

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1298 SCOMM 50: HOUSE SPECIAL COMMITTEE ON STATE LOANS 1985-86

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INVESTMENTS

CREDIT AUTHORIZATION

I, _____, of _____,
(Print full name) (City and State)

authorize the following named creditor to divulge to the Department of Commerce and Economic Development, State of Alaska, any and all information concerning the nature of my credit transactions with them, including, but not limited to, the amount of credit extended, the terms and conditions of the transactions, the current balance, if any is outstanding, and the repayment record.

I understand that the information is of a confidential nature and will be used for the sole purpose of evaluating an application which I have submitted to the State.

NAME OF CREDITOR _____

ACCOUNT NUMBER _____

ADDRESS _____

CITY _____ STATE _____

ZIP CODE _____

APPLICANT'S SIGNATURE _____ DATE _____

This form should be returned with the application package. The division will forward all authorizations to the creditors.

Creditor Verification
(For creditor use only)

The above named applicant has applied for benefits from the State. To assist us in evaluating this application, we would appreciate any information you can give us regarding our applicant's credit rating. Information received will be considered confidential.

Date Account Opened	Maximum Credit Extended	Present Balance	Payments	Rating

Remarks _____

Signature of Creditor

Title

Date

Please return to:



Division of Investments
Pouch D
Juneau, Alaska 99811
Telephone: 465-2510



Division of Investments
3601 "C" St., Suite 740
Anchorage, Alaska 99503
Telephone: 562-3779



Division of Investments
675 7th Ave., Station A
Fairbanks, Alaska 99701
Telephone: 452-8182



Division of Investments
P.O. Box 370
Dillingham, Alaska 99576
Telephone: 842-1087

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INVESTMENTS

AUTHORIZATION TO VERIFY FINANCIAL INFORMATION

I, _____, of _____,
(Print Full Name) (City and State)

authorize the following named financial institution to divulge to the Department of Commerce and Economic Development, State of Alaska, any and all information concerning the nature of my account balances and loan balances with them, including, but not limited to, the amount of credit extended, the terms and conditions of the transactions and the current balance, if any is outstanding.

I understand that the information is of a confidential nature and will be used for the sole purpose of evaluating an application which I have submitted to the State.

Name of Financial Institution _____

Checking Account Number _____ Savings Account Number _____

Loan Number _____ Loan Number _____

Address _____

City _____ State _____ Zip _____

Applicant's Signature _____ Date _____

This form should be returned with the application package. The division will forward all authorizations to the creditors.

BANK VERIFICATION OF FINANCIAL INFORMATION
(For Bank Use Only)

Checking Account Balance	Savings Account Balance	Other Account Balance
Date Account was opened	Date Account was opened	Date Account was opened

Loans	Date	Original Balance	Payments	Current Balance	Rating
Secured					
Unsecured					

The information provided above is essentially correct as of this date and accurately reflects the individual's financial dealings with this institution.

Remarks _____

Signature of Bank Official

Title

Date

Please return to:

☐ Division of Investments
Pouch D
Juneau, Alaska 99811
Telephone: 465-2510

☐ Division of Investments
3601 "C" St., Suite 740
Anchorage, Alaska 99503
Telephone: 562-3779

☐ Division of Investments
675 7th Ave., Station A
Fairbanks, Alaska 99701
Telephone: 452-8182

☐ Division of Investments
P.O. Box 370
Dillingham, Alaska 99576
Telephone: 842-1087

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INVESTMENTS

EMPLOYMENT VERIFICATION

Applicant _____

Employer _____

Address _____

Applicant's Signature _____ Date _____

This form should be returned with the application package. The division will forward all verifications to your employer.

EMPLOYER'S VERIFICATION
(For Employer's Use Only)

The above-named applicant has applied for a loan from the State. To assist us in evaluating the application, we would appreciate the information you can give us regarding our applicant's employment.

Present Position _____

Employed From/To _____

Probability of Continued Employment _____

Present Base Salary _____

Approximate additional earnings, if any, from overtime, bonuses, etc. _____

Remarks _____

Signature of Employer

Title

Date

Please return to:

☐
Division of Investments
Pouch D
Juneau, Alaska 99811
Telephone: 465-2510

☐
Division of Investments
3601 "C" St., Suite 740
Anchorage, Alaska 99503
Telephone: 562-3779

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Division of Investments
675 7th Ave., Station A
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Telephone: 452-8182

☐
Division of Investments
P.O. Box 370
Dillingham, Alaska 99576
Telephone: 842-1087

STATE OF ALASKA

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**
DIVISION OF INVESTMENTS

BILL SHEFFIELD, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2510

February 27, 1985

Honorable John Sund, Chairman
House Special Committee
on Loans
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Sund:

Enclosed are copies of proposed regulations for the following programs:

Commercial Fishing Loans;
Alternative Energy Loans;
Residential Energy Conservation Loans;
Child Care Facility Loans; and
Historical District Loans.

Public notice has been given on these proposed regulations and any comments should be submitted, in writing, to the Division of Investments no later than March 29, 1985.

If you have any questions concerning the proposed regulations, please contact the division.

Sincerely,



Paul B. Arnoldt
Director

PBA/kkk/D7
Enclosure
22685b

CHAPTER 80
COMMERCIAL FISHING LOANS

Section

- 010. Application Process
- 015. Examination
- 020. Loan Committee
- 030. Residency Requirements
- 035. Eligibility
- 040. Financial and Credit Record
- 045. Ability to Repay
- 050. Collateral
- 055. Lending Practices
- 065. Disbursement of Loan Funds
- 070. Supervision of Loans
- 075. Costs
- 080. Assumptions
- 085. Reconsideration
- 090. Confidentiality of Loan Information
- 900. Definition of Terms

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3 AAC 80.010. APPLICATION PROCESS. (a) To apply for a loan for the purchase of a limited entry permit, gear, or vessel, an applicant must file with the department

(1) a completed application for a commercial fishing loan on a form provided by the department;

(2) a completed residency questionnaire on a form provided by the department;

(3) a letter of intent stating the amount requested, the intended use of the proposed loan funds, and a proposed plan for repayment;

(4) copies of the purchase agreement or vendors' cost estimates and down-payment receipt;

(5) a commercial fishing resume identifying all permits and licenses held by the applicant, summarizing the applicant's experience as a commercial fisherman in Alaska, and identifying the actual number of days fished for each year;

(6) a business and credit history including complete copies of income tax returns for the preceding three years or for other years as may be requested by the department to document eligibility;

(7) a financial statement consisting of a current balance sheet, a profit and loss statement and a statement of projected income and expenses for the following year's operating plan;

(8) a schedule of acceptable collateral, including collateral now owned and other collateral to be acquired with the loan proceeds, stating date of acquisition, cost, location, market value and existing liens;

(9) if a vessel is used for collateral, a current marine survey acceptable to the department including pictures of the vessel; and

(10) any other information as the department may require.

(b) If a vessel is offered as collateral for a loan, the department or its designee shall be permitted to inspect the vessel or vessel construction project prior to making the loan. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC 80.010, a loan request will be processed and evaluated by a loan examiner. The loan examiner will evaluate the applicant's eligibility, financial and credit history, operating plan and ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee. However, the recommendation of a loan examiner is not binding on a loan committee. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including the following requirements:

(1) additional collateral be pledged to secure the loan;

(2) additional guarantors be provided; and

(3) subordination of prior lien holder's rights to the interests of the State.

(d) A loan committee will evaluate an applicant's eligibility for a loan, financial and credit record, and capacity for repayment and operating plans, and the adequacy of collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application, and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.030. RESIDENCY REQUIREMENTS. (a) In determining if an applicant fulfills the two year residency requirements under AS 16.10.310, the loan committee may consider the following factors:

- (1) where the applicant is registered to vote;
- (2) where the applicant maintains a permanent place of abode;
- (3) where the applicant files tax returns, and the address that is listed on the returns;
- (4) where the applicant registers or licenses personal property, including but not limited to cars, boats, trucks and trailers;
- (5) where the applicant is licensed to drive; and
- (6) where the applicant maintains bank accounts, savings accounts, lines of credit and other financial relationships.

(b) Periods of absence from the state will not negate establishment of residency unless, during the absence, the individual establishes or claims residency in another state or performs other acts inconsistent with residency in Alaska.

(c) If two or more individuals apply jointly or as a partnership or corporation, all parties to the application must establish residency. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.035. ELIGIBILITY. (a) In determining whether an applicant has "actively participated in the fishery" under AS 16.10.310(a)(1)(A) or 16.10.310(a)(1)(C), the department may consider any or all of the following factors for each of the years claimed by the applicant:

- (1) the gross income earned by the applicant

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while engaged in commercial fishing in limited entry fisheries; and

(2) the time an applicant commercially fished during openings of limited entry fisheries.

(b) For purposes of eligibility, an applicant must establish one of the following circumstances for each year claimed:

(1) that 30 percent or more of the applicant's total gross income has been derived from commercial fishing in limited entry fisheries;

(2) that 10 percent or more of the applicant's total gross income has been derived from commercial fishing in limited entry fisheries and the applicant engaged in commercial fishing in these fisheries for twenty-five or more days; or

(3) that 10 percent or more of the applicant's total gross income has been derived from commercial fishing in limited entry fisheries and the applicant engaged in commercial fishing in a particular limited entry fishery for 80 percent or more of the total number of days that the particular fishery was open for commercial fishing. For purposes of this paragraph, "particular limited entry fishery" refers to gear type and fishing area.

(c) The department may rely on the following documents to verify that an applicant has actively participated in the fishery:

(1) tax returns;

(2) verified affidavits from the applicant and others certifying the applicant's experience;

(3) fishing and gear licenses;

(4) commercial fish tickets;

(5) wage receipts; and

(6) cannery statements.

(d) An applicant for a loan under AS 16.10.310(a)(1)(B)(i) must establish that either:

(1) commercial fishing represents the largest single employer in the area that the applicant resides; or

(2) the applicant does not have training sufficient to qualify for other employment opportunities in the area.

(e) An applicant for a loan under AS 16.10.310(a)(1)(B)(ii) must establish that he fulfills all requirements of this clause. In this clause, "economically

dependent on commercial fishing for a livelihood" means that a majority of the applicant's gross income during the previous two years was derived from commercial fishing.

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.040. FINANCIAL AND CREDIT RECORD. (a) The department will, in its discretion, consider the following factors in assessing an applicant's financial and credit record:

- (1) existing and prior debts;
- (2) credit reports obtained from creditors and private credit reporting services;
- (3) prior loan history with the department;
- (4) timeliness in making payments on loans and other debts;
- (5) prior bankruptcies;
- (6) existence of tax liens, unpaid judgments, and prior foreclosures; and
- (7) the applicant's financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.045. ABILITY TO REPAY. (a) The department may consider the following factors in evaluating an applicant's ability to repay a proposed loan:

- (1) income history, including present income;
- (2) prospects for future income;
- (3) assets and their liquidity;
- (4) liabilities;
- (5) reasonableness of projected profit and loss statement; and
- (6) other business experience.

(b) The department may compare revenue projections contained in an applicant's profit and loss statement with information it may acquire through its own efforts or from the Department of Fish and Game, the Commercial Fisheries Entry Commission or the Alaska Commercial Fishing and Agri-

culture Bank on the success of other fishermen in similar circumstances to determine the reasonableness of the applicant's projections. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral may include a mortgage or other security instrument in real property, buildings, machinery and equipment, fixtures, limited entry permits or commercial fishing vessels with gear and appurtenances.

(c) To be considered acceptable collateral, personal property must be capable of being specifically identified. A vessel that can be documented must be documented to be acceptable collateral.

(d) Loans for the purchase of limited entry permits will be made only if the permit is placed in the name of the applicant and the permit is offered as security for the loan. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.320
AS 16.10.339

3 AAC 80.055. LENDING PRACTICES. (a) If loan funds are limited, applications for loans to purchase entry permits will receive priority over applications for the purchase of vessels and gear.

(b) Applications for loans to purchase entry permits, gear and vessels under AS 16.10.310 (a)(1)(B) and for gear and vessels under AS 16.10.310(a)(1)(C) will be approved only if alternative sources of financing are not available to the applicant. An applicant for a loan under AS 16.10.310(a)(1)(B) will not be considered ineligible for a loan because the applicant can provide a guarantor for the loan.

(c) A loan will not be approved if it would allow an applicant to:

(1) speculate in the acquisition and sale of limited entry permits, vessels, or gear;

(2) lease out a commercial fishing vessel or limited entry permit; or

(3) purchase a commercial fishing vessel, gear or limited entry permit that will not be put to use in the fishing season immediately following the date of the application.

