				69,427					
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		69,427						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER										

**13 REQUEST FOR
NEW POSITION**

AGENCY Commerce & Economic Development

PROGRAM Economic Development

BRU Loans & Veterans' Affairs

COMPONENT _____

FY 84

Page 3 of 5

Revised Date _____

1.	POSITION TITLE Loan Examiner III				RANGE/STEP 19 A	BARC. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEC.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary	3,041/mo.	36,492							
6.	Benefits		5,656							
7.	Supplemental Benefits		2,237							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01	47,265						
10.	Travel		02	4,204						
11.	Contractual		03	3,103						
12.	Commodities		04	520						
13.	Equipment		05	5,300						
14.	Other	Space Rental		2,700						
15.	TOTAL COST			63,092						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004			63,092					
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
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**13 REQUEST FOR
NEW POSITION**

AGENCY Commerce & Economic Development

PROGRAM Economic Development

BRU Loans & Veterans' Affairs

COMPONENT _____

Page 4 of 5

Revised Date _____

FY 84

1.	POSITION TITLE Loan Examiner III	RANGE/STEP 19A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION		
4.	TYPE OF EXPENDITURE		AMOUNT				
	1	2	3				
	PERSONAL SERVICES						
5.	Salary	3041/month	36,492				
6.	Benefits		5,656				
7.	Supplemental Benefits		2,237				
8.	Fixed Benefits		2,880				
9.	TOTAL PERSONAL SERVICES	01	47,265				
10.	Travel	02	4,204				
11.	Contractual	03	3,103				
12.	Commodities	04	520				
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**13 REQUEST FOR
NEW POSITION**

AGENCY Commerce & Economic Development
PROGRAM Economic Development
BRU Loans & Veterans' Affairs
COMPONENT _____

Page 5 of 5
Revised Date _____

FY 84

____ BILL NO. ____
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act providing for a Small Business Development
Loan program for certain small businesses."

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

* Section 1. AS 45.95 is amended by adding new sections to read:

FILE COPY

Sec. 45.95.025. Small business development loans. (a) The commissioner shall, under regulations and policies adopted by him, make or participate with an Alaska financial institution in making, small business development loans for the purposes of acquiring, refinancing, operating and equipping businesses, excluding farming, mining and fishing, not to exceed \$100,000. The loans shall be secured by acceptable collateral and may not exceed 80 percent of the fair market value of the collateral offered as security. The rate of interest shall be equal to the Federal Discount Rate in effect on the first day of the month prior to the date of closing the loan plus three points and shall be adjusted annually.

(b) Money loaned shall be delivered to the borrower as provided under regulations and policies adopted by the commissioner. Upon repayment of loans by installments, or otherwise, in accordance with the prescribed terms, or upon liquidation by foreclosure or other process, or upon receipt of interest or other revenue, the money so received shall be turned over to the commissioner of revenue for deposit in the small business development revolving loan fund.

(c) The commissioner may not disqualify an applicant for, or prejudice an applicant's privilege to receive, a loan for any authorized purpose solely because the applicant already has received a loan under this chapter provided the total original loan amounts all outstanding loans does not exceed the stipulated maximum loan amount.

Sec. 45.95.055. POWER OF COMMISSIONER TO ASSIGN AND SELL MORTGAGES. The commissioner may assign and sell small business development loan mortgages to the Alaska Permanent Fund, Alaska Department of Revenue, any bank or any other private purchaser in consideration of receiving its cash, bonds, debentures and notes upon conditions which he considers advantageous to the state small business development lending program.

Sec. 45.95.065. CREATION OF FUND. There is created the small business development revolving loan fund to carry out the purposes of this chapter. This fund shall be used for no other purpose.

Sec. 45.95.075. ELIGIBILITY FOR LOANS. A small business is eligible for a loan under this chapter if it

(1) can demonstrate capacity for financial responsibility and the ability to provide sufficient collateral; and

(2) in the judgment of the commissioner

(A) the business shows a definite potential for growth;

(B) the borrower will be able to repay the loan; and

(C) the loan will potentially create more jobs and provide additional services in the community.

Sec. 45.95.085. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of commerce and economic development; and

(2) "small business" means a sole proprietorship, partnership or corporation operating solely within the state which is not a subsidiary of another business and which employs ten or less full time employees.

* Section 2. AS 45.95.020, and 45.95.050 - 45.95.080 are repealed.

* Section 3. This Act takes effect immediately in accordance with AS 01.10.070(c).



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Signature of Camera Operator


Date

SCOMM

#34:10

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

March 7, 1983

SUBJECT: Sectional Analysis of HB 229
TO: Representative John Lindauer
FROM: Linn H. Asper
Legislative Counsel

You have asked for a sectional analysis of HB 229, establishing a new home mortgage program in the Alaska Housing Finance Corporation (AHFC).

Section 1 of the bill adds a new chapter to Title 18 containing the necessary provisions to establish the home mortgage program.

Sec. 18.56.300 establishes the home mortgage program in AHFC.

Sec. 18.56.310 gives AHFC the power and the duty to make mortgage loans under the terms and conditions of the chapter from the proceeds of bond sales to the Alaska permanent fund.

Sec. 18.56.320 establishes a home mortgage fund in AHFC, separate from other AHFC money, to finance the operations of the home mortgage program.

Sec. 18.56.320 states conditions for loans made under the chapter as follows:

- (1) loans are made to individuals who are eligible under the terms of the chapter;
- (2) loans are made for 1-4 unit, owner-occupied, residences;
- (3) interest rates are to be established by regulation;
- (4) \$160,000 maximum loan;

(5) loan may not exceed 80 percent of appraised value of residence;

(6) loan to be secured by first mortgage; and

(7) loans assumable after four years.

Sec 18.56.340 requires that AHFC purchase a loan originated by a bank if the following circumstances exist:

(1) the borrower is eligible under the chapter;

(2) the loan meets the conditions of AS 18.56.330 and is for a 1-4 unit owner occupied residence;

(3) the bank retains at least 10 percent of the loan; and

(4) AHFC has money available to purchase the loan.

Section 18.56.350 states borrower eligibility requirements. The borrower must:

(1) be a resident of the state; and

(2) have sufficient income to justify the loan, or demonstrate a record of meeting rent payments comparable to the mortgage payments, or be sponsored by a bank willing to retain at least 10 percent of the loan.

Sec. 18.56.360 allows AHFC to adopt regulations to carry out the purposes of the program.

Sec. 18.56.400 provides a shorthand definition, i.e., "home mortgage program" means "the Alaska Housing Financing Corporation home mortgage program".

Section 2 of the bill amends the Alaska permanent fund law (AS 37.13) to require that the permanent fund purchase AHFC housing mortgage bonds for the home mortgage program at an interest rate negotiated between AHFC and the permanent fund, until 40 percent of the assets of the permanent fund are committed to such bonds. This establishes a source of money for the home mortgage program.

Section 3 sets an effective date of July 1, 1983.

LHA:csH

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LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
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LHA:csH

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508



While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 4, 1983

TO: House Special Committee on Loans

FROM: Representative John Lindauer *2 L*

RE: HB 229: "An Act relating to the Alaska Housing Finance Corporation; and providing for an effective date."

The purpose of this bill is to increase the availability of monies to finance Alaskan home loans and to increase the ability of Alaskans to obtain home loans.

It privatizes the loan process by providing for bank determination of the eligibility of borrowers.

It enables the Alaska Housing Finance Corporation to sell its bonds to the permanent fund in order to cause more of the permanent fund to be invested in Alaska.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

**POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600**

March 4, 1983

Hon. Rick Uehling, Chairman
Special Committee on State Loans
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Review of HB 229, an Act re-
lating to the Alaska Housing
Finance Corporation

Dear Representative Uehling:

Your letter of February 21, 1983 requested our review of HB 229. In our opinion, the bill raises serious constitutional questions.

We see no problem with the bill under the dedicated fund prohibition. Alaska Const. art. IX, § 6. That section was interpreted in the case to which you referred, State v. Alex, 696 P.2d 203 (Alaska 1982), to prohibit the dedication of any state revenues to any special purpose. Although we believe this prohibition does apply to revenue received by the Alaska Housing Finance Corporation (AHFC), it does not in our opinion prohibit the creation of special funds and the pledge of revenues as necessary for revenue bonding by a public corporation. See 1982 Op. Att'y Gen. No. 13 (Nov. 30).

However, the bill raises two other constitutional questions. First, may the board of trustees of the Alaska permanent fund be required by statute to invest up to 40 percent of the fund assets in a single type of investment, issued by a single issuer? This requirement, contained in section 2 of the bill, would prevent the board from managing the fund with regard to diversification of risk. We believe that this statutory requirement would be inconsistent with traditional notions of prudent investment, which have developed under the prudent investor rule stated in AS 37.13.120. By adopting the present statutory scheme for investment of the Alaska permanent fund, the legislature has interpreted article IX, section 15 of our constitution as establishing a public trust fund. This bill would raise the question whether the trust character of the fund is constitutionally required. See 1977 Op. Att'y Gen. No. 35 (Sept 16), regarding the trust character of the permanent fund (copy attached).

Honorable Rick Uehling
Alaska State Legislature

March 4, 1983
Page #2

Second, may a public agency be compelled to lend public money without evaluating the capacity of individual borrowers to make repayment? Section 18.56.350 as added by section 1 of the bill would require that a borrower who has made regular monthly rental payments in the past be permitted to borrow an amount requiring comparable monthly mortgage payments without regard to income. This may go so far in limiting the discretion of the agency in making loans as to violate either or both of the following constitutional doctrines: (1) the requirement that public money be expended only for a public purpose, Alaska Const. art. IX, § 6, or (2) the general constitutional doctrine of separation of powers. Under both of these doctrines it is the fundamental responsibility of the executive branch of government to ensure that public money is used and managed wisely in order to achieve the objectives determined by the legislature.

The bill would avoid raising these constitutional questions if amended to:

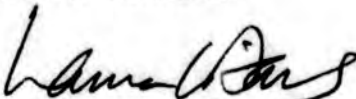
(1) authorize but not require the purchase of AHFC bonds by the permanent fund, and

(2) require that the rental payment history of the prospective borrower be considered as a factor in determining eligibility to borrow.

We hope that this answers your questions. Please let us know if we can be of further assistance.

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 

Laura L. Davis
Assistant Attorney General

LLD/pjg
Enc.

cc w/enc.: Hon. Robert Heath, Commissioner
Department of Revenue

David Rose, Executive Director
Alaska Permanent Fund Corporation

Peter McDowell, Director
Office of Management & Budget

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99511

September 16, 1977

Hon. Clark Gruening
Chairman
House Special Committee on
the Permanent Fund
528 West Fifth, Suite 270
Anchorage, Alaska 99501

Re: Permanent fund, accounting
for inflation; our file J-66-107-78

Dear Representative Gruening:

You have asked whether there is any legal requirement that the statutory guidelines for administering the permanent fund take inflation into consideration.

We believe that the answer is no.

The answer to your question requires an inquiry into the legal nature of the permanent fund and, there being no law on the precise subject, involves some speculation.

First, we believe that, despite the absence of an actual transfer of legal and equitable interests to a trustee and beneficiary respectively, the Alaska Supreme Court will treat the permanent fund as a trust or quasi-trust, and as a general rule, apply trust concepts in determining its administrators' duties. We make this assumption (1) because of the tendency of the court, exemplified by such cases as Moore v. State, 553 P.2d 8 (Alaska 1976), to impose trust-like duties upon the State's management of its patrimony, and (2) because the constitutional amendment which created the permanent

fund is extremely similar to the classic spendthrift trust both in its roots or causes and in its establishment, i.e., the owner of the State's capital, the people, dissatisfied with the state government's spending of the royalty bonus from the Prudhoe Bay leases, has resolved to remove a portion of that capital from the spending power of the government and to place it in trust, with only the income from its investment available to the government for expenditure.

Because the people established the trust, we believe that the state government will be deemed to be the trustee, not the trustor. This means that, despite the power vested in it by the constitutional amendment to designate by law the kinds of investments to be made, the legislature--as the appropriating arm of the government--will not be deemed to be the trustor or settlor, and that therefore, its power to designate eligible investments is not plenary but rather is limited by the express terms of the amendment on the one hand and by implied trust concepts on the other. In other words, the legislature may designate only income-producing investments and may not designate imprudent, income-producing investments or provide for imprudent administration of the fund principal. To the extent, if any, that it did, the managers of the fund would nevertheless remain under a duty to make only prudent income-producing investments and to provide a prudent administration.

Finally, we believe that the Alaska Supreme Court

will rule that--absent exceptional circumstances involving the very existence of the State or its citizens--the preservation of the fund principal is of primary import, i.e., that investment policies cannot endanger the principal. This belief rests on what we perceive to be the essential character of this trust or quasi-trust, i.e., a conservative, cautionary nest egg. */

Of course, the Alaska Supreme Court could rule that no trust or quasi-trust exists and that the law of trusts does not, therefore, govern the fund's administration. That would remove the administration of the fund from the operation of the prudent-man rule. There would then be no duty to limit investments to those which are prudent. That would pretty much give the legislature the power to authorize the expenditure of the fund's principal on any income-producing investment even though it would not be a prudent, i.e., an investment which a trustee could not properly make. This result would allow the fund principal to be frittered away and thereby frustrate the basic purpose of the constitutional amendment. Principally for that reason, we believe the Alaska Supreme Court will impose trust concepts to avoid that result and to give the amendment its full effect.

*/ While the permanent fund is essentially a conservative device, the constitutional amendment was not overly conservative. It did not apply to taxes on minerals at all and it still leaves 75 percent of other mineral revenues available for expenditure.

There can be no question that a trustee must take into consideration the trend of prices and the cost of living, the prospect of inflation or deflation. RESTATEMENT (SECOND) OF TRUSTS 2d § 227, Comment e (1959). To do otherwise would hardly be the conduct of a man of prudence. Accordingly, the fund managers will have to take inflation (or deflation) into account in making and changing investments, if--as we believe--the fund constitutes a trust.

It does not follow, however, that the legislature has a duty to provide specific guidelines on the matter. If the court rules that there is a trust, the prudent-man rule applies. If it rules otherwise, the rule does not apply. Unless the legislature itself resolves the question by making the fund a trust, the matter is entirely up to the court. Whichever way it rules, the court would not, and could not, order the legislature to adopt any particular guidelines. It would merely order the fund managers to follow the prudent-man rule.

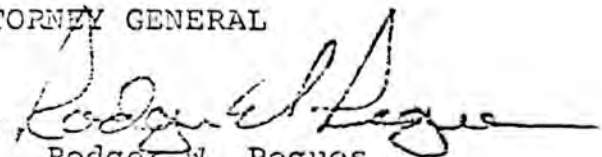
Nor does the legislature have any duty to increase the amount of the fund principal because of inflation. The constitutional amendment, which sets forth the principal terms of the trust, makes it mandatory to deposit 25 percent of the designated mineral revenues in the fund. That is the trust property which must be administered, we believe, under the prudent-man rule. While the legislature qua legislature clearly has the power to increase that amount, nothing in

trust law places a duty on it to do so. It could also provide for all or a portion of the income from the principal to be deposited in the fund, i.e., added to the principal. But under the terms of the trust, i.e., the constitutional amendment, it has no duty to do so.

We hope that this answers your question. We remind you that we are making an educated guess as to the trust or quasi-trust nature of the permanent fund. We believe it is a trust or quasi-trust and that trust law applies. We are constrained to add that we could be wrong. The legislature may wish to treat the fund as a trust. That would resolve the issue. It should feel free, however, to experiment and treat it otherwise insofar as it determines the public interest warrants doing so, and let the court resolve the issue.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL


Rodger W. Pegues
Assistant Attorney General

RWP:chp

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

Alaska State Legislature



While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 9, 1983

MEMORANDUM

TO: Representative Rick Uehling

FROM: Representative John Lindauer *HL*

RE: HB 229

Enclosed are two committee substitute amendments to meet the concerns raised in the Attorney General's review of HB 229.

1. Page 2, lines 24 - 29

Delete entire section (b) and instead use :

The corporation shall consider the rental payment history of the prospective borrower as a factor in determining eligibility to borrow.

2. Page 3, line 20

the bonds [.] except as the board finds it necessary to diversify the fund under the prudent man rule stated in AS 37.13.120.

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

Alaska State Legislature



While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 4, 1983

TO: House Special Committee on Loans

FROM: Representative John Lindauer *L.L.*

RE: HB 229: "An Act relating to the Alaska Housing Finance Corporation; and providing for an effective date."

The purpose of this bill is to increase the availability of monies to finance Alaskan home loans and to increase the availability of Alaskans to obtain home loans.

It privatizes the loan process by providing for bank determination of the eligibility of borrowers.

It enables the Alaska Housing Finance Corporation to sell its bonds to the permanent fund in order to cause more of the permanent fund to be invested in Alaska.

FILE COPY

Offered: 3/30/83
Referred: Finance

Original sponsors: Lindauer and Uehling

1 IN THE HOUSE BY THE SPECIAL COMMITTEE ON LOANS
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 229 (Loans)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the Alaska Housing Finance Corpo-
7 ration; and providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 18.56 is amended by adding new sections to read:
10 Sec. 18.56.300. HOME MORTGAGE PROGRAM ESTABLISHED. The Alaska
11 Housing Finance Corporation home mortgage program is established in
12 the corporation.
13 Sec. 18.56.310. POWERS AND DUTIES OF THE CORPORATION. The
14 corporation may sell home mortgage program bonds to the Alaska
15 permanent fund under AS 37.13.120(g)(21) and (n) or to other
16 purchasers and shall use the proceeds from the sale of the bonds to
17 make loans or purchase mortgages under the terms and conditions set
18 out in AS 18.56.300 - 18.56.400.
19 Sec. 18.56.320. HOME MORTGAGE FUND. The home mortgage fund is
20 created in the corporation as a trust fund separate and distinct from
21 any other money or funds administered by the corporation. The pro-
22 ceeds from the sale of home mortgage program bonds shall be deposited
23 in the home mortgage fund. The home mortgage fund shall be used only
24 to carry out the purposes of AS 18.56.300 - 18.56.400.
25 Sec. 18.56.330. CONDITIONS OF LOANS. (a) The corporation may
26 make a loan under AS 18.56.300 - 18.56.400 to an eligible individual
27 for the purchase of an owner-occupied residence having between one and
28 four dwelling units.
29 (b) A home mortgage program loan

1 (1) shall be made at an interest rate established by regu-
2 lation adopted by the corporation;

3 (2) may not exceed 95 percent of the appraised value of the
4 residence being purchased;

5 (3) shall be secured by a first mortgage; and

6 (4) may be assumed after a period of four years on approval
7 of the corporation in accordance with regulations adopted by the
8 corporation.

9 Sec. 18.56.340. PURCHASE OF MORTGAGES. The corporation shall
10 purchase a mortgage initiated by a bank or other financial institution
11 in the state if

12 (1) the borrower is eligible to participate in the home
13 mortgage program under AS 18.56.350;

14 (2) the loan is for an owner-occupied residence having
15 between one and four dwelling units;

16 (3) the loan meets the conditions set out in AS 18.56.330;

17 (4) the bank or other financial institution retains at
18 least 10 percent of the financing for the loan, secured by participa-
19 tion in a first or second mortgage; and

20 (5) the corporation has money available to make the pur-
21 chase.

22 Sec. 18.56.350. BORROWER ELIGIBILITY. (a) To receive a loan
23 under the home mortgage program a borrower must be a resident of the
24 state.

25 (b) The corporation shall consider the borrower's rental payment
26 history as a factor in determining eligibility for a loan under the
27 home mortgage program.

28 (c) The willingness of a bank or other financial institution in
29 the state to take a second mortgage to secure a retained interest

1 under AS 18.56.340(4) establishes the financial eligibility of a
2 borrower under the home mortgage program.

3 Sec. 18.56.360. REGULATIONS. The corporation may make and
4 enforce reasonable regulations to carry out the purposes of AS 18.-
5 56.300 - 18.56.400.

6 Sec. 18.56.400. DEFINITION. In AS 18.56.300 - 18.56.400 "home
7 mortgage program" means the Alaska Housing Finance Corporation home
8 mortgage program.

9 * Sec. 2. AS 37.13.120(g) is amended by adding a new paragraph to read:
10 (21) bonds of the Alaska Housing Finance Corporation.

11 * Sec. 3. AS 37.13.120 is amended by adding a new subsection to read:
12 (n) Notwithstanding the other provisions of this section, the
13 board may purchase Alaska Housing Finance Corporation bonds.

14 * Sec. 4. This Act takes effect July 1, 1983.

Introduced: 3/16/83
Referred: House Special Committee
on Loans and Finance

1 IN THE HOUSE

BY LINDAUER AND UEHLING

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 229

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

7

8

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

9

* Section 1. AS 18.56 is amended by adding new sections to read:

10

Sec. 18.56.300. HOME MORTGAGE PROGRAM ESTABLISHED. The Alaska

11

Housing Finance Corporation home mortgage program is established in the corporation.

12

13

Sec. 18.56.310. POWERS AND DUTIES OF THE CORPORATION. The

14

corporation may sell home mortgage program bonds to the Alaska permanent fund under AS 37.13.120(n) or to other purchasers and shall

15

16

use the proceeds from the sale of the bonds to make loans or purchase mortgages under the terms and conditions set out in AS 18.56.300 -

17

18

18.56.400.

19

Sec. 18.56.320. HOME MORTGAGE FUND. The home mortgage fund is

20

created in the corporation as a trust fund separate and distinct from any other money or funds administered by the corporation. The pro-

21

22

ceeds from the sale of home mortgage program bonds shall be deposited in the home mortgage fund. The home mortgage fund shall be used only

23

24

to carry out the purposes of AS 18.56.300 - 18.56.400.

25

Sec. 18.56.330. CONDITIONS OF LOANS. (a) The corporation may

26

make a loan under AS 18.56.300 - 18.56.400 to an eligible individual for the purchase of an owner-occupied residence having between one and

27

28

four dwelling units.

29

(b) A home mortgage program loan

1 (1) shall be made at an interest rate established by regu-
2 lation adopted by the corporation;

3 (2) may not exceed 95 percent of the appraised value of the
4 residence being purchased;

5 (3) shall be secured by a first mortgage; and

6 (4) may be assumed after a period of four years.

7 Sec. 18.56.340. PURCHASE OF MORTGAGES. The corporation shall
8 purchase a mortgage initiated by a bank or other financial institution
9 in the state if

10 (1) the borrower is eligible to participate in the home
11 mortgage program under AS 18.56.350;

12 (2) the loan is for an owner-occupied residence having
13 between one and four dwelling units;

14 (3) the loan meets the conditions set out in AS 18.56.330;

15 (4) the bank or other financial institution retains at
16 least 10 percent of the financing for the loan, secured by participa-
17 tion in a first or second mortgage; and

18 (5) the corporation has money available to make the pur-
19 chase.