(d) A loan will not be approved for refinancing long term debt. Interim or construction financing is not con-

sidered long term debt if the term is 12 months or less and the promissory note or the original agreement was executed less than 12 months before receipt of the application by the department.

(e) In determining the maximum loan amount that may be approved for the purchase of a limited entry permit, the department will rely on the value established by the Alaska Commercial Fisheries Entry Commission or other appropriate sources as determined by the department.

(f) A loan for the purchase of a limited entry permit will not be approved if an applicant holds another permit currently financed by the state and active participation in the two limited entry fisheries would be mutually exclusive.

(g) A loan for the purchase of a limited entry permit under AS 16.10.310(a)(1)(A) will not be approved if the applicant has pending an application for a loan under AS 16.10.310(a)(1)(B).

(h) A loan for the purchase of a vessel for use in a limited entry fishery will not be approved unless the applicant holds a limited entry permit for that fishery.
(Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.320
AS 16.10.325
AS 16.10.339

3 AAC 80.065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

(1) a security interest in the collateral on behalf of the State has been perfected, except that in the case of a mortgage on a documented vessel this requirement shall be satisfied by the establishment of the mortgage as a preferred mortgage pursuant to the provisions of the Ship Mortgage Act of 1920, (46 USC §§911-984);

(2) the borrower has complied with the marine insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter.
(Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.320

3 AAC 80.070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss

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statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit or audits to determine whether the borrower has complied with the provisions of the loan and conduct periodic inspection of collateral securing repayment of the loan. If a vessel is used as collateral, a current marine survey must be supplied to the department at the borrower's expense upon request by the department.
(Eff. / / , Reg.)

Authority: AS 16.10.310

3 AAC 80.075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, out-of-state travel and other direct costs. (Eff. / / , Reg.)

Authority: AS 16.10.310

3 AAC 80.080. ASSUMPTIONS. (a) Requests for permission to assume obligations and benefits of loans granted under AS 16.10.300-16.10.370 will be processed in the same manner as a loan request.

(b) A loan committee may permit an assumption if the individual seeking to assume the loan would be eligible for a new loan of the type that is sought to be assumed, the applicant is a good financial risk, and the security of the state's investment is preserved.

(c) Eligibility standards currently in effect, rather than standards in effect at the time the original loan was made, will govern assumptions. (Eff. / / , Reg.)

Authority: AS 16.10.310

3 AAC 80.085. RECONSIDERATION. (a) If a loan request is denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee.

(b) The loan committee will reconsider a request only upon a showing by the applicant that

(1) there has been a substantial change in the circumstances; or

(2) additional relevant information can be provided to the loan committee that was not initially available. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

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3 AAC 80.090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for public inspection upon request:

(1) a document which is already a public record including deeds of trust, financing statements, limited entry permits, warranty deeds, bills of sale, marine mortgages, liens, vehicle titles and vessel documentation;

(2) general information regarding loans, including the amount of a particular loan, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) documents regarding foreclosure and default proceedings.

(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors, reports obtained from consumer reporting agencies, cannery statements, and commercial fishing pink slips (fish tickets);

(2) loan committee memoranda and minutes containing information relating to credit worthiness of an applicant; and

(3) payment history on a loan, unless the loan is in default.

(c) Information not described in (a) and (b) of this section may be subject to public disclosure. Requests for disclosure must be made and will be determined in accordance with 6 AAC 095. On receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed. (Eff. / / , Reg.)

Authority: AS 09.25.110
AS 09.25.120
AS 16.10.310
Art. 1, Sec. 22
Alaska Const.

3 AAC 80.900. DEFINITION OF TERMS. Unless the context requires otherwise in this chapter

(1) "applicant" means the individual, partnership, corporation or association applying for a loan;

(2) "commercial fishing" means the actual catching of fish, shellfish, crabs or other fishery resources with the intent of disposing of those resources for profit by sale in commercial channels. For purposes of

this definition, "actual catching" means having gear in the water with the intent to catch fish;

(3) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(4) "debtor" means an individual commercial fisherman who initially contracts for a loan, assumes a loan, or guarantees or co-signs a loan under AS 16.10.330 - AS 16.10.337.

(5) "default" means a violation of any terms of the loan document, or the failure to make the necessary payment within fifteen (15) days of when it is due, or the failure to maintain the insurance required by the Department of Commerce and Economic Development.

(6) "department" means the Department of Commerce and Economic Development;

(7) "documented vessel" means a vessel permanently or temporarily registered, or enrolled or licensed under the laws of the United States;

(8) "extension package" means such forms as the department may require in order to make a decision on an extension request. (Eff. / / , Reg.)

(9) "limited entry fishery" or "limited entry fisheries" means those fisheries requiring that a participant hold a permanent entry permit;

(10) "residency" means, in the case of an individual, physical presence in Alaska with the intent to remain indefinitely and make a home in the state. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.335
AS 16.10.339

Editor's Note: Former 3 AAC 80.0103 AAC 80.100 were repealed by the Department of Commerce and Economic Development on / /84, Register , and the substance of the regulation was reorganized and renumbered. The numbering and the organization of the material in 3 AAC 80.010 - 3 AAC 80.100 bears no resemblance to the numbering and organization of that material before / /84. Therefore, the history notes for 3 AAC 80.010 - 3 AAC 80.900 do not reflect the history of those sections before / /84.

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CHAPTER
ALTERNATIVE ENERGY LOANS

Section

- 010. Application Process
- 015. Examination
- 020. Loan Committee
- 035. Eligibility
- 036. Solar Loan Guidelines
- 037. Solar Heating Unit Standards
- 038. Sunspace Standards
- 039. Centralized Multifuel Heating System Guidelines
- 040. Financial and Credit Record
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- 070. Supervision of Loans
- 075. Costs
- 080. Assumptions
- 085. Reconsideration
- 090. Confidentiality of Loan Information
- 300. Definition of Terms

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3 AAC __.010. APPLICATION PROCESS. To apply for a loan for the purchase, construction and installation of an alternative energy system an applicant must file with the department

(1) a completed application for an alternative energy loan on a form provided by the department;

(2) a letter of intent stating the amount requested, the intended use of the proposed loan funds, and a proposed plan for repayment;

(3) a credit authorization form for each of the applicant's creditors;

(4) an employment verification form;

(5) a financial statement including a copy of the applicant's federal income tax return for the most recent year;

(6) a schedule of acceptable collateral, stating date of acquisition, cost, location, market value and existing liens. Market value must be verified by providing a copy of a tax assessment or notice. Ownership of collateral should be verified by a copy of the existing title insurance, deed for the residence, or property profile;

(7) photographs of the proposed collateral; and

(8) any other information the department may require. (Eff. / / , Register)

Authority: AS 45.88.020

3 AAC __.015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC __.010, a loan request will be processed and evaluated by a loan examiner. After reviewing the materials submitted and obtained through the normal investigative process the loan examiner will evaluate the eligibility of the proposed system for a loan. The loan examiner shall also evaluate the applicant's eligibility for a loan based upon financial and credit history, ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee. However, the recommendation of a loan examiner is not binding on a loan committee.
(Eff. / / , Register)

Authority: AS 45.88.020

3 AAC __.020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including the following requirements:

(1) additional collateral be pledged to secure the loan;

(2) additional guarantors be provided;

(3) subordination of prior lien holder's rights to the interests of the State.

(d) A loan committee will evaluate the eligibility of the proposed system and the applicant's financial and credit record, capacity for repayment, and the adequacy of collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application, and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Register)

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Authority: AS 45.88.020
AS 45.88.030

3 AAC __.035. ELIGIBILITY. To be eligible for a loan, an applicant must seek to purchase, construct, or install an alternative energy system or centralized multifuel system, as those terms are defined in AS 45.88.500. A loan request for solar heating units and sunspaces must also meet the guidelines contained in 3 AAC __.036, 3 AAC __.037 and 3 AAC __.038. A loan request for centralized multifuel heating systems must meet the guidelines contained in 3 AAC __.039.

Authority: AS 45.88.020

3 AAC __.036. SOLAR LOAN GUIDELINES. (a) All solar heating units and sunspaces must meet the following minimum standards. Solar heating units must also meet the minimum standards in 3 AAC __.037. Sunspaces must also meet the minimum standards in 3 AAC __.038.

(b) The design or item funded must be primarily intended as an alternative energy source and must emphasize energy performance over aesthetics.

(c) Site pictures, drawings, as-built surveys and documentation of solar access showing a prime solar fraction of at least 70 percent or more must be provided. Solar access can be measured by using a Lewis Solar Site Selector, a Solar Pathfinder or by other appropriate instruments approved by the department and must be accompanied by corresponding pictures. Roof overhangs and pony wall-like obstructions must be considered in the efficiency of the design.

(d) Framing must be wood or the equivalent with a thermal break. All frame walls must be insulated to at least R19. Frame floors over an unheated airspace must be insulated to at least R30. The roof must be insulated to at least R30.

(e) Masonry foundations must be insulated with 2 inch extruded polystyrene (R10) or equivalent below grade to 42 inches or the area standard, and with 4 inch styrofoam or equivalent above grade. A vapor barrier must be used.

(f) Glazing must have an R-value greater than 1.5 with a transmittance greater than .75.

(g) The design must provide for proper circulation of the heated air to the existing living areas and for the return of cool air. If natural convection is used, vents must be placed at appropriate intervals for a balanced heat flow. Occupant-operated windows and doors are an acceptable means of providing air circulation on loans of \$15,000 and under. On all loans over \$15,000, automatic circulation is required. The circulation must provide at least 2 cubic feet of air per minute per square foot of glazing and be equipped with automatic controls.

(h) An exhaust fan or exhaust vents must be provided to protect against overheating by venting to a storage mass or to the outside. On all loans over \$15,000, this exhaust system must be automatically controlled. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030
AS 45.88.500

3 AAC .037. SOLAR HEATING UNIT STANDARDS. (a) A solar heating unit is attached to the residence and is able to be sealed off from the existing living space. It is designed and constructed to provide for collection and use of the sun's radiation. The solar heating unit must act as an air heater for the existing structure, must be isolated from the living area, and must contain no auxiliary heating system.

(b) A solar heating unit must meet the following standards to be eligible for a loan:

(1) The solar heating unit must be isolated from the living area and access may be through an exterior door. All doors on exterior walls must be thermal insulated doors;

(2) All glazed interior walls must have movable shades or shutters to insulate the glazing to at least R4. Glazing on interior walls cannot exceed 25 percent of the total interior wall area.

(3) All glazing must be within 30 degrees east or west of true south and between a tilt of 60 to 90 degrees. Glazing in the end walls or skylights in roofs will not be funded or allowed in the design. Seventy percent of the south facing wall must be glazed;

(4) Absorbers and thermal mass must be included in the unit. Thermal mass normally consists of concrete, water or phase-change materials. If the pony wall exceeds 12 inches, the storage mass on the floor will not be funded. Funding for storage mass on the floor may not exceed \$10.00 per square foot;

(5) The length of the end walls cannot exceed 12 feet;

(c) Heat loss and heat gain calculations may be required to document the solar efficiency of the proposed structure;

(d) In order to be eligible for funding, the entire project must comply with these guidelines whether or not the entire project is to be funded by this program. The items to be funded must be related to the construction and purchase of the solar heating unit and must be an integral part of the solar heating unit as an alternative heating system. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030
AS 45.88.500

3 AAC .038. SUNSPACE STANDARDS. (a) A solar sunspace is designed and constructed to collect and use the sun's radiation and is an integral part of the living area.

(b) A sunspace must meet the following standards to be eligible:

(1) Monthly heat loss and gain calculations must be performed to document the solar efficiency of the project. The calculations can be performed by an architect, engineer or other qualified individual;

(2) All glazing must be within 30 degrees east or west of true south and between a tilt of 60 to 90 degrees. Glazing in the end walls or skylights in roofs will not be funded, and the nonsouth glazing must be within a 75 percent to a 25 percent ratio;

(3) All glazing in the sunspace must be provided with movable insulation to insulate the windows to at least R5. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030
AS 45.88.500

3 AAC .039. CENTRALIZED MULTIFUEL HEATING SYSTEM GUIDELINES. (a) A multifuel heating system includes all components which are linked together to form a system; such as wiring, plumbing and ducting. Coal storage sheds, wood sheds, or any other components related to a multifuel system which are not mechanically connected to the multifuel furnace are not eligible for funding.

(b) If the labor estimate exceeds 40 percent of the total cost of a multifuel system, at least one additional estimate must be supplied to document the cost of the proposed labor.