20 Sec. 18.56.350. BORROWER ELIGIBILITY. (a) To receive a loan
21 under the home mortgage program a borrower must be a resident of the
22 state.

23 (b) The corporation shall consider the borrower's rental payment
24 history as a factor in determining eligibility for a loan under the
25 home mortgage program.

26 (c) The willingness of a bank or other financial institution in
27 the state to take a second mortgage to secure a retained interest
28 under AS 18.56.340(4) establishes the financial eligibility of a
29 borrower under the home mortgage program.

1

2 Sec. 18.56.360. REGULATIONS. The corporation may make and
3 enforce reasonable regulations to carry out the purposes of AS 18.-
4 56.300 - 18.56.400.

5 Sec. 18.56.400. DEFINITION. In AS 18.56.300 - 18.56.400 "home
6 mortgage program" means the Alaska Housing Finance Corporation home
7 mortgage program.

8 * Sec. 2. AS 37.13.120 is amended by adding a new subsection to read:

9 (n) Notwithstanding the other provisions of this section, the
10 board shall purchase the Alaska Housing Finance Corporation bonds,
11 bearing interest at a rate negotiated between the board and the Alaska
12 Housing Finance Corporation, guaranteed by the Alaska Housing Finance
13 Corporation, and secured by first mortgages under the Alaska Housing
14 Finance Corporation home mortgage program (AS 18.56.300 - 18.56.400),
15 that are offered to it by the Alaska Housing Finance Corporation until
16 a maximum of 40 percent of the assets of the corporation are invested
17 in the bonds, unless the board finds it necessary to decline the
18 purchase of the bonds in order to diversify the permanent fund under
19 the prudent-man rule stated in (a) of this section.

20 * Sec. 3. This Act takes effect July 1, 1983.

Introduced: 2/25/83
Referred: House Special Committee
on State Loan and Finance

1 IN THE HOUSE

BY LINDAUER AND UEHLING

2

HOUSE BILL NO. 229

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska Housing Finance Corpo-
7 ration; and providing for an effective date."

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

9 * Section 1. AS 18.56 is amended by adding new sections to read:

10 Sec. 18.56.300. HOME MORTGAGE PROGRAM ESTABLISHED. The Alaska
11 Housing Finance Corporation home mortgage program is established in
12 the corporation.

13 Sec. 18.56.310. POWERS AND DUTIES OF THE CORPORATION. The
14 corporation shall use the proceeds from the sale of its bonds to the
15 Alaska permanent fund under AS 37.13.120(n) to make loans or purchase
16 mortgages under the terms and conditions set out in AS 18.56.300 -
17 18.56.400.

18 Sec. 18.56.520. HOME MORTGAGE FUND. (a) The home mortgage fund
19 is created in the corporation as a trust fund separate and distinct
20 from any other money or funds administered by the corporation. The
21 proceeds from the sale of any money corporation bonds to the Alaska Permanent
22 fund under AS 37.13.120(n) shall be deposited in the home mortgage
23 fund. The home mortgage fund shall be used only to carry out the
24 purposes of AS 18.56.300 - 18.56.400.

25 Sec. 18.56.330. CONDITIONS OF LOANS. (a) The corporation may
26 make a loan under AS 18.56.300 - 18.56.400 to an eligible individual
27 for the purchase of an owner-occupied residence having between one and
28 four dwelling units.

29 (b) A home mortgage program loan

1 (1) shall be made at an interest rate established by
2 regulation adopted by the corporation;

3 (2) may not exceed \$160,000;

4 (3) may not exceed 80 percent of the appraised value of the
5 residence being purchased;

6 (4) shall be secured by a first mortgage; and

7 (5) may be assumed after a period of four years.

8 Sec. 18.56.340. PURCHASE OF MORTGAGES. The corporation shall
9 purchase a mortgage initiated by a bank or other financial institution
10 in the state if

11 (1) the borrower is eligible to participate in the home
12 mortgage program under AS 18.56.350;

13 (2) the loan is for an owner-occupied residence having
14 between one and four dwelling units;

15 (3) the loan meets the conditions set out in AS 18.56.330;

16 3 (4) the bank or other financial institution retains at
17 least 10 percent of the financing for the loan, secured by participa-
18 tion in a first or second mortgage; and

19 (5) the corporation has money available to make the pur-
20 chase.

21 Sec. 18.56.350. BORROWER ELIGIBILITY. (a) To receive a loan
22 under the home mortgage program a borrower ~~must~~ be a resident of the
23 state. X(1)

24 (b) If a borrower is otherwise eligible for a loan under the
25 home mortgage program and can demonstrate a record of meeting monthly
26 rental payments that are comparable to the proposed home mortgage
27 program loan payments, the corporation may not require that the bor-
28 rower have a specified level of income as a condition of eligibility
29 for a home mortgage program loan.

Rental Receipt

secured by other assets

1 (c) The willingness of a bank or other financial institution in
2 the state to take a second mortgage to secure a retained interest
3 under AS 18.56.340(4) establishes the financial eligibility of a
4 borrower under the home mortgage program.

5 Sec. 18.56.360. REGULATIONS. The corporation may make and
6 enforce reasonable regulations to carry out the purposes of AS 18.-
7 56.300 - 18.56.400.

8 Sec. 18.56.400. DEFINITION. In AS 18.56.300 - 18.56.400 "home
9 mortgage program" means the Alaska Housing Finance Corporation home
10 mortgage program.

11 * Sec. 2. AS 37.13.120 is amended by adding a new subsection to read:

12 (n) Notwithstanding the other provisions of this section, the
13 board shall purchase all of the Alaska Housing Finance Corporation
14 bonds, bearing interest at a rate negotiated between the board and the
15 Alaska Housing Finance Corporation, guaranteed by the Alaska Housing
16 Finance Corporation and secured by first mortgages under the Alaska
17 Housing Finance Corporation home mortgage program (AS 18.56.300 -
18 18.56.400) that are offered to it by the Alaska Housing Finance
19 Corporation until 40 percent of the assets of the corporation are
20 invested in the bonds. *15%*

21 * Sec. 3. This Act takes effect July 1, 1983.

A H F C

37-13-120

Does the stated currently provide
for the investment



RECORDS CERTIFICATION



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Date

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CHAIRMAN
HOUSE SPECIAL COMMITTEE
ON STATE LOANS
VICE-CHAIRMAN
HOUSE RESOURCES COMMITTEE
HOUSE LABOR AND COMMERCE COMMITTEE
MEMBER
JOINT GAS PIPELINE COMMITTEE
HOUSE FINANCE SUBCOMMITTEE ON
ADMINISTRATION, REVENUE
AND THE GOVERNOR'S OFFICE

Alaska State Legislature



House of Representatives
Representative
RICK UEHLING

ANCHORAGE
DISTRICT 12 - SEAT A
1634 JUNEAU DRIVE
ANCHORAGE, ALASKA 99501
(907) 274-4286
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4821

MEMORANDUM

TO: Members of the Special Committee on State Loans
Members of the Community and Regional Affairs Committee
FROM: Representative Rick Uehling
DATE: April 7, 1983
RE: House Bill 302

For your convenience, I have prepared this packet of information on House Bill 302, "An Act relating to Alaska Housing Finance Corporation; relating to rural and nonconforming housing loans; and providing for an effective date."

SECTION I.....House Bill 302
SECTION II.....Sectional Analysis of HB 302
SECTION III.....Alaska Statutes directing Alaska Housing Finance Corporation
SECTION IV.....Statistical Information regarding AHFC
SECTION V.....Fiscal notes from AHFC and Department of C&RA
SECTION VI.....Remarks by Representative Rick Uehling on Behalf of House Bill 302
SECTION VII.....AS 44.47.385 (Repealed in HB 302)

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-463-3800

MEMORANDUM

March 29, 1983

SUBJECT: AHFC and housing assistance loans
(HB 302, Work Order No. 13-1140)

TO: Representative Rick Uehling

FROM: *ELH* Linn H. Asper
Legislative Counsel

You have asked for a sectional analysis of HB 302, relating to the Alaska Housing Finance Corporation and housing assistance loans administered by the Department of Community and Regional Affairs.

Section 1 deletes the provision that now ties the maximum amount of AHFC loans to Federal National Mortgage Association limits.

Section 2 makes the same deletion with regard to second mortgages that Sec. 1 makes for first mortgages.

Section 3 establishes a new limit of \$250,000 for first mortgages purchased by AHFC, and a limit of \$250,000 for second mortgages when combined with the outstanding balance of the first mortgage.

Section 4, in combination with the repeal of AS 18.56.098(g)(2) made in Sec. 9 of the bill, eliminates the "Rogers ratchet" method of determining interest rates on AHFC loans. Instead, a flat four percent subsidy is enacted so that the interest rate on an AHFC loan will be four percent less than the cost of funds for that loan, with two exceptions:

- (1) if the cost of funds is less than 10 percent, the interest rate equals the cost of funds; and
- (2) if the cost of funds is more than 10 percent the interest rate may not be less than 10 percent.

Section 5 makes technical changes to AS 18.56.098(g)(5) to conform that paragraph with the changes made elsewhere in the section.

Section 6 changes the definition of "eligible veteran" for the purposes of the increased veteran's subsidy for AHFC loans, by deleting questionable residency requirements and by changing the national guard and reserve service requirements.

Section 7 makes the retention of a financial advisor by the AHFC for the negotiation of private sales of bonds optional instead of mandatory.

Section 8 is a transitional provision that ties the changes in the method used to compute AHFC interest rates to bond sales that take place after the effective date of the Act.

Section 9 repeals AS 18.56.098(g)(2), referred to above in connection with Sec. 4, and repeals AS 44.47.385, which established an allocation formula, based on population, for nonconforming housing loan money administered by the division of housing assistance in the Department of Community and Regional Affairs. Look up

Section 10 provides an immediate effective date for the Act.

LHA:ljb
12/029

ALASKA HOUSING FINANCE
CORPORATION LAW
1980



Alaska Housing Finance Corporation

235 East Eighth Avenue
Anchorage, Alaska

P. O. Box 1020
Anchorage, Alaska 99510

Telephone (907) 276-5599

Reprinted from Alaska Statutes

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SESSION LAWS OF ALASKA 1980

Chapter 106

Section
10. Findings and intent relating
to the Alaska Housing Finance
Corporation

Section
11. Priorities in the purchase of
mortgage loans by the Alaska
Housing Finance Corporation

Sec. 10. Findings and intent relating to the Alaska Housing Finance Corporation.
The legislature finds that

- (1) there exists in the State a serious shortage of capital to finance residential housing; interest rates are often far above levels which are affordable to persons of most income levels; these conditions are inimical to the stability, prosperity and economic welfare of the residents of the State and to the sound growth of urban and rural communities in the state;
- (2) private enterprise has not been able to provide, without assistance adequate residential housing to meet the basic housing and shelter needs of most Alaskans, or to consistently provide, without assistance, capital for these purposes at rates of interest which people of most income levels can afford; existing State and Federal programs are inadequate to meet the housing needs of most Alaskans; it is imperative that housing at a reasonable price be made available to promote stable economic growth and that coordination and cooperation among private enterprise, State government and local government be encouraged to finance residential housing for all Alaskans;
- (3) the continuance of the Alaska Housing Finance Corporation with the powers granted to it by this Act is essential to assist private enterprise in the financing of residential housing at a reasonable cost for all Alaskans and serves a public purpose in benefiting the people of the State; in this Act, the Alaska Housing Finance Corporation is empowered to act on behalf of the State and its people in serving this public purpose for the benefit of the general public.

Sec. 11. Priorities in purchase of mortgage loans by the Alaska Housing Finance Corporation. In purchasing mortgage loans under the special mortgage purchase program established under AS 18.56.098, enacted in Sec. 27 of this Act, the Alaska Housing Finance Corporation shall give the highest priority to the purchase of mortgage loans totaling \$24,554,000 for applicants under the Department of Revenue emergency

home mortgage loan program of February 28, 1980, who submitted their applications to the Department of Revenue before the close of the Department of Revenue emergency home mortgage loan program of February 28, 1980, but who did not receive a loan because of the exhaustion of the \$105,000,000 in the Department of Revenue emergency home mortgage loan program of February 28, 1980. The Alaska Housing Finance Corporation shall give the next highest priority to the purchase of a mortgage loan made to an applicant who has vacated his home because it was sold under the Department of Revenue emergency home mortgage loan program of February 28, 1980, and who now cannot close on the purchase of a new home because of the exhaustion of the \$105,000,000 in the Department of Revenue emergency home mortgage loan program of February 28, 1980. The Alaska Housing Finance Corporation shall give the next highest priority, on the basis of the immediacy with which the applicant will have to vacate his present home, to the purchase of a mortgage loan made to an applicant who has failed to close on the purchase of a new home because of the exhaustion of the \$105,000,000 in the Department of Revenue emergency home mortgage loan program of February 28, 1980. The priorities established under this section shall be observed to the extent the Alaska Housing Finance Corporation determines that it is reasonable to do so on the basis of evidence of the circumstances giving rise to the priority.

TITLE 18. HEALTH AND SAFETY

Chapter 56. Alaska Housing Finance Corporation

Section	Section
10. Findings and purpose	99. Powers of Corporation to deal in mortgage loans
20. Alaska Housing Finance Corporation	100. Housing development fund
30. Corporation governing body	101. Eligibility for veterans' interest rates
40. Meetings of Board	103. Federal taxation of interest on bonds and bond anticipation notes
45. Minutes of meetings	104. Allocation of tax-exempt bonds
50. Administration of affairs	105. Allocation of lending activities
52. Executive Director	107. Loan origination and servicing fees for rural areas
55. Legal advisor	110. Bonds and notes
60. Employment of Personnel	115. Independent financial advisor
70. Personnel exempt from State Personnel Act	120. Validity of any pledge
80. Interdepartmental cooperation	125. Capital reserve fund
84. International borrowing	130. Remedies
88. Administrative procedure	140. Negotiable instruments
89. Executive Budget Act	150. Obligations eligible for investment
90. General powers	160. Refunding instruments
91. Homeownership fund	170. Credit of state not pledged
93. Insurance	180. Officers not liable
95. Mortgage insurance	190. Tax exemption
96. Limitations on powers to make or purchase mortgage loans	200. Annual report
97. Collateral for loans	210. Definitions
98. Special mortgage loan purchase program	

Sec. 18.56.010. Findings and purposes. (a) There exists within the state a serious shortage of decent, safe and sanitary residential housing available at low or moderate prices or rentals to persons of lower and moderate income. There also exist within the state remote, underdeveloped or blighted areas where the development of decent, safe and sanitary housing is necessary to economic growth. These conditions are inimical to the safety, health, welfare and prosperity of the residents to the state and to the sound growth of urban and rural communities.

(b) The legislature finds and declares that private enterprise has not been able to provide, without assistance, an adequate supply of safe and sanitary homes at prices or rents which persons of lower or moderate income can afford, or to achieve rehabilitation of much of the present housing for persons of lower and moderate income, or to provide without assistance the housing necessary to promote the economic growth of remote, underdeveloped or blighted areas, and that existing state and federal programs are inadequate to meet housing needs of persons of lower and moderate income or of remote, underdeveloped or blighted areas. It is imperative that the supply of housing for persons of lower and moderate income and the housing necessary to promote the economic growth of remote, underdeveloped or blighted areas be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for these persons.

(c) The legislature finds and declares further that, in accomplishing this purpose, the creation of the Alaska Housing Finance Corporation is essential to assist in the acquisition and development of land and the construction, rehabilitation, financing, management, maintenance, sale and rental of dwelling units for persons of lower and moderate income or persons in remote, underdeveloped or blighted area and that these activities serve a public purpose in benefiting the people of the state. The Alaska Housing Finance Corporation is empowered to act on behalf of the state and its people in serving this public purpose for the benefit of the general public.

(d) The program of making loans for residential housing to veterans in accordance with AS 26.15 has increased and improved the supply of adequate housing in the state, and the continuation of the program is essential to the economic growth of the state and the expansion of the supply of adequate residential housing in the state. Participation by the Alaska Housing Finance Corporation in the program of purchasing and insuring state veterans' loans as provided in this chapter will be of material aid in insuring the continuance of the program of making loans for residential housing to veterans in accordance with AS 26.15.

(e) Expansion of the program of the Alaska Housing Finance Corporation of purchasing insured and uninsured mortgage loans is essential to the economic growth of the state and the supply of adequate residential housing in the state.

(f) The legislature finds that enabling the Alaska Housing Finance Corporation to assist in financing the program of veterans' loans for residential housing in accordance with AS 26.15 and to expand its program of purchasing other mortgage loans serves a public purpose in benefiting the people of the state. The Alaska Housing Finance Corporation is empowered to act on behalf of the state and its people in serving this public purpose for the benefit of the general public.

Legislative committee reports. - For report on ch 81, SLA 1972 (CSHB 547), see 1972 House Journal, p 859. For report on ch 151, SLA 1975 (HCS CSSB 289 am H), see 1975 Senate Journal, p 769; 1975 House Journal p 1275

Sec. 18.56.020. Alaska Housing Finance Corporation. The Alaska Housing Finance Corporation is a public corporation and government instrumentality within the Department of Revenue, but having a legal existence independent of and separate from the state. The corporation may not be terminated as long as it has bonds, notes or other obligations outstanding. Upon termination of the corporation, its rights and property pass to the state.

(§ 1 ch 107 SLA 1971; am § 78 ch 218 SLA 1976; am § 12 ch 106 SLA 1980)

Sec. 18.56.030. Corporation governing body. (a) The corporation shall be governed by a board of directors consisting of

- (1) the commissioner of revenue, and the commissioner of commerce and economic development;
- (2) one other member who is the head of a principal department of the executive branch of state government appointed by the governor; and
- (3) two public members appointed by the governor.

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

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

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

(e) The members of the board described in (a)(3) of this section receive \$100 compensation for each day spent on official business of the corporation and may be reimbursed by the corporation for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180.

Section 14, ch 106, SLA 1980 purported to add a subsection (f); it was effective, however, on the effective date of the amendment to the Alaska

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

Sec. 18.56.040. Meetings of board. (a) The board shall elect a Chairman from among its membership at its annual meeting in each year. A majority of the members constitute a quorum for organizing the board, conducting its business and exercising the powers of the corporation. The board shall meet at the call of its chairman. The board shall meet not less than once each three months.

(b) The board may meet and transact business by electronic media if

- (1) public notice of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location;
- (2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and
- (3) copies of pertinent reference materials, statutes, regulations and audio-visual materials are reasonably available to participants and to the public.

(c) A meeting by electronic media as provided in this section has the same legal effect as a meeting in person. (§ 1 ch 107 SLA 1971; am § a ch 115 SLA 1981)

(d) For the purposes of this chapter public notice of 24 hours or more is adequate notice of a meeting of the board at which the issuance of corporation bonds is authorized. (§ 15 ch 113 SLA 1982)

Sec. 18.56.045. Minutes of meetings. The board shall keep minutes of each meeting and send a certified copy to the governor and to the Legislative Budget and Audit Committee. (§ 1 ch 107 SLA 1971; am § 2 ch 115 SLA 1981)

Sec. 18.56.050. Administration of affairs. The board shall manage the assets and business of the corporation and may prescribe, amend and repeal bylaws and regulations governing the manner in which the business of the corporation is conducted and the manner in which its powers are exercised. The board shall delegate supervision of the administration of the corporation to the executive director, appointed in accordance with AS 18.56.052. (§ 1 ch 107 SLA 1971; am § 2 ch 167 SLA 1978; am § 15 ch 106 SLA 1980)

Sec. 18.56.052. Executive director. The corporation shall employ an executive director, who may not be a member of the board. The executive director shall be appointed by the board of directors and serves at the pleasure of the board. (§ 3 ch 167 SLA 1978)

Sec. 18.56.055. Legal advisor. The attorney general is the legal counsel for the corporation. He shall advise the corporation in legal matters and represent it in suits. (§ 1 ch 107 SLA 1971)

Sec. 18.56.060. Employment of personnel. The board may appoint other officers and engage professional and technical advisors as independent contractors. The executive director may hire employees of the corporation and, subject to the approval of the board, engage professional and technical advisors under contract with the corporation. The board shall prescribe the duties and compensation of corporation personnel, including the executive director. (§ 4 ch 167 SLA 1978; am § 16 ch 106 SLA 1980)

Sec. 18.56.070. Personnel exempt from State Personnel Act. The personnel of the corporation are exempt from AS 39.25. (§ 1 ch 107 SLA 1971; am § 17 ch 106 SLA 1980)

Sec. 18.56.080. Interdepartmental cooperation. All departments, agencies and public corporations of the state may provide information, services, facilities and loans to the corporation upon its request. The corporation shall, upon request, reimburse departments, agencies and public corporations of the state for services or facilities provided, loans advanced or expenses incurred on the corporation's behalf at the request of the corporation. (§ 1 ch 107 SLA 1971; am § 18 ch 106 SLA 1980)

Sec. 18.56.084. International borrowing. For the purpose of obtaining access to international capital markets to borrow money for the special mortgage loan purchase program (AS 18.56.098), as an addition to the powers of the corporation under AS 18.56.090, the corporation may

- (1) establish or cause to be established, subsidiary corporations incorporated in the state or in another state, or under the laws of a foreign jurisdiction;

- (2) invest in corporations established under this section;
- (3) issue bonds and borrow money for investments in corporations established under this section;
- (4) borrow from corporations established under this section;
- (5) guarantee the obligations of corporations established under this section; or
- (6) enter into agreements with corporations established under this section or with other persons. In exercising a power under this section, the corporation may not subject its assets to risk of loss through foreign currency exchange. A guarantee under this section constitutes a bond of the corporation as defined in AS 18.56.210(13). (§ 16 ch 113 SLA 1982)

Sec. 18.56.088. Administrative procedure. (a) Except for AS 44.62.310 and 44.62.312, regarding public meetings, and AS 44.62.320(a) regarding legislative review of regulations, the Administrative Procedures Act (AS 44.62) does not apply to this chapter. The corporation shall make available to members of the public copies of the regulations adopted under (b)-(e) of the section. Within 45 days after adoption, the chairman of the board shall submit a regulation adopted under (b)-(e) of this section to the chairman of the Administration Regulation Review Committee under AS 24.20.400-24.20.460. The provisions of AS 44.62.320a) apply to regulations adopted under (b)-(e) of this section.

(b) The board may adopt regulations by motion or by resolution or in any other manner permitted by its bylaws.