(c) All boilers financed under this chapter must meet Alaska State Department of Labor safety standards (A.S.M.E. approved or equivalent). (Eff. / / , Reg.)

Authority: AS 45.88.020
AS 45.88.030
AS 45.88.500

3 AAC .040. FINANCIAL AND CREDIT RECORD. (a) The department will, in its discretion, consider the following factors in assessing an applicant's financial and credit record

(1) existing and prior debts;

(2) credit reports obtained from creditors and private credit reporting services;

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- (3) prior loan history with the department;
- (4) timeliness in making payments on loans and other debts;
- (5) prior bankruptcies;
- (6) existence of tax liens, unpaid judgments, and prior foreclosures; and
- (7) financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.045. ABILITY TO REPAY. The department may consider the following factors in evaluating an applicant's ability to repay a proposed loan:

- (1) income history, including present income;
- (2) prospects for future income;
- (3) assets and their liquidity; and
- (4) liabilities. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral may include a mortgage or other security instrument in real property, buildings, machinery and equipment or fixtures. To be considered acceptable collateral, personal property must be capable of being specifically identified. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.055. LENDING PRACTICES. (a) A loan for a sunspace may only include funding for items related to alternative heating systems. Items which may be funded include south-facing glazing, movable window insulation, ventilation and circulation system to transport the heated air, and building components that will make the solar system more efficient but are not conventional or considered normal construction.

(b) A borrower may not modify a structure or improvement financed under the provisions of this program in any

manner which is not in compliance with the applicable guidelines contained in 3 AAC .036 - 3 AAC .039 during the life of the loan. All modifications to a structure financed under the program must be submitted to the department for prior written approval.

(c) An applicant seeking financing for a solar heating project in conjunction with the construction of a new building must provide written confirmation that the long-term lender is not also financing the solar heating aspect of the total construction project. Loan funds will not be disbursed until the building is complete and the long-term financing has been finalized.

(d) Applicants seeking financing for a multifuel heating system in conjunction with the construction of a new building must provide written confirmation that the long-term lender is not also financing the heating system. No long funds will be disbursed until the building is complete and long-term financing for the building has been finalized.

(e) Loan funds may not be used to reimburse an applicant for costs incurred more than 6 months prior to loan approval. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC .065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

(1) a security interest in the collateral on behalf of the State has been perfected;

(2) the borrower has complied with the insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC .070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit or audits to determine whether the borrower has complied with the provisions of the loan, and conduct periodic inspection of collateral securing repayment of the loan. (Eff. / / , Register)

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Authority: AS 45.88.020

3 AAC .075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, and other direct costs. (Eff. / / , Register)

Authority: AS 45.88.020

3 AAC .080. ASSUMPTIONS. Assumption of loans will not be permitted. In the event the property containing the improvement is sold, the loan will be promptly paid in full. "Wraparound" financing which includes a loan under this chapter is prohibited and will constitute a default on the loan. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC .085. RECONSIDERATION. (a) If a loan request is denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee to be considered timely.

(b) The loan committee will reconsider a request only upon a showing by the applicant that

(1) there has been a substantial change in the circumstances leading to the loan committee's initial denial or modification; or

(2) additional relevant information can be provided to the loan committee that was not initially available. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC .090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for public inspection upon request:

(1) a document which is already a public record including deeds of trust, financing statements, limited entry permits, warranty deeds, bills of sale, marine mortgages, liens, vehicle titles and vessel documentation;

(2) general information regarding loans, including the amount of a particular loan, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) documents regarding foreclosure and default proceedings.

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(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors, and reports obtained from consumer reporting agencies;

(2) loan committee memoranda and minutes containing information relating to credit worthiness of an applicant; and

(3) payment history of a loan, unless the loan is in default.

(c) Information not described in (a) and (b) of this section may be subject to public disclosure. Requests for disclosure must be made in accordance with 6 AAC 095. On receipt of a request for disclosure, the department will promptly notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed. (Eff. / / , Register)

Authority: AS 09.110
AS 09.25.120
AS 45.88.020
Art. 1, Sec. 22
Alaska Const.

3 AAC __.300. DEFINITION OF TERMS. Unless the context requires otherwise, in this chapter

(1) "borrower" means an individual, partnership, corporation or association whose loan has been approved by a loan committee;

(2) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(3) "department" means the Department of Commerce and Economic Development; (Eff. / / , Register)

Authority: AS 45.88.020

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CHAPTER
RESIDENTIAL ENERGY CONSERVATION LOANS

Section

- 010. Application Process
- 015. Examination
- 020. Loan Committee
- 030. Loan Amounts
- 035. Eligibility
- 040. Financial and Credit Record
- 045. Ability to Repay
- 050. Collateral
- 055. Lending Practices
- 065. Disbursement of Loan Funds
- 070. Supervision of Loans
- 075. Costs
- 080. Assumptions
- 085. Reconsideration
- 090. Confidentiality of Loan Information
- 300. Definition of Terms

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3 AAC __.010. APPLICATION PROCESS. To apply for a loan for the purchase, construction and installation of an energy conservation improvement, an applicant must file with the department

(1) a completed application for an energy conservation loan on a form provided by the department;

(2) letter of intent stating the amount requested, the intended use of the proposed loan funds, and a proposed plan for repayment;

(3) a credit authorization form for each of the applicant's creditors;

(4) an employment verification form;

(5) a financial statement including a copy of the applicant's federal income tax return for the most recent year;

(6) a schedule of acceptable collateral, stating date of acquisition, cost, location, market value and existing liens. Market value must be verified by providing a copy of a tax assessment or notice. Ownership of collateral should be verified by a copy of the existing title insurance, deed for the residence, or property profile;

(7) An energy improvement payback calculation, if required under 3 AAC __.035;

(8) photographs of each side of the residence being improved; and

(9) any other information the department may require. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC __.015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC __.010, a loan request will be processed and evaluated by a loan examiner. After reviewing the materials submitted and obtained through the normal investigative process the loan examiner will evaluate the eligibility of the energy conservation improvement for a loan. The loan examiner shall also evaluate the applicant's eligibility for a loan based upon the applicant's financial and credit history, ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee. However, the recommendation of a loan examiner is not binding on a loan committee.
(Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC __.020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including the following requirements:

(1) additional collateral be pledged to secure the loan;

(2) additional guarantors be provided; and

(3) subordination of prior lien holder rights to the interests of the State.

(d) A loan committee will evaluate the eligibility of the energy conservation improvement and the applicant's financial and credit record, capacity for repayment, and the adequacy of collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application, and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Reg.)

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Authority: AS 45.89.030

3 AAC __.030. LOAN AMOUNTS. A loan may not exceed the lesser of

- (1) \$5,000; or
- (2) an amount, as determined by the actual cost of labor and materials for each category, which is documented by invoices, bids or contracts; or
- (3) an amount, as determined by an acceptable energy improvement payback calculation which is equal to the total estimated energy savings attributable to the energy conservation improvement over a ten-year period following the purchase, construction or installation of the energy conservation improvement. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC __.035. ELIGIBILITY. (a) An energy conservation improvement described in (b), (c) or (d) of this section is eligible for a loan under this chapter. An energy audit will not be required.

(b) The following conservation measures have historically shown significant energy savings and the department will generally not require an energy improvement payback calculation. However, if the department believes a conservation measure may not meet statutory requirements, it may require an energy improvement payback calculation.

(1) caulking: material used to reduce the passage of air and moisture by filling small air gaps, usually occurring in exterior walls, including sealants, putty, glazing compounds and canned spray foam;

(2) weatherstripping: material used to reduce the passage of air and moisture by placing small strips of material in or around moveable joints of windows and doors;

(3) automatic setback devices: mechanisms which are designed to reduce energy consumption by regulating a heating system through the use of:

(A) a clock or other automatic mechanism for switching from one temperature control level to another;

(B) a control device which reduces energy consumption by comparing indoor and outdoor temperatures and controlling or adjusting the heating system operating temperature; or

(C) a demand control unit consisting of a pre-programmed timer which reduces energy consumption by regulating the operational cycle of the heating system;

(4) duct/pipe insulation: insulation installed

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on hot water or heating pipes or heating ducts in an unconditioned area;

(5) water heater insulation: an insulating jacket which reduces heat loss from a hot water tank;

(6) vent damper: a device that may be installed in the flue of the central heating system which will electrically, mechanically or manually close the flue when the central heating system is not in operation;

(7) furnace replacement burner: upgrading of a furnace burner designed to achieve a reduction of the amount of fuel consumed as a result of increased combustion efficiency. The unit must be of the same fuel type as the existing burner;

(c) The following conservation measures also have historically shown significant energy savings and the department will generally not require an energy improvement payback calculation provided that these conservation measures must meet the following minimum requirements. However, the division may require an energy improvement payback calculation on any measure which it believes may not meet statutory requirements:

(1) insulation: material designed primarily to resist heat loss. This may include fiberglass batts, blown fiberglass, cellulose, styrofoam or spray foam. To be eligible, the R-value of the present insulation must be increased by at least R-7. A loan may not be made for the replacement of damaged insulation due to maintenance neglect;

(2) storm or thermal windows:

(A) a storm window is glazing material placed outside an ordinary window, creating an air space, for the purpose of providing greater resistance to heat loss than the ordinary window alone;

(B) a thermal window is a window unit with improved thermal performance by the use of two or more sheets of glazing material affixed to a window or door frame creating one or more air spaces;

(C) the overall R-value of the existing functional window unit must be increased by at least the equivalent of one sheet of glazing material by the installation of storm or thermal windows;

(3) storm or thermal doors:

(A) a storm door is a second door, installed on either side of the primary door, creating an insulating air space;

(B) a thermal door is a primary exterior door with an R-value of at least R-7;

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(C) the existing R-value must be increased by a factor of at least R-4 with the installation of a storm or thermal door;

(4) interior insulating shades: shades attached to the interior window assembly which provide an insulating level of at least R-3;

(5) insulating shutters: shutters attached to the exterior window assembly which provide an insulating level of at least R-3;

(d) The following conservation measures must have an energy improvement payback calculation acceptable to the department. The amount of the loan cannot exceed the savings, attributable to the energy conservation improvement, which could be achieved over a ten-year period:

(1) air and water heat recuperator (heat exchanger): a waste-heat recovery device which transfers heat from exhaust air or waste water to incoming fresh air or unheated water;

(2) replacement furnace or boiler: furnace or boiler which replaces an existing functional furnace or boiler of the same fuel type and which reduces the amount of fuel consumed due to increased combustion efficiency. Application for financing of a project of this type must include a flue-gas analysis;

(3) skirting: the materials enclosing the area between the ground or foundation and the base of the structure;

(4) structural changes: insulation projects which involve replacement of sheetrock, framing, siding, flooring, roofing materials, and other similar structural changes may be financed only if the loan application clearly demonstrates that this is the only practical means of installing the insulation.

(e) An energy improvement payback calculation may be performed by the applicant or other qualified individual such as a mechanical engineer or architect. The calculation must include:

(1) a description of the current physical characteristics of the building including the size, type and rate of energy consumption, along with a determination of the current yearly energy costs of the building;

(2) a detailed description and evaluation of the proposed energy improvements for which financing is being requested; and

(3) heat loss calculations which compare the existing building with the building after the proposed improvements have been made. These calculations must clearly reflect the amount of savings which would be realized over a

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10-year period after the improvements have been made. If applying for more than one improvement the calculations must show a separate 10-year savings for each conservation measure. (Eff. / / , Reg.)

Authority: AS 45.89.030
AS 45.89.500

3 AAC .040. FINANCIAL AND CREDIT RECORD. (a) The department will, in its discretion, consider the following factors in assessing an applicant's financial and credit record:

- (1) existing and prior debts;
- (2) credit reports obtained from creditors and private credit reporting services;
- (3) prior loan history with the department;
- (4) timeliness in making payments on loans and other debts;
- (5) prior bankruptcies;
- (6) existence of tax liens, unpaid judgments, and prior foreclosures; and
- (7) financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .045. ABILITY TO REPAY. The department may consider the following factors in assessing an applicant's capacity for repayment of a proposed loan:

- (1) income history, including present income;
- (2) prospects for future income;
- (3) assets and their liquidity; and
- (4) liabilities. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral may include a mortgage or other security instruments in real property, buildings, machinery, equipment or fixtures. To be considered acceptable collateral, personal property must be capable of being specifically identified. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .055. LENDING PRACTICES. (a) A loan will not be approved for refinancing long term debt. Interim or construction financing is not considered long term debt if the term is 12 months or less and the promissory note or the original agreement was executed within 12 months before receipt of the application.