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

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

- (5) establishment of a procedure, including a fee schedule, for the commitment for one year or less of money for the purchase of an individual mortgage loan at a specific interest rate. (§ 16 ch 113 SLA 1982)

(d) Except as provided in (e) of this section, at least 15 days before the adoption, amendment, or repeal of a regulation on a subject specified in (c)(1)-(4) of this section, the board shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the board or the corporation. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and must include an informative summary of the proposed subject of the regulation. On the date and at the time and place designated in the notice, the board shall give each interested person or his authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The board shall consider all relevant matter presented to it before adopting, amending, or repealing a regulation. At a hearing under this subsection, the board may continue or postpone the hearing to a time and place which it determines. A regulation which is adopted, or its amendment or repeal, may vary in content from the informative summary specified in this subsection if the subject matter of the regulation, or its amendment or repeal, remains the same and the original notice was written so as to assure that members of the public are reasonably notified of the proposed subject of the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(e) A regulation or order of repeal on a subject specified in (c) of this section may be adopted as an emergency regulation or order of repeal if the board makes a finding in its order of adoption or repeal, including a statement of the facts which constitute the emergency, that the adoption of the regulation or order of repeal is necessary for the immediate preservation of the orderly operation of the corporation's loan and bonding programs. The requirements of (d) of this section do not apply to the initial adoption of an emergency regulation covering a subject specified in (c)(1)-(4) of this section; however, upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (d) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (d) of this section during the 120-day period.

(f) A regulation adopted under (b)-(e) of this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by the order of adoption.

(g) The provisions of (b)-(e) of this section do not apply to regulations governing interest rates on the corporation's mortgage loan program.

(h) The board shall adopt regulations in accordance with (a)-(f) of this section which establish a procedure by which a seller of mortgage loans may appeal a decision of the corporation not to purchase mortgage loans offered by the seller. (§ 5 ch 167 SLA 1978; am § 19 ch 106 SLA 1980)

Sec. 18.56.089. Executive Budget Act. The operating budget of the corporation is subject to the Executive Budget Act (AS 37.07) for fiscal years beginning after June 30, 1981. (§ 20 ch 106 SLA 1980)

Sec. 18.56.090. General powers. In addition to other powers granted in this chapter, the corporation may, for the purpose of providing housing for persons of lower and moderate income or persons located in remote, underdeveloped or blighted areas of the state and for its other corporate purposes.

- (1) Repealed by § 51 ch 115 SLA 1981.
- (2) make or participate in the making of mortgage loans to sponsors, developers, builders and purchasers of residential housing, if the corporation determines that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;
- (3) purchase or participate in the purchase of mortgage loans made to sponsors, developers, builders, owners and purchasers of residential housing, if the corporation
 - A. has given approval before the initial making of the loan and has determined that mortgage loans were, at the time the approval was given, not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions, or
 - B. has determined that its purchase or participation will result in additional residential housing, taking into account without limitation such factors as reinvestment of the proceeds of the sale in additional mortgage loans, increased availability of mortgage loans insured by the federal government, its agencies or departments, the reduction, if any, of interest payments to be made with respect to mortgage loans, or such other factors as will tend to increase or improve the supply of residential housing within the state;

- (4) make partial rental payments and mortgage interest payments under a contract with any housing owner if the payments will be applied to decrease rental or mortgage interest charges of persons of lower and moderate income or owners or purchasers of residential housing in remote, underdeveloped or blighted areas of the state;
- (5) make loans from the housing development fund;
- (6) collect and pay reasonable fees and charges in connection with making, purchasing and servicing its mortgages, loans, notes, bonds, certificates, commitments and other evidences of indebtedness;
- (7) acquire real property, or any interest in real property, in its own name, by purchase, transfer or foreclosure, when the acquisition is necessary or appropriate to protect any loan in which the corporation has an interest; sell transfer and convey any such 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;
- (8) sell, at public or private sale, to any purchaser, including the Federal National Mortgage Association, all or any part of a mortgage or other development or document securing a construction, land development, mortgage or temporary loan of any type permitted by this chapter;
- (9) purchase, in order to meet the requirements of the sale of its mortgages to the Federal National Mortgage Association, stock of the Federal National Mortgage Association;
- (10) procure insurance against any loss in connection with its operation;
- (11) 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;
- (12) borrow money as provided in this chapter to carry out and effectuate its corporate purposes; and issue its obligations as evidence of any such borrowing;
- (13) include in any borrowing the amounts necessary to pay financing charges, interest on the obligations;
- (14) under AS 18.56.088, adopt and publish regulations respecting its lending programs and such other regulations as are necessary to effectuate its purposes;

- (15) provide technical and advisory services to sponsors, builders and developers of residential housing and to residents of it;
- (16) promote research and development in scientific methods of constructing low-cost and energy-efficient residential housing of high durability;
- (17) make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the corporation under this chapter, including contracts with any person, firm, corporation, governmental agency or other entity;
- (18) receive, administer and comply with the conditions and requirements respecting any appropriation or gift, grant or donation of property or money;
- (19) sue and be sued in its own name;
- (20) adopt an official seal;
- (21) adopt bylaws for the regulation of its affairs and the conduct of its business and prescribe rules, regulations and policies in connection with the performance of its functions and duties;
- (22) employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers and such other consultants and employees as may be required in the judgment of the corporation, and fix and pay their compensation from funds available to the corporation;
- (23) do all acts and things necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this chapter;
- (24) invest or reinvest, subject to its contracts with noteholders and bondholders, any money or funds held by the corporation in any obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or any funds not required for immediate disbursement, and in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the state or the United States of America.
(\$1 ch 107 SLA 1971; am § 3 ch 81 SLA 1972; am § 17 ch 167 SLA 1978; am § 14 ch 72 SLA 1979; am § 21 ch 106 SLA 1980)

Sec. 18.56.091. Home Ownership Fund. There is established in the corporation the home ownership 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 homes financed under the special mortgage purchase program by providing a subsidy to the persons in an amount not greater than the difference between:

- (1) the amount annually required to pay interest and principal on that person's loan and real property taxes and insurance for the home purchased with the loan; and
- (2) 25 percent of that person's annual gross income. (§ 22 ch 106 SLA 1980)

Sec. 18.56.093. Insurance.

(a) There is established in the corporation the housing insurance fund, the rural housing hazard insurance fund and the rural housing title insurance fund. The funds shall be completely segregated from all other funds of the corporation, and are trust funds for the uses and purposes of this section. The corporation may adopt regulations under AS 18.56.088 and enter into agreements with respect to the exercise of any power relating to the funds under this section, including, without limitations, agreements as to the use of the money in the funds, agreements with respect to the terms and conditions upon which payments from the funds must be made to the corporation with respect to mortgage loans insured under this section, agreements as to accounts or subaccounts in the funds for different categories of loans, and agreements regarding the payment of and security for bonds of the corporation. The corporation may pledge, assign, or grant other interests in the funds as may be necessary or appropriate in connection with the insurance of mortgage loans and to provide for the payment of and security for bonds of the corporation.

(b) In addition to any other fees and charges which the corporation may charge on mortgage loans, the corporation may collect, or cause to be collected, insurance commitment fees and insurance premiums on mortgage loans insured by a fund under this section.

(c) A mortgage loan purchased by the corporation as part of its special mortgage loan purchase program may be insured by the housing insurance fund, and a mortgage loan on a mobile home or residence located in a remote, underdeveloped, blighted or rural area of the state may also be insured (1) against hazard loss by the rural housing hazard insurance fund when hazard insurance from the other sources satisfactory to private mortgage lenders is not, in the opinion of the corporation, available on reasonable terms, and (2) against title defect by the rural housing title insurance fund when title insurance from other sources satisfactory to private mortgage lenders is not, in the opinion of the corporation, available on reasonable terms. The endorsement of the corporation on the mortgage that it is insured by any fund under this section at the time of purchase or acquisition of the mortgage loan is conclusive evidence that the mortgage loan is insured under the provisions of this section by the fund.

(d) Mortgage loans may be insured by a fund or an account in a fund under this section only when the amount in the fund or in the account as a percentage of the sum of all mortgage loans to be insured and all unpaid principal on mortgage loans to be insured by the fund or the account equals or exceeds the fund requirement. The fund requirement for each fund or account shall be calculated as the percentage which the corporation determines is actuarially sound for operation of the fund or account.

(e) When the corporation determines what is actuarially sound with respect to the operation of each fund or account in a fund, it shall consider means of providing sufficient revenues for the operation of the fund or account, without regard to amounts which may have been or may, after the date of determination of actuarial soundness, be appropriated under (f) of this section and it shall consider factors which must include, without limitation:

- (1) as to the mortgages insured by the housing insurance fund, or an account of the housing insurance fund, estimates of future defaults and losses on mortgage loans insured under this section based on actual default and loss experience on those mortgage loans or on similar mortgage loans in Alaska or elsewhere, estimates of recoveries on defaulted or foreclosed mortgage loans based on that experience, the terms and conditions of the mortgage loans insured under this section, estimates of earnings and income of amounts on deposit in the fund, and any other appropriate factors.
- (2) as to mortgages insured by the rural housing title insurance fund, estimates of defaults and losses by reason of title defects which are otherwise uninsured, estimates of earnings and income of amounts on deposit in the fund or the account, and any other appropriate factors; and
- (3) as to mortgages insured by the rural housing hazard insurance fund, or an account of the rural housing hazard insurance fund, estimates of default by reason of hazard losses which are otherwise uninsured, estimates of earnings and income of amounts on deposit in the fund or the account, and any other appropriate factors.

(f) On December 1, of each year the corporation shall ascertain the amount on deposit in each fund. If the amount in any fund or account is less than the fund requirement, for the fund or account, the corporation shall, no later than January 2 of the following year, certify in writing to the governor and to the legislature, the amount, if any, required to restore that fund or account to the fund requirement. The legislature may appropriate the amount and the corporation shall deposit in the fund or account all amounts appropriated during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state. (§22 ch 106 SLA 1980)

Sec. 18.56.095. Mortgage Insurance. (a) There is another special fund of the state to be known as the "state mortgage insurance fund" (called the "mortgage insurance fund") which shall be completely segregated and set apart from all other funds of the state, and which is a trust fund for the uses and purposes of this section and into and from which money shall be paid as provided in this section. The mortgage insurance fund shall be held by the commissioner of revenue, subject to the power of the commissioner of commerce to enter into and perform agreements with respect to the use of money in the mortgage insurance fund and to pledge, assign or grant interests in the mortgage insurance fund as provided in this section. The commissioner of commerce may enter into agreements with the corporation with respect to the exercise of any power or approval relating to the mortgage insurance fund under this section, including, without limitation, agreements as to the use of money in the mortgage insurance fund, agreements with respect to the terms and conditions upon which payments from the mortgage insurance fund shall be made to the corporation with respect to mortgage loans insured under this section, and agreements regarding the payment of and security for mortgage insurance bonds, and in connection with these agreements the commissioner of commerce may pledge, assign or grant other interests in the mortgage insurance fund to the corporation as may be necessary or appropriate in connection with the insurance of mortgage loans and to provide for the payment of and security for mortgage insurance bonds. Any such agreement or any of the rights of the corporation under the agreement and payment received or to be received under the agreement may be pledged or assigned by the corporation for the benefit of the holders of mortgage insurance bonds.

(b) In addition to any other fees and charges which the corporation may charge on mortgage loans, it may collect or cause to be collected on all mortgage loans made or purchased with the proceeds of the sale of mortgage insurance bonds, either or both a special mortgage loan insurance commitment fee or a mortgage loan insurance premium. The special mortgage loan insurance commitment fees and special mortgage loan insurance premiums when received shall be deposited in the mortgage insurance fund by the corporation, or by any mortgage loan servicer, trustee, or agent designated by the corporation to receive them, and shall be held, invested and, together with all investment income derived from them, reinvested by the commissioner of revenue in investments authorized under AS 37.10.070(a), subject to any agreement with the corporation under (a) of this section.