(b) Loan funds may not be used to reimburse an applicant for costs incurred more than six months prior to loan approval. (Eff. / / , Register)

Authority: AS 45.89.030

3 AAC .065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

(1) a security interest in the collateral on behalf of the State has been perfected;

(2) the borrower has complied with the insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter. (Eff. / / , Register)

Authority: AS 45.89.030

3 AAC .070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit to determine whether the borrower has complied with the provisions of the loan, and conduct periodic inspection of collateral securing repayment of the loan. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, and other direct costs. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .080. ASSUMPTIONS. Assumption of loans will not be permitted. In the event a residence is sold a loan will be promptly paid in full. "Wraparound" financing which

includes a loan under this chapter is prohibited and will constitute a default on the loan. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .085. RECONSIDERATION. (a) If a loan request is denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee to be considered timely.

(b) The loan committee will reconsider a request only upon a showing by the applicant that

(1) there has been a substantial change in the circumstances leading to the loan committee's initial denial or modification; or

(2) additional relevant information can be provided to the loan committee that was not initially available.

Authority: AS 45.89.030

3 AAC .090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for public inspection upon request:

(1) a document which is already a public record including deeds of trust, financing statements, limited entry permits, deeds, bills of sale, marine mortgages, liens, vehicle titles and vessel documentation;

(2) general information regarding loans, including the amount of a particular loan, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) foreclosure and default proceedings.

(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors and reports obtained from consumer reporting agencies;

(2) loan committee memoranda and minutes containing information relating to credit worthiness of an applicant; and

(3) payment history of a loan, unless the loan is in default.

(c) Information not described in (a) and (b) of this section may be subject to public disclosure. Requests for disclosure must be made in accordance with 6 AAC 095. On

receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed.
(Eff. / / , Reg.)

Authority: AS 09.25.110
AS 09.25.120
AS 45.89.030
Art. 1, Sec. 22
Alaska Const.

3 AAC __.300. DEFINITION OF TERMS. Unless the context requires otherwise, in this chapter

(1) "borrower" means an individual, partnership, corporation or association applying for the loan;

(2) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(3) "department" means the Department of Commerce and Economic Development. (Eff. / / , Reg.)

Authority: AS 45.89.030

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CHAPTER
CHILD CARE FACILITY LOANS

Section

- 010. Application Process
- 015. Examination
- 020. Loan Committee
- 035. Eligibility
- 040. Financial and Credit Record
- 045. Ability to Repay
- 050. Collateral
- 055. Lending Practices
- 065. Disbursement of Loan Funds
- 070. Supervision of Loans
- 075. Costs
- 080. Assumptions
- 085. Reconsideration
- 090. Confidentiality of Loan Information
- 300. Definition of Terms

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3 AAC .010. APPLICATION PROCESS. To apply for a loan for the construction, renovation or equipping of a child care facility, an applicant shall file with the department

(1) a completed application for a child care facility loan on a form provided by the department;

(2) a letter of intent stating the amount requested, the intended use of the proposed loan funds and a proposed plan for repayment;

(3) a letter indicating the applicant's knowledge of child care programs and business conditions as listed in 3 AAC .035;

(4) a personal resume including three personal references;

(5) a business and credit history including complete copies of income tax returns for the preceding three years;

(6) a financial statement consisting of a balance sheet, a profit and loss statement and a statement of projected income and expenses for the following year's operating plan;

(7) a schedule of acceptable collateral, including collateral now owned and other collateral to be acquired with the loan proceeds, stating date of acquisition, cost, location, market value, and existing liens;

(8) if an applicant is applying for a loan to operate a day care facility licensed by the state or a local government, a copy of the application for the license or, if the facility has already been licensed, a copy of the license;

(9) any other information that the department may require. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC .010, a loan request will be processed and evaluated by a loan examiner. The loan examiner will evaluate the applicant's eligibility, finance and credit history, operating plan, ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee. However, the recommendation of a loan examiner is not binding on a loan committee. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including the following requirements

(1) additional collateral be pledged to secure the loan;

(2) additional guarantors be provided; and

(3) subordination of prior lien holder rights to the interests of the state.

(d) A loan committee will evaluate an applicant's eligibility for a loan, financial and credit record, capacity for repayment and operating plans, and the adequacy of collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC __.035. ELIGIBILITY. To be eligible for a child care facility loan an applicant shall demonstrate

(1) knowledge of

(A) small business management;

(B) problems encountered in caring for children, including educational, recreational, health and disciplinary needs and appropriate responses in emergencies; and

(C) fire safety, health, and safety considerations in operating a day care facility and the state and local requirements in each of these areas; and

(2) some evidence of demand for the facility.
(Eff. / / , Register)

Authority: AS 44.33.245
AS 44.33.260

3 AAC __.040. FINANCIAL AND CREDIT RECORD. (a) The department will, in its discretion, consider the following factors in assessing an applicant's financial and credit record:

(1) the applicant's existing and prior debts;

(2) credit reports obtained from creditors and private credit reporting services;

(3) prior loan history with the department;

(4) timeliness in making payments on loans and other debts;

(5) prior bankruptcies;

(6) existence of tax liens, unpaid judgments, prior foreclosures, and financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Register)

Authority: AS 44.33.245
AS 44.33.260

3 AAC __.045. ABILITY TO REPAY. The department will, in its discretion, consider the following factors in evaluating an applicant's ability to repay a proposed loan

(1) income history, including present income;

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- (2) prospects for future income;
- (3) assets and their liquidity;
- (4) liabilities;
- (5) reasonableness of projected profit and loss statement;
- (6) other business experience. (Eff. / / , Register)

Authority: AS 44.33.245
AS 44.33.260

3 AAC __.050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral includes a mortgage or other security instrument in real property, buildings, machinery, equipment and fixtures. To be considered acceptable collateral, personal property must be capable of being specifically identified. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC __.055. LENDING PRACTICES. (a) A loan will not be approved for the purchase of

- (1) undeveloped property for the construction of a child care facility;
- (2) existing child care facilities; or
- (3) vehicles.

(b) A loan will not be approved for refinancing long term debt. Interim or construction financing is not considered long term debt if the term is 12 months or less and the promissory note or the original agreement was executed less than 12 months before receipt of the application by the department.

(c) Loan funds may not be used to reimburse an applicant for costs incurred prior to loan approval.

(d) Loans will not be approved to finance facilities which do not comply with state or local licensing requirements. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC __.065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

- (1) a security interest in the collateral on behalf of the state has been perfected;

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(2) the borrower has complied with the insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter.
(Eff. / / Register)

Authority: AS 44.33.245

3 AAC .070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit or audits to determine whether the borrower has complied with the provisions of the loan and may conduct periodic inspection of collateral securing repayment of the loan. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, travel and other direct costs. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .080. ASSUMPTIONS. (a) Requests for permission to assume obligations and benefits of loans granted under this chapter shall be processed in the same manner as a loan request.

(b) A loan committee may permit an assumption if the individual seeking to assume the loan would be eligible for a new loan of the type that is sought to be assumed, the applicant is a good financial risk, and the security of the state's investment is preserved.

(c) Eligibility standards currently in effect, rather than standards in effect at the time the original loan was made will govern assumptions. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .085. RECONSIDERATION. (a) If a loan request is denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee.

(b) A loan committee will reconsider a request only upon a showing by an applicant that

(1) there has been a substantial change in the circumstances leading to the loan committee's initial denial or modification; or

(2) additional relevant information can be provided to the loan committee that was not initially available.
(Eff. / / , Register)

Authority: AS 44.33.245

3 AAC 80.090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for inspection by the public upon request:

(1) a document which is already a public record, including deeds of trust, financing statements, warranty deeds, bills of sale, mortgages, liens, and vehicle titles;

(2) general information regarding loans, including the amount of particular loans, terms of the loan, personal guarantees, and disbursement and repayment schedules;

(3) insurance matters, including title insurance policies and correspondence with insurance companies or borrowers regarding losses, accident reports, and nonpayment of premiums;

(4) documents regarding foreclosure and default proceedings.

(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors and reports obtained from consumer reporting agencies;

(2) loan committee memoranda and minutes containing information relating to credit worthiness of the applicant;

(3) the payment history of an applicant, under circumstances not constituting foreclosure or default.

(c) Information not described in (a) or (b) of this section may be subject to public disclosure. Requests for disclosure must be made and will be determined in accordance with 6 AAC 95. On receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed. The department will approve requests for disclosure of information if the public interest that would be

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served from disclosure outweighs the privacy interests of the applicant. (Eff. / / , Register)

Authority: AS 09.25.110
AS 09.25.120
AS 44.33.245
Art. 1, Sec. 22
Alaska Const.

3 AAC __.300. DEFINITION OF TERMS. Unless the context requires otherwise, in this chapter

(1) "applicant" means the individual, partnership, corporation or association applying for the loan;

(2) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(3) "department" means the Department of Commerce and Economic Development;

Authority: AS 44.33.245

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CHAPTER
HISTORICAL DISTRICT LOANS

Section

- 010. Application Process
- 015. Examination
- 020. Loan Committee
- 035. Eligibility
- 040. Financial and Credit Record
- 045. Ability to Repay
- 050. Collateral
- 055. Lending Practices
- 065. Disbursement of Loan Funds
- 070. Supervision of Loans
- 075. Costs
- 080. Assumptions
- 085. Reconsideration
- 090. Confidentiality of Loan Information
- 300. Definition of Terms

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3 AAC __.010. APPLICATION PROCESS. To apply for a loan for the restoration, improvement, rehabilitation or maintenance of an approved structure in a historical district an applicant must file with the department:

- (1) a completed application for a historical district loan on a form provided by the department;
- (2) evidence of a plan approval by a local historical district commission and recommendation by a majority of the members of the Historic Sites Advisory Committee;
- (3) a letter of intent stating the amount requested, the intended use of the proposed loan funds, and a proposed plan for repayment;
- (4) a personal resume including three personal references;
- (5) a credit history including complete copies of income tax returns for the preceding year;
- (6) a financial statement consisting of a current balance sheet, a monthly budget and a statement of projected income and expenses for the next year;
- (7) a schedule of acceptable collateral, including collateral now owned and other collateral to be acquired with the loan proceeds, stating date of acquisition, cost, location, market value and existing liens;
- (8) photographs of each side of the structure to be improved; and
- (9) any other information the department may require. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC __.010, a loan request will be processed and evaluated by a loan examiner. The loan examiner will evaluate the applicant's eligibility, financial and credit history, ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee; however the recommendation of the loan examiner is not binding on the loan committee.
(Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including

- (1) additional collateral to secure the loan;
- (2) additional guarantors;

(3) subordination of prior lien holder's rights to the interests of the state.

(d) A loan committee will evaluate the applicant's eligibility, financial and credit record, capacity for repayment and the adequacy of the collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.035. ELIGIBILITY. To be eligible for a loan, a plan must be approved by a local historical district commission and be recommended by a majority of the members of the Historic Sites Advisory Committee. A loan may be made to a person, firm, business or municipality. A structure must be within the boundaries of a historical district and it must be identified as important in state or national history or be suitable for superficial modification so that it can conform to the period or motif of the surrounding structures that are the reason for the area's designation as a historical district. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.040. FINANCIAL AND CREDIT RECORD. (a) The department may consider the following factors in assessing an applicant's financial and credit record:

- (1) existing and prior debts;
- (2) credit reports obtained from creditors and private credit reporting services;
- (3) prior loan history with the department;
- (4) timeliness in making payments on loans and other debts;
- (5) prior bankruptcies;
- (6) existence of tax liens;
- (7) unpaid judgments and prior foreclosures; and
- (8) financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Register)

Authority: AS ~~45~~ 98.020
AS 45.98.030

3 AAC __.045. ABILITY TO REPAY. The department may consider the following factors in assessing an applicant's ability to repay;

- (1) income history, including present income;
- (2) prospects for future income;
- (3) assets and their liquidity;
- (4) liabilities;
- (5) reasonableness of projected profit and loss statement;

(6) other business experience. (Eff. / / ,
Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral may include a mortgage or other security instrument in real property, buildings, machinery and equipment or fixtures. To be considered acceptable collateral, personal property must be capable of being specifically identified. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.055. LENDING PRACTICES. (a) The term of a loan secured by equipment will, in the department's discretion, be limited to eight years.

(b) An applicant may not receive loan funds for costs incurred prior to loan approval. (Eff. / / , Register)

Authority: AS 45.89.020
AS 45.89.030

3 AAC __.065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

(1) a security interest in the collateral on behalf of the state has been perfected;

(2) the borrower has complied with the insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter.
(Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit or audits to determine whether the borrower has complied with the provisions of the loan and conduct periodic inspection of any collateral securing repayment of the loan. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, and other direct costs. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.080. ASSUMPTIONS. (a) Assumption of a loan issued under this chapter is not permitted.

(b) Secondary financing of a loan issued under this chapter is not permitted.

(c) If the property on which the structure for which a loan was obtained under this chapter is sold, the borrower must immediately repay the loan in full. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.085. RECONSIDERATION. If a loan request has been denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee. A loan committee will reconsider a request only upon a showing by an applicant that

(1) there has been a substantial change in the circumstances leading to the loan committee's initial denial or modification; or

(2) additional relevant information can be provided to the loan committee that was not initially available. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for inspection by the public upon request:

(1) a document which is already a public record including deeds of trust, financing statements, warranty deeds, bills of sale, liens, and vehicle titles;

(2) general information regarding loans, including the amount of a particular loan, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) documents regarding foreclosure and default proceedings.

(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors, and reports obtained from consumer reporting agencies;

(2) loan committee memoranda and minutes containing information relating to credit worthiness of an applicant;

(3) payment history on a loan, unless the loan is in default.

(c) Information not described in (a) and (b) of this section may be subject to public disclosure. Requests for disclosure must be made and will be determined in accordance with 6 AAC 95. Upon receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request to permit them to present reasons why the requested information should not be disclosed. (Eff. / / , Register)

Authority: AS 09.25.110
AS 09.25.120
AS 45.98.030
Art. 1, Sec. 22
Alaska Const.

3 AAC .300. DEFINITION OF TERMS. Unless the context requires otherwise, in this chapter

(1) "borrower" means an individual, firm, business or municipality whose loan has been approved by a loan committee;

(2) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(3) "department" means the Department of Commerce and Economic Development;

Authority: AS 45.98.020
AS 45.98.030

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CHAPTER 80
COMMERCIAL FISHING LOANS

Section

- 010. Application Process
- 015. Examination
- 020. Loan Committee
- 030. Residency Requirements
- 035. Eligibility
- 040. Financial and Credit Record
- 045. Ability to Repay
- 050. Collateral
- 055. Lending Practices
- 065. Disbursement of Loan Funds
- 070. Supervision of Loans
- 075. Costs
- 080. Assumptions
- 085. Reconsideration
- 090. Confidentiality of Loan Information
- 900. Definition of Terms

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3 AAC 80.010. APPLICATION PROCESS. (a) To apply for a loan for the purchase of a limited entry permit, gear, or vessel, an applicant must file with the department

(1) a completed application for a commercial fishing loan on a form provided by the department;

(2) a completed residency questionnaire on a form provided by the department;

(3) a letter of intent stating the amount requested, the intended use of the proposed loan funds, and a proposed plan for repayment;

(4) copies of the purchase agreement or vendors' cost estimates and down-payment receipt;

(5) a commercial fishing resume identifying all permits and licenses held by the applicant, summarizing the applicant's experience as a commercial fisherman in Alaska, and identifying the actual number of days fished for each year;

(6) a business and credit history including complete copies of income tax returns for the preceding three years or for other years as may be requested by the department to document eligibility;

(7) a financial statement consisting of a current balance sheet, a profit and loss statement and a statement of projected income and expenses for the following year's operating plan;

(8) a schedule of acceptable collateral, including collateral now owned and other collateral to be acquired with the loan proceeds, stating date of acquisition, cost, location, market value and existing liens;

(9) if a vessel is used for collateral, a current marine survey acceptable to the department including pictures of the vessel; and

(10) any other information as the department may require.

(b) If a vessel is offered as collateral for a loan, the department or its designee shall be permitted to inspect the vessel or vessel construction project prior to making the loan. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC 80.010, a loan request will be processed and evaluated by a loan examiner. The loan examiner will evaluate the applicant's eligibility, financial and credit history, operating plan and ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee. However, the recommendation of a loan examiner is not binding on a loan committee. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including the following requirements:

(1) additional collateral be pledged to secure the loan;

(2) additional guarantors be provided; and

(3) subordination of prior lien holder's rights to the interests of the State.

(d) A loan committee will evaluate an applicant's eligibility for a loan, financial and credit record, and capacity for repayment and operating plans, and the adequacy of collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application, and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.030. RESIDENCY REQUIREMENTS. (a) In determining if an applicant fulfills the two year residency requirements under AS 16.10.310, the loan committee may consider the following factors:

- (1) where the applicant is registered to vote;
- (2) where the applicant maintains a permanent place of abode;
- (3) where the applicant files tax returns, and the address that is listed on the returns;
- (4) where the applicant registers or licenses personal property, including but not limited to cars, boats, trucks and trailers;
- (5) where the applicant is licensed to drive; and
- (6) where the applicant maintains bank accounts, savings accounts, lines of credit and other financial relationships.

(b) Periods of absence from the state will not negate establishment of residency unless, during the absence, the individual establishes or claims residency in another state or performs other acts inconsistent with residency in Alaska.

(c) If two or more individuals apply jointly or as a partnership or corporation, all parties to the application must establish residency. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.035. ELIGIBILITY. (a) In determining whether an applicant has "actively participated in the fishery" under AS 16.10.310(a)(1)(A) or 16.10.310(a)(1)(C), the department may consider any or all of the following factors for each of the years claimed by the applicant:

- (1) the gross income earned by the applicant

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while engaged in commercial fishing in limited entry fisheries; and

(2) the time an applicant commercially fished during openings of limited entry fisheries.

(b) For purposes of eligibility, an applicant must establish one of the following circumstances for each year claimed:

(1) that 30 percent or more of the applicant's total gross income has been derived from commercial fishing in limited entry fisheries;

(2) that 10 percent or more of the applicant's total gross income has been derived from commercial fishing in limited entry fisheries and the applicant engaged in commercial fishing in these fisheries for twenty-five or more days; or

(3) that 10 percent or more of the applicant's total gross income has been derived from commercial fishing in limited entry fisheries and the applicant engaged in commercial fishing in a particular limited entry fishery for 80 percent or more of the total number of days that the particular fishery was open for commercial fishing. For purposes of this paragraph, "particular limited entry fishery" refers to gear type and fishing area.

(c) The department may rely on the following documents to verify that an applicant has actively participated in the fishery:

(1) tax returns;

(2) verified affidavits from the applicant and others certifying the applicant's experience;

(3) fishing and gear licenses;

(4) commercial fish tickets;

(5) wage receipts; and

(6) cannery statements.

(d) An applicant for a loan under AS 16.10.310(a)(1)(B)(i) must establish that either:

(1) commercial fishing represents the largest single employer in the area that the applicant resides; or

(2) the applicant does not have training sufficient to qualify for other employment opportunities in the area.

(e) An applicant for a loan under AS 16.10.310(a)(1)(B)(ii) must establish that he fulfills all requirements of this clause. In this clause, "economically

dependent on commercial fishing for a livelihood" means that a majority of the applicant's gross income during the previous two years was derived from commercial fishing.

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.040. FINANCIAL AND CREDIT RECORD. (a) The department will, in its discretion, consider the following factors in assessing an applicant's financial and credit record:

- (1) existing and prior debts;
- (2) credit reports obtained from creditors and private credit reporting services;
- (3) prior loan history with the department;
- (4) timeliness in making payments on loans and other debts;
- (5) prior bankruptcies;
- (6) existence of tax liens, unpaid judgments, and prior foreclosures; and
- (7) the applicant's financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.045. ABILITY TO REPAY. (a) The department may consider the following factors in evaluating an applicant's ability to repay a proposed loan:

- (1) income history, including present income;
- (2) prospects for future income;
- (3) assets and their liquidity;
- (4) liabilities;
- (5) reasonableness of projected profit and loss statement; and
- (6) other business experience.

(b) The department may compare revenue projections contained in an applicant's profit and loss statement with information it may acquire through its own efforts or from the Department of Fish and Game, the Commercial Fisheries Entry Commission or the Alaska Commercial Fishing and Agri-

culture Bank on the success of other fishermen in similar circumstances to determine the reasonableness of the applicant's projections. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

3 AAC 80.050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral may include a mortgage or other security instrument in real property, buildings, machinery and equipment, fixtures, limited entry permits or commercial fishing vessels with gear and appurtenances.

(c) To be considered acceptable collateral, personal property must be capable of being specifically identified. A vessel that can be documented must be documented to be acceptable collateral.

(d) Loans for the purchase of limited entry permits will be made only if the permit is placed in the name of the applicant and the permit is offered as security for the loan. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.320
AS 16.10.339

3 AAC 80.055. LENDING PRACTICES. (a) If loan funds are limited, applications for loans to purchase entry permits will receive priority over applications for the purchase of vessels and gear.

(b) Applications for loans to purchase entry permits, gear and vessels under AS 16.10.310 (a)(1)(B) and for gear and vessels under AS 16.10.310(a)(1)(C) will be approved only if alternative sources of financing are not available to the applicant. An applicant for a loan under AS 16.10.310(a)(1)(B) will not be considered ineligible for a loan because the applicant can provide a guarantor for the loan.

(c) A loan will not be approved if it would allow an applicant to:

(1) speculate in the acquisition and sale of limited entry permits, vessels, or gear;

(2) lease out a commercial fishing vessel or limited entry permit; or

(3) purchase a commercial fishing vessel, gear or limited entry permit that will not be put to use in the fishing season immediately following the date of the application.

(d) A loan will not be approved for refinancing long term debt. Interim or construction financing is not con-

sidered long term debt if the term is 12 months or less and the promissory note or the original agreement was executed less than 12 months before receipt of the application by the department.

(e) In determining the maximum loan amount that may be approved for the purchase of a limited entry permit, the department will rely on the value established by the Alaska Commercial Fisheries Entry Commission or other appropriate sources as determined by the department.

(f) A loan for the purchase of a limited entry permit will not be approved if an applicant holds another permit currently financed by the state and active participation in the two limited entry fisheries would be mutually exclusive.

(g) A loan for the purchase of a limited entry permit under AS 16.10.310(a)(1)(A) will not be approved if the applicant has pending an application for a loan under AS 16.10.310(a)(1)(B).

(h) A loan for the purchase of a vessel for use in a limited entry fishery will not be approved unless the applicant holds a limited entry permit for that fishery.
(Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.320
AS 16.10.325
AS 16.10.339

3 AAC 80.065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

(1) a security interest in the collateral on behalf of the State has been perfected, except that in the case of a mortgage on a documented vessel this requirement shall be satisfied by the establishment of the mortgage as a preferred mortgage pursuant to the provisions of the Ship Mortgage Act of 1920, (46 USC §§911-984);

(2) the borrower has complied with the marine insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter.
(Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.320

3 AAC 80.070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss

statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit or audits to determine whether the borrower has complied with the provisions of the loan and conduct periodic inspection of collateral securing repayment of the loan. If a vessel is used as collateral, a current marine survey must be supplied to the department at the borrower's expense upon request by the department.
(Eff. / / , Reg.)

Authority: AS 16.10.310

3 AAC 80.075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, out-of-state travel and other direct costs. (Eff. / / , Reg.)

Authority: AS 16.10.310

3 AAC 80.080. ASSUMPTIONS. (a) Requests for permission to assume obligations and benefits of loans granted under AS 16.10.300-16.10.370 will be processed in the same manner as a loan request.

(b) A loan committee may permit an assumption if the individual seeking to assume the loan would be eligible for a new loan of the type that is sought to be assumed, the applicant is a good financial risk, and the security of the state's investment is preserved.

(c) Eligibility standards currently in effect, rather than standards in effect at the time the original loan was made, will govern assumptions. (Eff. / / , Reg.)

Authority: AS 16.10.310

3 AAC 80.085. RECONSIDERATION. (a) If a loan request is denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee.

(b) The loan committee will reconsider a request only upon a showing by the applicant that

(1) there has been a substantial change in the circumstances; or

(2) additional relevant information can be provided to the loan committee that was not initially available. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.339

(8)

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3 AAC 80.090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for public inspection upon request:

(1) a document which is already a public record including deeds of trust, financing statements, limited entry permits, warranty deeds, bills of sale, marine mortgages, liens, vehicle titles and vessel documentation;

(2) general information regarding loans, including the amount of a particular loan, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) documents regarding foreclosure and default proceedings.

(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors, reports obtained from consumer reporting agencies, cannery statements, and commercial fishing pink slips (fish tickets);

(2) loan committee memoranda and minutes containing information relating to credit worthiness of an applicant; and

(3) payment history on a loan, unless the loan is in default.