(c) If, at any time after receipt by the corporation of a payment from the mortgage insurance fund with respect to a mortgage loan or any portion of the principal and interest and other amounts payable on a mortgage loan, the corporation recovers an amount on the mortgage loan or portion of it from any source other than the mortgage insurance fund, it shall apply the amount recovered in the following order: first to repay the general fund of the state to the extent of appropriations made pursuant to requests made under (f) of this section, and second, to repay the mortgage insurance fund.

(d) A mortgage loan may be insured if the loan to value ratio at the time of the insurance loan does not exceed 80 percent or, if the loan to value ratio does exceed that percentage, if it is federally insured or guaranteed or insured by a

qualified mortgage insurance company to the extent of the excess. The endorsement of the corporation on the mortgage at the time of purchase or acquisition of the mortgage loan is conclusive evidence that the mortgage loan is insured under the provisions of this section. The insurance is payable solely from the mortgage insurance fund.

(e) Mortgage loans may only be insured when the amount in the mortgage insurance fund as a percentage of the sum of all mortgage loans to be insured and all unpaid principal on mortgage loans insured by the corporation, equals or exceeds the fund requirement. As used in this section, the "fund requirement" is calculated as follows as to the following mortgage loans insured by the corporation:

- (1) in the case of federally insured or guaranteed mortgage loans, or mortgage loans insured by a qualified mortgage insurance company or, if not so insured or guaranteed, with a loan to value ratio at the time of the mortgage insurance application less than 80 percent, the greater of (A) two percent of the unpaid principal amount of those mortgage loans, or (B) a percentage which the corporation with the approval of the commissioner of commerce and economic development determines is actuarially sound for operation of the mortgage insurance fund.

(f) On December 1, of each year the commissioner of commerce and economic development shall determine the amount on deposit in the mortgage insurance fund. If the amount in the fund is less than the fund requirement, the commissioner of commerce and economic development shall request the corporation to transfer from any available funds the amount necessary to restore the mortgage insurance fund to the fund requirement and the corporation shall promptly comply with the request from any funds available subject to agreements with holders of any of its obligations. If sufficient funds are not provided as the result of such requests, the commissioner of commerce and economic development shall, no later than January 2 of the following year, make and deliver to the governor and to the chairmen of the house and senate finance committees his certificate stating the sum required to restore the fund to the fund requirement and the sum so certified may be appropriated and paid to the fund during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state.

(h) As used in this section, unless the context clearly indicates a different meaning:

- (1) "loan-to-value ratio" means the ratio between the principal amount of a mortgage loan and the appraised value, as determined by the corporation, of the residential housing financed by such mortgage loan;
- (2) "mortgage insurance bond" means a bond, note or other obligation of the corporation, the proceeds of which are authorized to be expended to purchase or make a mortgage loan insured under this section;

- (3) "qualified mortgage insurance company" means a mortgage insurance company satisfactory to the corporation;
- (4) "special mortgage loan insurance commitment fee" and "special mortgage loan insurance premium" mean, respectively, a fee of such percent of the principal amount of a mortgage loan to be insured under this section, and an annual insurance premium of such percent of the portion of the unpaid principal amount of a mortgage loan insured under this section which is not federally insured or guaranteed or insured by a private mortgage insurance company, which the corporation with the approval of the commissioner of commerce and economic development determines is actuarially sound for the operation of the mortgage insurance fund;
- (5) Repealed by § 77 ch 106 SLA 1980.
- (6) the determination of what is "actuarially sound" with respect to the operation of the mortgage insurance fund shall be based on a consideration of the factors which will provide sufficient revenues for the operation of the fund, without regard to amounts which may have been or may, after the date of determination of actuarial soundness, be appropriated pursuant to (f) of this section, including, without limitation, estimates of future defaults and losses on mortgage loans insured under this section based on actual default and loss experience on those mortgage loans or on similar mortgage loans in Alaska or elsewhere, estimates of recoveries on defaulted or foreclosed mortgage loans based on that experience, the terms and conditions of the mortgage loans insured under this section, estimates of earnings and income of amounts on deposit in the mortgage insurance fund, and any other appropriate factors.
(§ 8 ch 151 SLA 1975; am §§ 23, 24, 25, 26 § 77 ch 106 SLA 1980)

Legislative committee reports. - For 289 am H), see 1975 Senate Journal report on ch. 151, SLA 1975 (HCS GSBB p 769; 1975 House Journal p. 1275.

Sec. 18.56.096. Limitations on Powers to Make or Purchase Mortgage Loans. The corporation may not make, participate in the making of, purchase, or participate in the purchase of

- (1) a first mortgage loan under this chapter that exceeds the limitations on first mortgage loans purchased by the Federal National Mortgage Association as to principal amount and loan-to-value ratio; or
- (2) a second mortgage loan the amount of which, when combined with the principal balance of a first mortgage loan on the property, exceeds the limitation on the amount set out in (1) of this section or that has a mortgage loan, that exceeds 90 percent. (§ 27 ch 106 SLA 1980; ch 115 SLA 1981)

- (3) a mortgage loan to finance the purchase of new housing or for the improvement or rehabilitation of existing housing, unless the construction, improvement, or rehabilitation work has been performed by a contractor who is registered to work as a contractor under AS 08.18; this paragraph does not apply if the construction, improvement, or rehabilitation work
- (A) has been totally or substantially performed by the borrower;
 - (B) has been performed by a borrower who acts as the contractor for the construction, improvement, or rehabilitation work; or
 - (C) has been performed in an area designated by the corporation as exempt from the requirements of this paragraph because of the unavailability of registered contractors in that area. (§ 18 ch 113 SLA 1982)

Sec. 18.56.097. Collateral For Loans. Under procedures established by regulations of the corporation adopted in accordance with AS 18.56.088 a person may pledge as security for the repayment of a loan made, purchased or insured by the corporation under this chapter a preference right he holds to receive title to land he occupies as a primary place of residence, primary place of business, subsistence campsite, or as headquarters for reindeer husbandry. The preference right must be conveyed to the person by the Native corporation to which the land was granted under Section 14 of the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. Secs. 1601-1626, as amended by P.L. 94-204) before it may be pledged as security under this section. The Department of Community and Regional Affairs shall prescribe procedures and standard forms for establishing and appraising the value of a preference right held by a person to secure the repayment of a loan made, purchased or insured by the corporation under this chapter.

(§ 27 ch 106 SLA 1980)

Sec. 18.56.098. Special Mortgage Loan Purchase Program. (a) The corporation shall establish a special mortgage loan purchase program. Under the special mortgage loan purchase program, the corporation may purchase first or second mortgage loans, including graduated payment mortgage loans, made for the purchase improvement or rehabilitation of residences. (§ 4 ch 115 SLA 1981)

(b) The corporation shall adopt regulations under AS 18.56.088 to establish minimum construction standards which a residence must meet before the corporation may purchase a mortgage loan on the residence under (a) of this section. The minimum construction standards shall include standard deviations from the minimum construction standards to allow the corporation to purchase mortgage loans on residences which do not meet the minimum construction standards but which are certified by an engineer to be within the standard deviations. The standard deviations shall include, but are not limited to, provisions relating to water holding tanks, on-site water and sewer systems, and foundations.

(c) The corporation may pledge mortgage loans purchased by the corporation under (a) of this section, mortgage loans assigned to the corporation for the special mortgage loan purchase program, and mortgage loans purchased with amounts appropriated to the corporation for the special mortgage loan purchase program to pay the principal, interest, and redemption premium, if any, on bonds or bond anticipation notes issued by the corporation for the special mortgage loan purchase program and may expend amounts appropriated to the special mortgage loan purchase program for mortgage loan subsidies or other purposes of the program as necessary to cause the interest rate on mortgage loans purchased under the special mortgage loan purchase program and retained by the corporation or sold under AS 18.56.099 to equal the rates specified in this section. (§ 5 ch 115 SLA 1981)

(d) Repealed by § 51 ch 115 SLA 1981.

(e) The corporation shall establish regulations in accordance with AS 18.56.088 to implement the special mortgage loan purchase program. The regulations shall include provisions allowing, prohibiting, or restricting the right to assume or the right to provide for the payment of mortgage loans purchased under (a) of this section by a person other than the mortgagor. A provision in a mortgage loan purchased by the Corporation after June 30, 1981, that prohibits or restricts the right to assume or the right to provide for the payment of mortgage loans is enforceable. The corporation shall enforce the regulations adopted under this subsection. (§ 6 ch 115 SLA 1981)

(f) In this section and in AS 18.56.099,

- (1) "graduated payment mortgage loan" means a mortgage loan the terms of which provide for monthly principal and interest payments which
 - (A) during the first year of the mortgage loan are lower than the monthly principal and interest payments that would be required under the terms of a level payment mortgage loan made at the same interest rate; and
 - (B) during subsequent years of the mortgage loan are graduated to provide for the same return over the term of the loan that would have been provided by a level payment mortgage loan made at the same interest rate;
- (2) "mortgage loan" includes a beneficial interest or participation in a mortgage loan;
- (3) Repealed by § 51 ch 115 SLA 1981.
- (4) "residence" means an owner-occupied, single-family residence, including a mobile home, or an owner-occupied duplex, triplex or four-plex. (§ 19 ch 113 SLA 1982)

(g) The corporation shall establish the interest rate on a first mortgage loan purchased under (a) of this section in accordance with the following:

- (1) The interest rate on the first \$90,000 of a mortgage loan purchased with the proceeds of the first issue of taxable bonds of the corporation is 10 percent or the cost of funds, whichever is less.
- (2) The interest rate on the first \$90,000 of a mortgage loan purchased with the proceeds of a second or subsequent issue of taxable bonds of the corporation shall be determined as follows:
 - (A) If the cost of funds of an issue of taxable bonds is more than 10 percent, the interest rate shall be increased by an amount equal to the difference between the cost of funds of the two bond issues.
 - (B) Except as provided in (C) and (D) of this paragraph and (3) of this subsection, the interest rate may not be less than 10 percent and may not be reduced.
 - (C) If the difference between the cost of funds of an issue of taxable bonds and the interest rate established for a mortgage loan purchased with the proceeds of the previous issue would be equal to or less than three percent, the interest rate on mortgage loans purchased with the proceeds of that taxable bond issue and subsequent taxable bond issues is three percent less than the cost of funds of the taxable bond issue that is used to purchase the mortgage loan.
 - (D) The interest rate on a mortgage loan purchased with the proceeds of a taxable bond issue may not be less than 10 percent unless the cost of funds of the taxable bond issue is less than 10 percent, in which case the interest on a mortgage loan purchased with the proceeds of a taxable bond issue is equal to the cost of funds.
 - (E) If the proceeds of a taxable bond issue are to be used only for the purchase of mortgage loans for triplex and four-plex residences, the cost of funds of that bond issue is not considered in determining

the interest rate on the first \$90,000 of a mortgage loan. The interest rate on the first \$90,000 of a mortgage loan that is purchased with the proceeds from a taxable bond issue used solely for the purchase of mortgage loans for triplex and four-plex residences is equal to the interest rate, as determined under this paragraph, on a mortgage loan purchased with the proceeds of the preceding issue of taxable bonds.