(c) Information not described in (a) and (b) of this section may be subject to public disclosure. Requests for disclosure must be made and will be determined in accordance with 6 AAC 095. On receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed. (Eff. / / , Reg.)

Authority: AS 09.25.110
AS 09.25.120
AS 16.10.310
Art. 1, Sec. 22
Alaska Const.

3 AAC 80.900. DEFINITION OF TERMS. Unless the context requires otherwise in this chapter

(1) "applicant" means the individual, partnership, corporation or association applying for a loan;

(2) "commercial fishing" means the actual catching of fish, shellfish, crabs or other fishery resources with the intent of disposing of those resources for profit by sale in commercial channels. For purposes of

this definition, "actual catching" means having gear in the water with the intent to catch fish;

(3) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(4) "debtor" means an individual commercial fisherman who initially contracts for a loan, assumes a loan, or guarantees or co-signs a loan under AS 16.10.330 - AS 16.10.337.

(5) "default" means a violation of any terms of the loan document, or the failure to make the necessary payment within fifteen (15) days of when it is due, or the failure to maintain the insurance required by the Department of Commerce and Economic Development.

(6) "department" means the Department of Commerce and Economic Development;

(7) "documented vessel" means a vessel permanently or temporarily registered, or enrolled or licensed under the laws of the United States;

(8) "extension package" means such forms as the department may require in order to make a decision on an extension request. (Eff. / / , Reg.)

(9) "limited entry fishery" or "limited entry fisheries" means those fisheries requiring that a participant hold a permanent entry permit;

(10) "residency" means, in the case of an individual, physical presence in Alaska with the intent to remain indefinitely and make a home in the state. (Eff. / / , Reg.)

Authority: AS 16.10.310
AS 16.10.335
AS 16.10.339

Editor's Note: Former 3 AAC 80.0103 AAC 80.100 were repealed by the Department of Commerce and Economic Development on / /84, Register , and the substance of the regulation was reorganized and renumbered. The numbering and the organization of the material in 3 AAC 80.010 - 3 AAC 80.100 bears no resemblance to the numbering and organization of that material before / /84. Therefore, the history notes for 3 AAC 80.010 - 3 AAC 80.900 do not reflect the history of those sections before / /84.

CHAPTER
ALTERNATIVE ENERGY LOANS

Section

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- 015. Examination
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- 036. Solar Loan Guidelines
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3 AAC .010. APPLICATION PROCESS. To apply for a loan for the purchase, construction and installation of an alternative energy system an applicant must file with the department

(1) a completed application for an alternative energy loan on a form provided by the department;

(2) a letter of intent stating the amount requested, the intended use of the proposed loan funds, and a proposed plan for repayment;

(3) a credit authorization form for each of the applicant's creditors;

(4) an employment verification form;

(5) a financial statement including a copy of the applicant's federal income tax return for the most recent year;

(6) a schedule of acceptable collateral, stating date of acquisition, cost, location, market value and existing liens. Market value must be verified by providing a copy of a tax assessment or notice. Ownership of collateral should be verified by a copy of the existing title insurance, deed for the residence, or property profile;

(7) photographs of the proposed collateral; and

(8) any other information the department may require. (Eff. / / , Register)

Authority: AS 45.88.020

3 AAC __.015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC __.010, a loan request will be processed and evaluated by a loan examiner. After reviewing the materials submitted and obtained through the normal investigative process the loan examiner will evaluate the eligibility of the proposed system for a loan. The loan examiner shall also evaluate the applicant's eligibility for a loan based upon financial and credit history, ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee. However, the recommendation of a loan examiner is not binding on a loan committee.
(Eff. / / , Register)

Authority: AS 45.88.020

3 AAC __.020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including the following requirements:

(1) additional collateral be pledged to secure the loan;

(2) additional guarantors be provided;

(3) subordination of prior lien holder's rights to the interests of the State.

(d) A loan committee will evaluate the eligibility of the proposed system and the applicant's financial and credit record, capacity for repayment, and the adequacy of collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application, and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Register)

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Authority: AS 45.88.020
AS 45.88.030

3 AAC __.035. ELIGIBILITY. To be eligible for a loan, an applicant must seek to purchase, construct, or install an alternative energy system or centralized multifuel system, as those terms are defined in AS 45.88.500. A loan request for solar heating units and sunspaces must also meet the guidelines contained in 3 AAC __.036, 3 AAC __.037 and 3 AAC __.038. A loan request for centralized multifuel heating systems must meet the guidelines contained in 3 AAC __.039.

Authority: AS 45.88.020

3 AAC __.036. SOLAR LOAN GUIDELINES. (a) All solar heating units and sunspaces must meet the following minimum standards. Solar heating units must also meet the minimum standards in 3 AAC __.037. Sunspaces must also meet the minimum standards in 3 AAC __.038.

(b) The design or item funded must be primarily intended as an alternative energy source and must emphasize energy performance over aesthetics.

(c) Site pictures, drawings, as-built surveys and documentation of solar access showing a prime solar fraction of at least 70 percent or more must be provided. Solar access can be measured by using a Lewis Solar Site Selector, a Solar Pathfinder or by other appropriate instruments approved by the department and must be accompanied by corresponding pictures. Roof overhangs and pony wall-like obstructions must be considered in the efficiency of the design.

(d) Framing must be wood or the equivalent with a thermal break. All frame walls must be insulated to at least R19. Frame floors over an unheated airspace must be insulated to at least R30. The roof must be insulated to at least R30.

(e) Masonry foundations must be insulated with 2 inch extruded polystyrene (R10) or equivalent below grade to 42 inches or the area standard, and with 4 inch styrofoam or equivalent above grade. A vapor barrier must be used.

(f) Glazing must have an R-value greater than 1.5 with a transmittance greater than .75.

(g) The design must provide for proper circulation of the heated air to the existing living areas and for the return of cool air. If natural convection is used, vents must be placed at appropriate intervals for a balanced heat flow. Occupant-operated windows and doors are an acceptable means of providing air circulation on loans of \$15,000 and under. On all loans over \$15,000, automatic circulation is required. The circulation must provide at least 2 cubic feet of air per minute per square foot of glazing and be equipped with automatic controls.

(h) An exhaust fan or exhaust vents must be provided to protect against overheating by venting to a storage mass or to the outside. On all loans over \$15,000, this exhaust system must be automatically controlled.. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030
AS 45.88.500

3 AAC .037. SOLAR HEATING UNIT STANDARDS. (a) A solar heating unit is attached to the residence and is able to be sealed off from the existing living space. It is designed and constructed to provide for collection and use of the sun's radiation. The solar heating unit must act as an air heater for the existing structure, must be isolated from the living area, and must contain no auxiliary heating system.

(b) A solar heating unit must meet the following standards to be eligible for a loan:

(1) The solar heating unit must be isolated from the living area and access may be through an exterior door. All doors on exterior walls must be thermal insulated doors;

(2) All glazed interior walls must have movable shades or shutters to insulate the glazing to at least R4. Glazing on interior walls cannot exceed 25 percent of the total interior wall area.

(3) All glazing must be within 30 degrees east or west of true south and between a tilt of 60 to 90 degrees. Glazing in the end walls or skylights in roofs will not be funded or allowed in the design. Seventy percent of the south facing wall must be glazed;

(4) Absorbers and thermal mass must be included in the unit. Thermal mass normally consists of concrete, water or phase-change materials. If the pony wall exceeds 12 inches, the storage mass on the floor will not be funded. Funding for storage mass on the floor may not exceed \$10.00 per square foot;

(5) The length of the end walls cannot exceed 12 feet;

(c) Heat loss and heat gain calculations may be required to document the solar efficiency of the proposed structure;

(d) In order to be eligible for funding, the entire project must comply with these guidelines whether or not the entire project is to be funded by this program. The items to be funded must be related to the construction and purchase of the solar heating unit and must be an integral part of the solar heating unit as an alternative heating system. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030
AS 45.88.500

3 AAC .038. SUNSPACE STANDARDS. (a) A solar sunspace is designed and constructed to collect and use the sun's radiation and is an integral part of the living area.

(b) A sunspace must meet the following standards to be eligible:

(1) Monthly heat loss and gain calculations must be performed to document the solar efficiency of the project. The calculations can be performed by an architect, engineer or other qualified individual;

(2) All glazing must be within 30 degrees east or west of true south and between a tilt of 60 to 90 degrees. Glazing in the end walls or skylights in roofs will not be funded, and the nonsouth glazing must be within a 75 percent to a 25 percent ratio;

(3) All glazing in the sunspace must be provided with movable insulation to insulate the windows to at least R5. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030
AS 45.88.500

3 AAC .039. CENTRALIZED MULTIFUEL HEATING SYSTEM GUIDELINES. (a) A multifuel heating system includes all components which are linked together to form a system; such as wiring, plumbing and ducting. Coal storage sheds, wood sheds, or any other components related to a multifuel system which are not mechanically connected to the multifuel furnace are not eligible for funding.

(b) If the labor estimate exceeds 40 percent of the total cost of a multifuel system, at least one additional estimate must be supplied to document the cost of the proposed labor.

(c) All boilers financed under this chapter must meet Alaska State Department of Labor safety standards (A.S.M.E. approved or equivalent). (Eff. / / , Reg.)

Authority: AS 45.88.020
AS 45.88.030
AS 45.88.500

3 AAC .040. FINANCIAL AND CREDIT RECORD. (a) The department will, in its discretion, consider the following factors in assessing an applicant's financial and credit record

(1) existing and prior debts;

(2) credit reports obtained from creditors and private credit reporting services;

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- (3) prior loan history with the department;
- (4) timeliness in making payments on loans and other debts;
- (5) prior bankruptcies;
- (6) existence of tax liens, unpaid judgments, and prior foreclosures; and
- (7) financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.045. ABILITY TO REPAY. The department may consider the following factors in evaluating an applicant's ability to repay a proposed loan:

- (1) income history, including present income;
- (2) prospects for future income;
- (3) assets and their liquidity; and
- (4) liabilities. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral may include a mortgage or other security instrument in real property, buildings, machinery and equipment or fixtures. To be considered acceptable collateral, personal property must be capable of being specifically identified. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.055. LENDING PRACTICES. (a) A loan for a sunspace may only include funding for items related to alternative heating systems. Items which may be funded include south-facing glazing, movable window insulation, ventilation and circulation system to transport the heated air, and building components that will make the solar system more efficient but are not conventional or considered normal construction.

(b) A borrower may not modify a structure or improvement financed under the provisions of this program in any

manner which is not in compliance with the applicable guidelines contained in 3 AAC __.036 - 3 AAC __.039 during the life of the loan. All modifications to a structure financed under the program must be submitted to the department for prior written approval.

(c) An applicant seeking financing for a solar heating project in conjunction with the construction of a new building must provide written confirmation that the long-term lender is not also financing the solar heating aspect of the total construction project. Loan funds will not be disbursed until the building is complete and the long-term financing has been finalized.

(d) Applicants seeking financing for a multifuel heating system in conjunction with the construction of a new building must provide written confirmation that the long-term lender is not also financing the heating system. No long funds will be disbursed until the building is complete and long-term financing for the building has been finalized.

(e) Loan funds may not be used to reimburse an applicant for costs incurred more than 6 months prior to loan approval. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

(1) a security interest in the collateral on behalf of the State has been perfected;

(2) the borrower has complied with the insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit or audits to determine whether the borrower has complied with the provisions of the loan, and conduct periodic inspection of collateral securing repayment of the loan. (Eff. / / , Register)

Authority: AS 45.88.020

3 AAC __.075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, and other direct costs. (Eff. / / , Register)

Authority: AS 45.88.020

3 AAC __.080. ASSUMPTIONS. Assumption of loans will not be permitted. In the event the property containing the improvement is sold, the loan will be promptly paid in full. "Wraparound" financing which includes a loan under this chapter is prohibited and will constitute a default on the loan. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.085. RECONSIDERATION. (a) If a loan request is denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee to be considered timely.

(b) The loan committee will reconsider a request only upon a showing by the applicant that

(1) there has been a substantial change in the circumstances leading to the loan committee's initial denial or modification; or

(2) additional relevant information can be provided to the loan committee that was not initially available. (Eff. / / , Register)

Authority: AS 45.88.020
AS 45.88.030

3 AAC __.090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for public inspection upon request:

(1) a document which is already a public record including deeds of trust, financing statements, limited entry permits, warranty deeds, bills of sale, marine mortgages, liens, vehicle titles and vessel documentation;

(2) general information regarding loans, including the amount of a particular loan, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) documents regarding foreclosure and default proceedings.