(§ 20 ch 113 SLA 1982)

- (3) An interest rate determined under this subsection on the first \$90,000 of a mortgage loan that is not purchased from the proceeds of bonds that are qualified veterans' mortgage bonds under the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S. C. 103(A)), as amended, shall be reduced by one percentage point if the loan is made to an eligible veteran under am 18.56.101. (§ 21, ch 113 SLA 1982)
- (4) The interest rate for the amount of a mortgage loan purchased under (a) of this section that exceeds \$90,000 is equal to the cost of funds to the corporation attributable to that part of the loan.
- (5) The interest rate on a mortgage loan purchased from money appropriated to the corporation is the rate the corporation determines is appropriate by application of the provisions of (1)-(4) of this subsection. The rate may be based on an estimate of the cost of funds of a proposed issue or issues of bonds.
- (6) The interest rate on the first \$90,000 of a mortgage loan purchased from the proceeds of bonds that are exempt from taxation under the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103 (A)), as amended, other than bonds that constitute qualified veterans' bonds under (i) of this section, is 10 percent or the cost of the funds, whichever is less. A higher or lower interest rate shall be established on the entire loan amount if required under the Mortgage Subsidy Bond Tax Act. (§ 22 ch 113 SLA 1982)
- (7) In this subsection
 - (A) 'cost of funds' means the true interest cost expressed as a rate on bonds of the corporation plus an additional percentage as determined by the corporation to represent the allocable expenses of operation, costs of issuance, and mortgage servicing;

- (B) "taxable bonds" means bonds bearing interest that is taxable under the provisions of the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103A) issued to finance the purchase of first mortgage loans.

(h) The corporation shall establish the interest rate on a second mortgage loan purchased under (a) of this section in the manner established for computing the interest rates on a first mortgage loan under (g) of this section except that, in the case of a second mortgage loan, if the first mortgage loan made to the same borrower is held by the corporation and was purchased under the special mortgage loan purchase program, the outstanding principal balance of the existing first mortgage loan is subtracted from \$90,000 to determine the amount of the loan that is eligible for an interest rate on a second mortgage loan determined by reference to (g) of this section. (§ 7 ch 115 SLA 1981; am § 1 ch 35 SLA 1982)

(i) The interest rate on the first \$90,000 of a mortgage loan purchased from the proceeds of bonds that constitute qualified veterans' mortgage bonds under the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103 (A)) as amended, is the greater of

- (1) four percent less than the cost of funds or
- (2) the rate for other loans to veterans under AS 18.56.098(g)(3). A higher or lower interest rate shall be established on the entire loan amount if required under the Mortgage Subsidy Bond Tax Act of 1980.

(j) If the money used to purchase a mortgage loan made to a veteran under this section comes from an issue of bonds of the corporation guaranteed by the state, each bond must be issued as part of an issue substantially all of the proceeds of which are used to provide residences for qualifying veterans. In this subsection a qualifying veteran is a person who is a "qualified veteran" as the term is defined or may subsequently be defined under the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103(A)), as amended. (§ 23 ch 113 SLA 1982)

(k) The interest rate limitations of AS 45.45.010 do not apply to loans purchased under this section or to loans that the corporation has, in any manner, committed itself to purchase. (§ 24 ch 113 SLA 1982)

Sec. 18.56.099. Powers of Corporation to Deal in Mortgage Loans. The corporation may purchase, sell, hold, or otherwise deal in mortgage loans. In connection with the purchase or sale of a beneficial interest or participation in a mortgage loan, the corporation may enter into a trust agreement providing for the custody, control, and administration of the mortgage loan. The trust agreement may provide that the corporation or a bank or trust company shall act as trustor or trustee under the trust and that title to the mortgage loans subject to the trust shall be considered to have passed as provided in the trust agreement. To the extent provided in the trust agreement, the effect of a sale of a beneficial interest or participation in a mortgage loan is the same as the sale of the mortgage loan subject to the trust. (§ 27 ch 106 SLA 1980)

Sec. 18.56.100. Housing Development Fund. (a) There is created a housing development fund to be administered by the corporation as a trust fund separate and distinct from any other money or funds administered by the corporation. (§ 25 ch 113 SLA 1982)

(b) Consistent with AS 18.56.090, the corporation may make temporary and permanent loans from the housing development fund, at such interest rate or rates as determined by the corporation, and with such security for repayment as is necessary and practicable, to purchase, make, or participate in the making of mortgage loans which are not federally insured or guaranteed for residential housing, if the corporation determines that such loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions. (§ 26 ch 113 SLA 1982)

(c) to the credit of the housing development fund shall be deposited

- (1) grants and contributions to the fund; and
- (2) all receipts of the corporation on account of repayment of or sale or other disposition of the security for any loans made under (b) of this section. (§ 27 ch 113 SLA 1982)

(d) The corporation may receive and accept from any source whatever any grants or contributions for the housing development fund.

(e) Repealed by § 72 ch 113 SLA 1982.

(f) Repealed by § 72 ch 113 SLA 1982.

(g) Repealed by § 72 ch 113 SLA 1982.

(h) Repealed by § 72 ch 113 SLA 1982.

(i) Repealed by § 72 ch 113 SLA 1982.

(j) Repealed by § 72 ch 113 SLA 1982.

(k) Repealed by § 72 ch 113 SLA 1982.

Sec. 18.56.101. Eligibility for Veterans' Interest Rates. The following persons are eligible veterans for the purposes of AS 18.56.098(g) and (h):

- (1) a person who served in the armed forces of the United States for 90 days or more, or whose service was for less than 90 days because of injury or disability incurred in the line of duty, after April 6, 1917,
 - (A) who at the time of induction into the service was a resident of the territory or state, who had been a resident for not less than one year immediately

before his induction, and who returned to the territory or state within one year after discharge as a resident with the intention of remaining in the territory or state; or

(B) who, not being a bona fide resident of the territory or state at the time of entry into the service, has been a resident of the territory or state for at least one year at the time of the loan application and has been a resident of the territory or state for at least five years; and

(C) whose discharge was under honorable conditions;

(2) the widow or widower of a member of the armed forces or an eligible veteran if

(A) the member or veteran was a resident of the territory or state for one year before induction into the service;

(B) the member or veteran served in the armed forces for at least 90 days after April 6 1917; and

(C) his discharge was under honorable conditions.

(3) a person who has served in the Alaska Army National Guard, the Alaska Air National Guard, or the Alaska Naval Militia or who has served in a reserve unit of the United States armed forces in Alaska if the reserve unit required, as a minimum, one weekend each month of duty and 15 consecutive days of active duty training each year for not less than five years and whose discharge was under honorable conditions.
(§ 8 ch 115 SLA 1981)

Sec. 18.56.103. Federal Taxation of Interest on Bonds and Bond Anticipation Notes. If the interest on bonds or bond anticipation notes of the corporation issued after June 1, 1980, becomes taxable under the income tax laws of the United States, the legislature may appropriate an amount sufficient to pay the outstanding principal and interest on the bonds or bond anticipation notes. Nothing in this section creates a debt or liability of the State of Alaska.
(§ 29 ch 106 SLA 1980)

Sec. 18.56.104. Allocation of Tax-Exempt Bonds. (a) Pursuant to sec. 103A(g)(6) of the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103A) the amount of mortgage revenue bonds that may be issued in the state under sec. 103A(g)(4) of that Act is allocated solely to the corporation. A municipality may not issue mortgage revenue bonds under sec. 103A(g)(4) of the Mortgage

Subsidy Bond Tax Act of 1980 unless permitted to do so by the corporation. The amount of mortgage revenue bonds issued by a municipality under sec. 103A(g)(4) of the Mortgage Subsidy Bond Tax Act of 1980 with the permission of the corporation shall be deducted from the total amount permitted by that Act.

(b) The provisions of this section apply to home rule municipalities. (§ 9 ch 115 SLA 1981)

Sec. 18.56.105. Allocation of Lending Activities. The corporation shall designate regions within the state which in the aggregate, encompass the entire state. In participating in the making or purchasing of loans under AS 18.56.090(1)-(3) or under AS 18.56.100, the corporation shall make its money available through the private financial institutions in the state within each region designated by the corporation under this section. The corporation shall allocate its money among the regions on the basis of recent and future anticipated lending activity as well as the potential need for the loans in each region and may reallocate its money among the regions as it considers appropriate to reflect changes in lending activity or need in the regions. (§ 29 ch 106 SLA 1980)

Sec. 18.56.107. Loan Origination and Servicing Fees for Rural Areas. Loan origination and service fees charged for a loan made or purchased in a rural area with money received by the corporation after July 1, 1981, may be higher than loan origination and service fees charged for other loans made or purchased by the corporation and the corporation may pay a portion of the higher fees. (§ 10 ch 115 SLA 1981)

Sec. 18.56.110. Bonds and Notes. (a) The corporation, by resolution, may issue bonds and bond anticipation notes in order to provide funds to carry out and effectuate its purposes.

(b) The principal and interest on these bonds or notes, except state guaranteed bonds, is payable from corporation funds, excluding funds in the housing development fund. The principal and interest on state guaranteed bonds is payable from corporation funds, excluding funds in the housing development fund, and in accordance with the terms of the state guaranty of principal and interest. Bond anticipation notes may be payable from the proceeds of the sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the event bond or bond anticipation note proceeds are not available, such notes may be paid from other funds or assets of the corporation. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government, or a corporation, association, institution or person, or a pledge of money, income, or revenues of the corporation from any source. The corporation may issue state guaranteed bond anticipation notes in anticipation of the sale of state guaranteed bonds to be issued under this chapter. State guaranteed bond anticipation notes are guaranteed as to principal and interest by the state and secured by the full faith, credit and resources of the state. (§ 28 ch 113 SLA 1982)

(c) Bonds or bond anticipation notes may be issued in one or more series and shall be dated, bear interest at the rate or rates per year or within the maximum rate, be in the denomination, be in the form, either coupon or registered, carry the conversion or registration provisions, have the rank or priority, be executed in the manner and form, be payable from the sources in the medium of payment

and place or places within or outside the state, be subject to authentication by a trustee or fiscal agent, and be subject to the terms of redemption with or without premium, as the resolution of the corporation may provide. Bond anticipation notes shall mature at such time or times as may be determined by the corporation. Bonds shall mature at such time, not exceeding 50 years from their date, as may be determined by the corporation. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

(d) Bonds or bond anticipation notes, except state guaranteed bonds and bond anticipation notes, may be sold in the manner, and on the terms the corporation determines. State guaranteed bonds and bond anticipation notes shall be sold at public sale by the corporation in amounts and at times as may be approved by the state bond committee, on terms fixed under the notice of sale. (§ 29 ch 113 SLA 1982)

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

(f) In any resolution of the corporation authorizing or relating to the issuance of bonds or bond anticipation notes, the corporation has power by provisions in the resolution which will constitute covenants of the corporation and contracts with the holders of the bonds or bond anticipation notes

- (1) to pledge to any payment or purpose all or any part of its revenues to which its right then exists or may thereafter come into existence, and the money derived from the revenues, and the proceeds of any bonds or notes;
- (2) to covenant against pledging all or any part of its revenues, or against permitting or suffering a lien on the revenues or its property;
- (3) to covenant as to the use and disposition of any and all payments of principal or interest received by the corporation on mortgage loans, construction loans or other investments held by the corporation;
- (4) to covenant as to establishment of reserves or sinking funds and the making of provision for and the regulation and disposition of the reserves or sinking funds;
- (5) to covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind;