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(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors, and reports obtained from consumer reporting agencies;

(2) loan committee memoranda and minutes containing information relating to credit worthiness of an applicant; and

(3) payment history of a loan, unless the loan is in default.

(c) Information not described in (a) and (b) of this section may be subject to public disclosure. Requests for disclosure must be made in accordance with 6 AAC 095. On receipt of a request for disclosure, the department will promptly notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed. (Eff. / / , Register)

Authority: AS 09.25.110
AS 09.25.120
AS 45.88.020
Art. 1, Sec. 22
Alaska Const.

3 AAC __.300. DEFINITION OF TERMS. Unless the context requires otherwise, in this chapter

(1) "borrower" means an individual, partnership, corporation or association whose loan has been approved by a loan committee;

(2) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(3) "department" means the Department of Commerce and Economic Development; (Eff. / / , Register)

Authority: AS 45.88.020

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CHAPTER
RESIDENTIAL ENERGY CONSERVATION LOANS

Section

- 010. Application Process
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- 070. Supervision of Loans
- 075. Costs
- 080. Assumptions
- 085. Reconsideration
- 090. Confidentiality of Loan Information
- 300. Definition of Terms

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3 AAC __.010. APPLICATION PROCESS. To apply for a loan for the purchase, construction and installation of an energy conservation improvement, an applicant must file with the department

(1) a completed application for an energy conservation loan on a form provided by the department;

(2) letter of intent stating the amount requested, the intended use of the proposed loan funds, and a proposed plan for repayment;

(3) a credit authorization form for each of the applicant's creditors;

(4) an employment verification form;

(5) a financial statement including a copy of the applicant's federal income tax return for the most recent year;

(6) a schedule of acceptable collateral, stating date of acquisition, cost, location, market value and existing liens. Market value must be verified by providing a copy of a tax assessment or notice. Ownership of collateral should be verified by a copy of the existing title insurance, deed for the residence, or property profile;

(7) An energy improvement payback calculation, if required under 3 AAC __.035;

(8) photographs of each side of the residence being improved; and

(9) any other information the department may require. (Eff. / / , Reg.)

Authority: AC 45.89.030

3 AAC .015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC .010, a loan request will be processed and evaluated by a loan examiner. After reviewing the materials submitted and obtained through the normal investigative process the loan examiner will evaluate the eligibility of the energy conservation improvement for a loan. The loan examiner shall also evaluate the applicant's eligibility for a loan based upon the applicant's financial and credit history, ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee. However, the recommendation of a loan examiner is not binding on a loan committee.
(Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including the following requirements:

(1) additional collateral be pledged to secure the loan;

(2) additional guarantors be provided; and

(3) subordination of prior lien holder rights to the interests of the State.

(d) A loan committee will evaluate the eligibility of the energy conservation improvement and the applicant's financial and credit record, capacity for repayment, and the adequacy of collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application, and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Reg.)

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Authority: AS 45.89.030

3 AAC .030. LOAN AMOUNTS. A loan may not exceed the lesser of

- (1) \$5,000; or
- (2) an amount, as determined by the actual cost of labor and materials for each category, which is documented by invoices, bids or contracts; or
- (3) an amount, as determined by an acceptable energy improvement payback calculation which is equal to the total estimated energy savings attributable to the energy conservation improvement over a ten-year period following the purchase, construction or installation of the energy conservation improvement. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .035. ELIGIBILITY. (a) An energy conservation improvement described in (b), (c) or (d) of this section is eligible for a loan under this chapter. An energy audit will not be required.

(b) The following conservation measures have historically shown significant energy savings and the department will generally not require an energy improvement payback calculation. However, if the department believes a conservation measure may not meet statutory requirements, it may require an energy improvement payback calculation.

(1) caulking: material used to reduce the passage of air and moisture by filling small air gaps, usually occurring in exterior walls, including sealants, putty, glazing compounds and canned spray foam;

(2) weatherstripping: material used to reduce the passage of air and moisture by placing small strips of material in or around moveable joints of windows and doors;

(3) automatic setback devices: mechanisms which are designed to reduce energy consumption by regulating a heating system through the use of:

(A) a clock or other automatic mechanism for switching from one temperature control level to another;

(B) a control device which reduces energy consumption by comparing indoor and outdoor temperatures and controlling or adjusting the heating system operating temperature; or

(C) a demand control unit consisting of a pre-programmed timer which reduces energy consumption by regulating the operational cycle of the heating system;

(4) duct/pipe insulation: insulation installed

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on hot water or heating pipes or heating ducts in an unconditioned area;

(5) water heater insulation: an insulating jacket which reduces heat loss from a hot water tank;

(6) vent damper: a device that may be installed in the flue of the central heating system which will electrically, mechanically or manually close the flue when the central heating system is not in operation;

(7) furnace replacement burner: upgrading of a furnace burner designed to achieve a reduction of the amount of fuel consumed as a result of increased combustion efficiency. The unit must be of the same fuel type as the existing burner;

(c) The following conservation measures also have historically shown significant energy savings and the department will generally not require an energy improvement payback calculation provided that these conservation measures must meet the following minimum requirements. However, the division may require an energy improvement payback calculation on any measure which it believes may not meet statutory requirements:

(1) insulation: material designed primarily to resist heat loss. This may include fiberglass batts, blown fiberglass, cellulose, styrofoam or spray foam. To be eligible, the R-value of the present insulation must be increased by at least R-7. A loan may not be made for the replacement of damaged insulation due to maintenance neglect;

(2) storm or thermal windows:

(A) a storm window is glazing material placed outside an ordinary window, creating an air space, for the purpose of providing greater resistance to heat loss than the ordinary window alone;

(B) a thermal window is a window unit with improved thermal performance by the use of two or more sheets of glazing material affixed to a window or door frame creating one or more air spaces;

(C) the overall R-value of the existing functional window unit must be increased by at least the equivalent of one sheet of glazing material by the installation of storm or thermal windows;

(3) storm or thermal doors:

(A) a storm door is a second door, installed on either side of the primary door, creating an insulating air space;

(B) a thermal door is a primary exterior door with an R-value of at least R-7;

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(C) the existing R-value must be increased by a factor of at least R-4 with the installation of a storm or thermal door;

(4) interior insulating shades: shades attached to the interior window assembly which provide an insulating level of at least R-3;

(5) insulating shutters: shutters attached to the exterior window assembly which provide an insulating level of at least R-3;

(d) The following conservation measures must have an energy improvement payback calculation acceptable to the department. The amount of the loan cannot exceed the savings, attributable to the energy conservation improvement, which could be achieved over a ten-year period:

(1) air and water heat recuperator (heat exchanger): a waste-heat recovery device which transfers heat from exhaust air or waste water to incoming fresh air or unheated water;

(2) replacement furnace or boiler: furnace or boiler which replaces an existing functional furnace or boiler of the same fuel type and which reduces the amount of fuel consumed due to increased combustion efficiency. Application for financing of a project of this type must include a flue-gas analysis;

(3) skirting: the materials enclosing the area between the ground or foundation and the base of the structure;

(4) structural changes: insulation projects which involve replacement of sheetrock, framing, siding, flooring, roofing materials, and other similar structural changes may be financed only if the loan application clearly demonstrates that this is the only practical means of installing the insulation.

(e) An energy improvement payback calculation may be performed by the applicant or other qualified individual such as a mechanical engineer or architect. The calculation must include:

(1) a description of the current physical characteristics of the building including the size, type and rate of energy consumption, along with a determination of the current yearly energy costs of the building;

(2) a detailed description and evaluation of the proposed energy improvements for which financing is being requested; and

(3) heat loss calculations which compare the existing building with the building after the proposed improvements have been made. These calculations must clearly reflect the amount of savings which would be realized over a

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10-year period after the improvements have been made. If applying for more than one improvement the calculations must show a separate 10-year savings for each conservation measure. (Eff. / / , Reg.)

Authority: AS 45.89.030
AS 45.89.500

3 AAC .040. FINANCIAL AND CREDIT RECORD. (a) The department will, in its discretion, consider the following factors in assessing an applicant's financial and credit record:

- (1) existing and prior debts;
- (2) credit reports obtained from creditors and private credit reporting services;
- (3) prior loan history with the department;
- (4) timeliness in making payments on loans and other debts;
- (5) prior bankruptcies;
- (6) existence of tax liens, unpaid judgments, and prior foreclosures; and
- (7) financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .045. ABILITY TO REPAY. The department may consider the following factors in assessing an applicant's capacity for repayment of a proposed loan:

- (1) income history, including present income;
- (2) prospects for future income;
- (3) assets and their liquidity; and
- (4) liabilities. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral may include a mortgage or other security instruments in real property, buildings, machinery, equipment or fixtures. To be considered acceptable collateral, personal property must be capable of being specifically identified. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC __.055. LENDING PRACTICES. (a) A loan will not be approved for refinancing long term debt. Interim or construction financing is not considered long term debt if the term is 12 months or less and the promissory note or the original agreement was executed within 12 months before receipt of the application.

(b) Loan funds may not be used to reimburse an applicant for costs incurred more than six months prior to loan approval. (Eff. / / , Register)

Authority: AS 45.89.030

3 AAC __.065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

(1) a security interest in the collateral on behalf of the State has been perfected;

(2) the borrower has complied with the insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter. (Eff. / / , Register)

Authority: AS 45.89.030

3 AAC __.070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit to determine whether the borrower has complied with the provisions of the loan, and conduct periodic inspection of collateral securing repayment of the loan. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC __.075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, and other direct costs. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC __.080. ASSUMPTIONS. Assumption of loans will not be permitted. In the event a residence is sold a loan will be promptly paid in full. "Wraparound" financing which

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includes a loan under this chapter is prohibited and will constitute a default on the loan. (Eff. / / , Reg.)

Authority: AS 45.89.030

3 AAC .085. RECONSIDERATION. (a) If a loan request is denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee to be considered timely.

(b) The loan committee will reconsider a request only upon a showing by the applicant that

(1) there has been a substantial change in the circumstances leading to the loan committee's initial denial or modification; or

(2) additional relevant information can be provided to the loan committee that was not initially available.

Authority: AS 45.89.030

3 AAC .090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for public inspection upon request:

(1) a document which is already a public record including deeds of trust, financing statements, limited entry permits, deeds, bills of sale, marine mortgages, liens, vehicle titles and vessel documentation;

(2) general information regarding loans, including the amount of a particular loan, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) foreclosure and default proceedings.

(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors and reports obtained from consumer reporting agencies;

(2) loan committee memoranda and minutes containing information relating to credit worthiness of an applicant; and

(3) payment history of a loan, unless the loan is in default.

(c) Information not described in (a) and (b) of this section may be subject to public disclosure. Requests for disclosure must be made in accordance with 6 AAC 095. On

receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed.
(Eff. / / , Reg.)

Authority: AS 09.25.110
AS 09.25.120
AS 45.89.030
Art. 1, Sec. 22
Alaska Const.

3 AAC __.300. DEFINITION OF TERMS. Unless the context requires otherwise, in this chapter

(1) "borrower" means an individual, partnership, corporation or association applying for the loan;

(2) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(3) "department" means the Department of Commerce and Economic Development. (Eff. / / , Reg.)

Authority: AS 45.89.030

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CHAPTER
CHILD CARE FACILITY LOANS

Section

- 010. Application Process
- 015. Examination
- 020. Loan Committee
- 035. Eligibility
- 040. Financial and Credit Record
- 045. Ability to Repay
- 050. Collateral
- 055. Lending Practices
- 065. Disbursement of Loan Funds
- 070. Supervision of Loans
- 075. Costs
- 080. Assumptions
- 085. Reconsideration
- 090. Confidentiality of Loan Information
- 300. Definition of Terms

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3 AAC .010. APPLICATION PROCESS. To apply for a loan for the construction, renovation or equipping of a child care facility, an applicant shall file with the department

(1) a completed application for a child care facility loan on a form provided by the department;

(2) a letter of intent stating the amount requested, the intended use of the proposed loan funds and a proposed plan for repayment;

(3) a letter indicating the applicant's knowledge of child care programs and business conditions as listed in 3 AAC .035;

(4) a personal resume including three personal references;

(5) a business and credit history including complete copies of income tax returns for the preceding three years;

(6) a financial statement consisting of a balance sheet, a profit and loss statement and a statement of projected income and expenses for the following year's operating plan;

(7) a schedule of acceptable collateral, including collateral now owned and other collateral to be acquired with the loan proceeds, stating date of acquisition, cost, location, market value, and existing liens;

(8) if an applicant is applying for a loan to operate a day care facility licensed by the state or a local government, a copy of the application for the license or, if the facility has already been licensed, a copy of the license;

(9) any other information that the department may require. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC .010, a loan request will be processed and evaluated by a loan examiner. The loan examiner will evaluate the applicant's eligibility, finance and credit history, operating plan, ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee. However, the recommendation of a loan examiner is not binding on a loan committee. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including the following requirements

(1) additional collateral be pledged to secure the loan;

(2) additional guarantors be provided; and

(3) subordination of prior lien holder rights to the interests of the state.