- (6) to covenant as to bonds and notes to be issued, and their limitations, terms and conditions, and as to the custody, application and disposition of the proceeds of the bonds and notes;
- (7) to covenant as to the issuance of additional bonds or notes, or as to limitations on the issuance of additional bonds or notes and the incurring of other debts;
- (8) to covenant as to the payment of the principal of or interest on the bonds or notes, as to the sources and methods of the payment, as to the rank or priority of the bonds or notes with respect to a lien or security, or as to the acceleration of the maturity of the bonds or notes;
- (9) to provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;
- (10) to covenant against extending the time for the payment of bonds or notes or interest on the bonds or notes;
- (11) to covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;
- (12) to covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;
- (13) to establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;
- (14) to covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;
- (15) to covenant as to the time or manner of enforcement or restraint from enforcement of any rights of the corporation arising by reason of or with respect to nonpayment of any principal or interest of any mortgage loans or construction loans;
- (16) to provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation, and to prescribe the events of default and the terms and conditions upon which any or all the bonds, notes

or other obligations of the corporation become or may be declared due and payable before maturity and the terms and conditions upon which any such declaration and its consequences may be waived;

- (17) to vest in a trustee or trustees within or outside the state such property, rights, powers and duties in trust as the corporation may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds or notes, and to limit or abrogate the right of the holders of any bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;
- (18) to pay the costs or expenses incident to the enforcement of the bonds or notes or of the provisions of the resolution or of any covenant or agreement of the corporation with the holders of its bonds or notes;
- (19) to agree with any corporate trustee which may be any trust company or bank having the powers of a trust company within or outside the state as to the pledging or assigning of revenues or funds to which or in which the corporation has any rights or interest; the agreement may further provide for such other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds or notes of the corporation and not otherwise in violation of law and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;
- (20) to appoint and provide for the duties and obligations of any paying agent or paying agents, or such other fiduciaries as the resolution may provide within or outside the state;
- (21) to limit the rights of the holders of any bonds or notes to enforce any pledge or covenant securing bonds or notes;
- (22) to make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and to make such covenants to do or refrain from doing such acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in the absolute discretion of the corporation, will tend to make bonds or notes more marketable, notwithstanding that the covenants, acts or things may not be enumerated in this section. (§ 1 ch 107 SLA 1971)

(g) Notwithstanding AS 18.56.090(12) and (a) of this section, the corporation may not issue bonds, other than refunding bonds, in any 12-month period beginning after June 30, 1983, in an amount that exceeds the amount of bonds authorized to be issued during the preceding 12-month period, unless a different amount is authorized by the legislature. (§ 11 ch 115 SLA 1981; am § 2 ch 35 SLA 1982)

Sec. 18.56.115. Independent Financial Advisor. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the corporation shall retain a financial advisor who is independent from the underwriter. (§ 2 ch 130 SLA 1978)

Sec. 18.56.120. Validity of Any Pledge. The pledge of assets or revenues 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 any such assets or revenues are immediately subject to the lien of the pledge without physical delivery or further act. The lien of any pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge. Nothing herein prohibits the corporation from selling assets subject to any pledge, except that any sale may be restricted by the trust agreement or resolution providing for the issuance of the obligations. (§ 1 ch 107 SLA 1971)

Sec. 18.56.125. Capital Reserve Fund. (a) For the purpose of any one or more issues of its obligations, the corporation may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds (1) any money appropriated and made available by the state for the purpose of any of those funds, (2) any proceeds of the sale of its obligations, to the extent provided in the resolution or resolutions of the corporation authorizing their issuance, and (3) any other money which may be made available to the corporation for the purposes of those funds from any other source. All money held in a capital reserve fund, except as provided in this section, shall be used as required, solely for (1) the payment of the principal of obligations or of the sinking fund payments with respect to those obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity; however, money in any fund, may not be withdrawn from it at any time in an amount which would reduce the amount of that fund to less than the capital reserve requirements set out in (b) of this section, except for the purpose of making, with respect to those obligations, payment, when due, of principal, interest, redemption premiums and the sinking fund payments for the payment of which other money of the corporation is not available. Any income or interest earned by, or increment to, a capital reserve fund, due to the investment of the fund or any other amounts in it, may be transferred by the corporation to other funds or accounts of the corporation to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the corporation decides to issue obligations secured by such a capital reserve fund, the obligations may not be issued if the amount in such capital reserve fund is less than such a percent, not exceeding 10 percent of the principal amount of all of those obligations secured by that capital reserve fund then to be issued, and then outstanding in accordance with their terms, as may be established by resolution of the corporation (called the "capital reserve fund requirement"), unless the corporation, at the time of issuance of the obligations, deposits in such capital reserve fund from the proceeds of the obligations to be issued or from other sources, an amount which, together with the amount then in the fund, will not be less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the funds are invested shall be valued at par or, if purchased at less than par, at amortized costs as the term is defined by resolution of the corporation authorizing the issue of the obligations, or by some other reasonable method established by the corporation by resolution. Valuation on a particular date shall include the amount of any interest earned or accrued to that date.

(d) To assure the continued operation and solvency of the corporation for the carrying out of its corporate purposes, provision is made in (a) of this section for the accumulation in capital reserve funds of an amount equal to their capital reserve fund requirement.

(e) The chairman of the corporation shall annually, no later than January 2, make and deliver to the governor and chairmen of the house and senate finance committees his certificate stating the sum, if any, required to restore any capital reserve fund to the capital reserve fund requirement. The legislature may appropriate such a sum, and all sums appropriated during the then current fiscal year by the legislature for such restoration shall be deposited by the corporation in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state. (§ 59 ch 151 SLA 1975; am § 77 ch 106 SLA 1980)

Legislative committee reports. - For Journal, p. 769; 1975 House report on ch 151, SLA 1975 (HCS CSSB Journal, p. 125. 289 am H), see 1975 Senate

Sec. 18.56.130. Remedies. A holder of obligations or coupons attached to them issued under the provisions of this chapter, and a trustee under any trust agreement or resolution authorizing the issuance of the obligations, except as restricted by a trust agreement or resolution, either at law or in equity, may enforce all rights granted hereunder or under the trust agreement or resolution, or under any other contract executed by the corporation under this chapter, and may enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the corporation or by any officer of it. (§ 1 ch 107 SLA 1971)

Sec. 18.56.140. Negotiable Instruments. All obligations and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to any applicable provisions for registration. (§ 1 ch 107 SLA 1971)

Sec. 18.56.150. Obligations Eligible for Investment. Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations may be deposited with any state or municipal officer of any agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law. (§ 1 ch 107 SLA 1971)

Sec. 18.56.160. Refunding Obligations. (a) The corporation may provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which have been issued under the provisions of this chapter, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of the obligations, the maturities and other details of them, the rights of the holders of them, and the rights, duties and obligations of the corporation in respect of them are governed by the provisions of this chapter which relate to the issuance of obligations, insofar as those provisions may be appropriate therefor.

(b) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of the outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of any interest on the refunding obligations and any expenses in connection with the refunding, the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which mature or which will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended. (§ 1 ch 107 SLA 1971)

Sec. 18.56.170. Credit of State Not Pledged. (a) Obligations issued under the provisions of this chapter other than state guaranteed bonds do not constitute a debt, liability or obligation of the state or of any political subdivision of the state or a pledge of the faith and credit of the state or of any such political subdivision but are payable solely from the revenues or assets of the corporation. Each obligation issued under this chapter other than a state guaranteed bond shall contain on its face a statement that the corporation is not obligated to pay it nor the interest on it except from the revenues or assets pledged for it and that neither the faith and credit nor the taxing power of the state or of any political subdivision of the state is pledged to the payment of the principal of or the interest on the obligation. (§ 30 ch 113 SLA 1982)

(b) Expenses incurred by the corporation in carrying out the provisions of this chapter are payable from funds provided under this chapter and no liability may be incurred by the corporation in excess of these funds. (§ 1 ch 107 SLA 1971)

Sec. 18.56.180. Officers Not Liable. No member or other officer of the corporation is subject to personal liability or accountability by reason of his execution of any obligations or the issuance of them. (§ 1 ch 107 SLA 1971)

Sec. 18.56.190. Tax Exemption. (a) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the state, for their well-being and prosperity and for the improvement of their social and economic conditions, and the corporation is not required to pay a tax or assessment on any property owned by the corporation under the provisions of this

chapter or upon the income from it, except taxes on real property of which the corporation is fee owner.

(b) All obligations issued under this chapter are hereby declared to be issued by a body corporate and public of the state and for an essential public and governmental purpose, and the obligations, and the interest and income on and from the obligations, and all fees, charges, funds, revenues, income and other money pledged or available to pay or secure the payment of the obligations, or interest on the obligations, are exempt from taxation except for transfer, inheritance and estate taxes. (§ 1 ch 107 SLA 1971)

Sec. 18.56.200. Annual Report. (a) The corporation shall prepare and transmit annually a report accounting to the governor and the legislature for the efficient discharge of all responsibility assigned by law or by directive to the corporation.

(b) By January 10 of each year beginning in 1981, the board shall publish a report of the corporation for distribution to the governor, legislature, and the public. The report shall be written in easily understandable language. The report shall include a financial statement audited by an independent outside auditor, a statement of corporation investments in mortgage loans under this chapter, including an estimate of market value of the mortgage loans, a comparison of the corporation performance with the goals of the corporation, and the levels of bonding and investment activities anticipated in the previous year's report under (c) of this section, and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the corporation shall be published in at least one newspaper in each judicial district. The board may also publish other reports it considers desirable to carry out its purposes.

(c) The corporation shall include in its annual report under (b) of this section an estimate of the investment activity of the corporation in mortgage loans under this chapter for the following 12-month period and an estimate of the amount of bonds to be issued for the investments. (§ a ch 107 SLA 1971; am § 30 ch 106 SLA 1981; am § 12 ch 115 SLA 1981)

(d) The corporation shall include in its annual report under (b) of this section a summary of its efforts to implement a program to extend the operation of the loan programs authorized under this chapter to rural communities. (§ 13 ch 115 SLA 1981)

Sec. 18.56.210. Definitions. In this chapter, unless the context clearly indicates a different meaning

- (1) "corporation" means the Alaska Housing Finance Corporation created by this chapter;
- (2) "board" means the board of directors of the corporation;
- (3) "development costs" means the costs approved by the corporation as appropriate expenditures which may be incurred by sponsors, builders and developers of residential housing,

before commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including but not limited to

- (A) payment for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of the properties;
 - (B) legal and organizational expenses, including payments of attorney fees, project manager, clerical and other staff salaries, office rent and other incidental expenses;
 - (C) payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;
 - (D) expenses for tenant surveys and market analyses; and
 - (E) necessary application and other fees;
- (4) "governmental agency" means any department, division, public agency, political subdivision or other public instrumentality of the state or the federal government;
- (5) "housing development fund" means the housing development fund created by sec. 100 of this chapter;
- (6) "construction loan" means a construction loan for land development or residential housing which is secured by a federally insured or guaranteed mortgage or which is insured or guaranteed by the United States or an instrumentality thereof, or for which there is a commitment by the United States or an instrumentality thereof to insure or guarantee such a loan, or a construction loan for land development or residential housing which land development or residential housing will be secured by a mortgage loan;
- (7) "mortgage" or "mortgage loan" means a mortgage loan for residential housing insured or guaranteed by the United States or an instrumentality thereof or for which there is a commitment by the United States or an instrumentality thereof to insure or guarantee such a mortgage, or if not so insured or guaranteed or if there is no such commitment, which the corporation determines meets the conditions described in sec. 100(k) of this chapter or which shall be secured upon such terms and conditions as the corporation considers necessary or practicable to insure all repayments;