(d) A loan committee will evaluate an applicant's eligibility for a loan, financial and credit record, capacity for repayment and operating plans, and the adequacy of collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC __.035. ELIGIBILITY. To be eligible for a child care facility loan an applicant shall demonstrate

(1) knowledge of

(A) small business management;

(B) problems encountered in caring for children, including educational, recreational, health and disciplinary needs and appropriate responses in emergencies; and

(C) fire safety, health, and safety considerations in operating a day care facility and the state and local requirements in each of these areas; and

(2) some evidence of demand for the facility.
(Eff. / / , Register)

Authority: AS 44.33.245
AS 44.33.260

3 AAC __.040. FINANCIAL AND CREDIT RECORD. (a) The department will, in its discretion, consider the following factors in assessing an applicant's financial and credit record:

(1) the applicant's existing and prior debts;

(2) credit reports obtained from creditors and private credit reporting services;

(3) prior loan history with the department;

(4) timeliness in making payments on loans and other debts;

(5) prior bankruptcies;

(6) existence of tax liens, unpaid judgments, prior foreclosures, and financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Register)

Authority: AS 44.33.245
AS 44.33.260

3 AAC __.045. ABILITY TO REPAY. The department will, in its discretion, consider the following factors in evaluating an applicant's ability to repay a proposed loan

(1) income history, including present income;

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- (2) prospects for future income;
- (3) assets and their liquidity;
- (4) liabilities;
- (5) reasonableness of projected profit and loss statement;
- (6) other business experience. (Eff. / / , Register)

Authority: AS 44.33.245
AS 44.33.260

3 AAC __.050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral includes a mortgage or other security instrument in real property, buildings, machinery, equipment and fixtures. To be considered acceptable collateral, personal property must be capable of being specifically identified. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC __.055. LENDING PRACTICES. (a) A loan will not be approved for the purchase of

- (1) undeveloped property for the construction of a child care facility;
- (2) existing child care facilities; or
- (3) vehicles.

(b) A loan will not be approved for refinancing long term debt. Interim or construction financing is not considered long term debt if the term is 12 months or less and the promissory note or the original agreement was executed less than 12 months before receipt of the application by the department.

(c) Loan funds may not be used to reimburse an applicant for costs incurred prior to loan approval.

(d) Loans will not be approved to finance facilities which do not comply with state or local licensing requirements. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC __.065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

- (1) a security interest in the collateral on behalf of the state has been perfected;

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(2) the borrower has complied with the insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter.
(Eff. / / Register)

Authority: AS 44.33.245

3 AAC .070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit or audits to determine whether the borrower has complied with the provisions of the loan and may conduct periodic inspection of collateral securing repayment of the loan. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, travel and other direct costs. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .080. ASSUMPTIONS. (a) Requests for permission to assume obligations and benefits of loans granted under this chapter shall be processed in the same manner as a loan request.

(b) A loan committee may permit an assumption if the individual seeking to assume the loan would be eligible for a new loan of the type that is sought to be assumed, the applicant is a good financial risk, and the security of the state's investment is preserved.

(c) Eligibility standards currently in effect, rather than standards in effect at the time the original loan was made will govern assumptions. (Eff. / / , Register)

Authority: AS 44.33.245

3 AAC .085. RECONSIDERATION. (a) If a loan request is denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee.

(b) A loan committee will reconsider a request only upon a showing by an applicant that

(1) there has been a substantial change in the circumstances leading to the loan committee's initial denial or modification; or

(2) additional relevant information can be provided to the loan committee that was not initially available.
(Eff. / / , Register)

Authority: AS 44.33.245

3 AAC 80.090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for inspection by the public upon request:

(1) a document which is already a public record, including deeds of trust, financing statements, warranty deeds, bills of sale, mortgages, liens, and vehicle titles;

(2) general information regarding loans, including the amount of particular loans, terms of the loan, personal guarantees, and disbursement and repayment schedules;

(3) insurance matters, including title insurance policies and correspondence with insurance companies or borrowers regarding losses, accident reports, and nonpayment of premiums;

(4) documents regarding foreclosure and default proceedings.

(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors and reports obtained from consumer reporting agencies;

(2) loan committee memoranda and minutes containing information relating to credit worthiness of the applicant;

(3) the payment history of an applicant, under circumstances not constituting foreclosure or default.

(c) Information not described in (a) or (b) of this section may be subject to public disclosure. Requests for disclosure must be made and will be determined in accordance with 6 AAC 95. On receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed. The department will approve requests for disclosure of information if the public interest that would be

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served from disclosure outweighs the privacy interests of the applicant. (Eff. / / , Register)

Authority: AS 09.25.110
AS 09.25.120
AS 44.33.245
Art. 1, Sec. 22
Alaska Const.

3 AAC __.300. DEFINITION OF TERMS. Unless the context requires otherwise, in this chapter

(1) "applicant" means the individual, partnership, corporation or association applying for the loan;

(2) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(3) "department" means the Department of Commerce and Economic Development;

Authority: AS 44.33.245

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CHAPTER
HISTORICAL DISTRICT LOANS

Section

- 010. Application Process
- 015. Examination
- 020. Loan Committee
- 035. Eligibility
- 040. Financial and Credit Record
- 045. Ability to Repay
- 050. Collateral
- 055. Lending Practices
- 065. Disbursement of Loan Funds
- 070. Supervision of Loans
- 075. Costs
- 080. Assumptions
- 085. Reconsideration
- 090. Confidentiality of Loan Information
- 300. Definition of Terms

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3 AAC .010. APPLICATION PROCESS. To apply for a loan for the restoration, improvement, rehabilitation or maintenance of an approved structure in a historical district an applicant must file with the department:

- (1) a completed application for a historical district loan on a form provided by the department;
- (2) evidence of a plan approval by a local historical district commission and recommendation by a majority of the members of the Historic Sites Advisory Committee;
- (3) a letter of intent stating the amount requested, the intended use of the proposed loan funds, and a proposed plan for repayment;
- (4) a personal resume including three personal references;
- (5) a credit history including complete copies of income tax returns for the preceding year;
- (6) a financial statement consisting of a current balance sheet, a monthly budget and a statement of projected income and expenses for the next year;
- (7) a schedule of acceptable collateral, including collateral now owned and other collateral to be acquired with the loan proceeds, stating date of acquisition, cost, location, market value and existing liens;
- (8) photographs of each side of the structure to be improved; and
- (9) any other information the department may require. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.015. EXAMINATION. (a) Upon receipt of the materials described in 3 AAC __.010, a loan request will be processed and evaluated by a loan examiner. The loan examiner will evaluate the applicant's eligibility, financial and credit history, ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan examiner will recommend proposed action on the loan request to the appropriate loan committee; however the recommendation of the loan examiner is not binding on the loan committee.
(Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.020. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the commissioner from the department to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including

(1) additional collateral to secure the loan;

(2) additional guarantors;

(3) subordination of prior lien holder's rights to the interests of the state.

(d) A loan committee will evaluate the applicant's eligibility, financial and credit record, capacity for repayment and the adequacy of the collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan examiner assigned to process the loan application and any other relevant information.

(e) A loan committee may fix the term of a loan and the repayment schedule to meet the needs of the borrower and the collateral available to secure repayment of the loan.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.035. ELIGIBILITY. To be eligible for a loan, a plan must be approved by a local historical district commission and be recommended by a majority of the members of the Historic Sites Advisory Committee. A loan may be made to a person, firm, business or municipality. A structure must be within the boundaries of a historical district and it must be identified as important in state or national history or be suitable for superficial modification so that it can conform to the period or motif of the surrounding structures that are the reason for the area's designation as a historical district. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.040. FINANCIAL AND CREDIT RECORD. (a) The department may consider the following factors in assessing an applicant's financial and credit record:

- (1) existing and prior debts;
- (2) credit reports obtained from creditors and private credit reporting services;
- (3) prior loan history with the department;
- (4) timeliness in making payments on loans and other debts;
- (5) prior bankruptcies;
- (6) existence of tax liens;
- (7) unpaid judgments and prior foreclosures; and
- (8) financial and credit reputation in the community.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.045. ABILITY TO REPAY. The department may consider the following factors in assessing an applicant's ability to repay;

- (1) income history, including present income;
- (2) prospects for future income;
- (3) assets and their liquidity;
- (4) liabilities;
- (5) reasonableness of projected profit and loss statement;

(6) other business experience. (Eff. / / ,
Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.050. COLLATERAL. (a) A loan must be secured by collateral acceptable to the department to ensure repayment of the loan in the event of default.

(b) Acceptable collateral may include a mortgage or other security instrument in real property, buildings, machinery and equipment or fixtures. To be considered acceptable collateral, personal property must be capable of being specifically identified. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.055. LENDING PRACTICES. (a) The term of a loan secured by equipment will, in the department's discretion, be limited to eight years.

(b) An applicant may not receive loan funds for costs incurred prior to loan approval. (Eff. / / , Register)

Authority: AS 45.89.020
AS 45.89.030

3 AAC __.065. DISBURSEMENT OF LOAN FUNDS. Loan funds will be disbursed when

(1) a security interest in the collateral on behalf of the state has been perfected;

(2) the borrower has complied with the insurance requirements contained in an instrument signed by the borrower;

(3) all requirements of the loan committee have been met; and

(4) the borrower has complied with all other provisions of the loan documents and this chapter.
(Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.070. SUPERVISION OF LOANS. As a condition of a loan and while there is an outstanding loan balance, the department may require a borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all funds received and a schedule of change of owner's equity. The department may also require an audit or audits to determine whether the borrower has complied with the provisions of the loan and conduct periodic inspection of any collateral securing repayment of the loan. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030
AS 45.98.040

3 AAC __.075. COSTS. All expenses incurred by the department in closing a loan, including the processing of the loan application, shall be paid by the applicant. These expenses include the cost of credit reports, title reports and insurance, recording fees, appraisals, surveys, and other direct costs. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.080. ASSUMPTIONS. (a) Assumption of a loan issued under this chapter is not permitted.

(b) Secondary financing of a loan issued under this chapter is not permitted.

(c) If the property on which the structure for which a loan was obtained under this chapter is sold, the borrower must immediately repay the loan in full. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.085. RECONSIDERATION. If a loan request has been denied or significantly modified by a loan committee, an applicant may file a written request for reconsideration with the department. The request must be filed within 30 days of receipt of the initial decision of the loan committee. A loan committee will reconsider a request only upon a showing by an applicant that

(1) there has been a substantial change in the circumstances leading to the loan committee's initial denial or modification; or

(2) additional relevant information can be provided to the loan committee that was not initially available. (Eff. / / , Register)

Authority: AS 45.98.020
AS 45.98.030

3 AAC __.090. CONFIDENTIALITY OF LOAN INFORMATION.

(a) The following information is not confidential and is available for inspection by the public upon request:

(1) a document which is already a public record including deeds of trust, financing statements, warranty deeds, bills of sale, liens, and vehicle titles;

(2) general information regarding loans, including the amount of a particular loan, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) documents regarding foreclosure and default proceedings.

(b) The following information is confidential and is not subject to public disclosure:

(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors, and reports obtained from consumer reporting agencies;

(2) loan committee memoranda and minutes containing information relating to credit worthiness of an applicant;

(3) payment history on a loan, unless the loan is in default.

(c) Information not described in (a) and (b) of this section may be subject to public disclosure. Requests for disclosure must be made and will be determined in accordance with 6 AAC 95. Upon receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request to permit them to present reasons why the requested information should not be disclosed. (Eff. / / , Register)

Authority: AS 09.25.110
AS 09.25.120
AS 45.98.030
Art. 1, Sec. 22
Alaska Const.

3 AAC __.300. DEFINITION OF TERMS. Unless the context requires otherwise, in this chapter

(1) "borrower" means an individual, firm, business or municipality whose loan has been approved by a loan committee;

(2) "commissioner" means the Commissioner of the Department of Commerce and Economic Development;

(3) "department" means the Department of Commerce and Economic Development;

Authority: AS 45.98.020
AS 45.98.030

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