

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
1564 SCOMM 59: JNT. COMMITTEE ON ECONOMIC RECOVERY, 1988 1341

ALASKA STATE SENATE

JOE P. JOSEPHSON
DISTRICT H ANCHORAGE
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(907) 561-7611



WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4525

April 8, 1988

The Honorable Jalmar Kerttula
Chair
Senate Judiciary Committee
Alaska State Senate
P.O. Box V
Juneau, Alaska 99801

Dear Senator Kerttula:

I am enclosing for your consideration a draft bill entitled "an Act relating to judicial and nonjudicial foreclosures".

The Senate Committee on Economic Recovery adopted the concepts contained in the draft and has recommended that the bill be referred to your Judiciary Committee for introduction, and, in addition, that a Judiciary Committee bill, if introduced, should incorporate the concepts contained in HB 549, entitled "an Act relating to notice requirements on the use of a deed of trust".

The enclosure is an effort to reverse recent decisions of the Supreme Court of Alaska regarding creditor's rights in foreclosure situations. As a member of the Judiciary Committee and as a member of the Committee on Economic Recovery, I would recommend that legislation be sponsored through the Judiciary Committee for consideration of the Senate.

Please let me know if you desire additional information or background.

With best wishes, I am

Sincerely,

Joe P. Josephson
Joe P. Josephson
State Senator

JPJ:rak
Enclosure

cc: Senator Arliss Sturgulewski
Senator Lloyd Jones

5-2103A /
Bradley
3/28/88

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to judicial and nonjudicial foreclo-
7 sures."

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

9 * Section 1. AS 09.45.170 is amended to read:

10 Sec. 09.45.170. JUDGMENT ON FORECLOSURE OF LIEN. A person
11 having a lien upon real property, other than that of a judgment or a
12 deed of trust, whether created by mortgage or otherwise, to secure a
13 debt or other obligation may bring an action to foreclose the lien.
14 In the action, the court may direct the sale of the encumbered prop-
15 erty or a portion of it and the application of the proceeds of the
16 sale to the payment of costs, expenses of sale, and the amount due the
17 plaintiff. The judgment shall also determine the personal liability
18 of a defendant for the payment of the debt secured by the lien and be
19 entered accordingly.

20 * Sec. 2. AS 09.45.170 is amended by adding a new subsection to read:

21 (b) A deed of trust may be foreclosed only under AS 34.20.070 -
22 34.20.135.

23 * Sec. 3. AS 34.20.070(a) is amended to read:

24 (a) If a deed of trust is executed conveying real property
25 located in the state to a trustee as security for the payment of an
26 indebtedness and the deed provides that in case of default or noncom-
27 pliance with the terms of the trust, the trustee may sell the property
28 for condition broken, the trustee, in addition to the right of fore-
29 closure and sale, may execute the trust by sale of the property, upon

1 the conditions and in the manner set forth in the deed of trust,
2 without first securing a decree of foreclosure and order of sale from
3 the court, if the trustee has complied with the notice requirements of
4 (b) of this section. If the trust is executed by a suit on the note
5 and foreclosure and sale by the court, the foreclosure and sale extin-
6 guishes the deed of trust.

7 * Sec. 4. AS 34.20.100 is amended to read:

8 Sec. 34.20.100. DEFICIENCY JUDGMENT PROHIBITED. When a sale
9 authorized under AS 34.20.070 - 34.20.135 is made by a trustee under a
10 deed of trust, [AS AUTHORIZED BY AS 34.20.070 - 34.20.130,] no other
11 or further action or proceeding may be taken nor judgment entered
12 against the maker or the surety or guarantor of the maker [,] on the
13 obligation secured by the deed of trust for a deficiency.

14 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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Request
for
5-2103A
to Rules

1 IN THE SENATE

2 SENATE BILL NO.

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4 FIFTEENTH LEGISLATURE - SECOND SESSION

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____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act authorizing the establishment of real property liquidating organizations and providing for active state supervision thereof; and providing for an effective date.

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

* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

(1) there have been several failures of state and federally chartered financial institutions and one bank consolidation by the Federal Deposit Insurance Corporation under 12 U.S.C. § 1823(c) in Alaska;

(2) state and federal agencies currently hold large portfolios of distressed real estate loans and real property;

(3) these financial institutions and government agencies need to be permitted to cooperate in administering these properties to avoid further adverse impacts on Alaska's real estate markets and to stabilize the state's banking system; and

(4) the maintenance of stable and orderly markets for the purchase and sale of Alaska's commercial and residential real estate is essential to the economy of the state and the welfare of its citizens.

* Sec. 2. IMMUNITY FROM STATE AND FEDERAL ANTITRUST LAWS. The state intends to ensure the stability of the state's real estate markets and prevent a precipitous decline in real estate prices by, among other things, displacing competition with government regulation in matters relating to the sale and disposition of Alaska real property held by financial institutions and state and federal agencies as a result of foreclosure actions.

1 By authorizing the creation of real property liquidating organizations and
2 mandating active state supervision of these organizations, the state
3 contemplates that all persons and entities who subscribe or grant assets
4 to, contribute funds or services to, obtain a beneficial interest in, or
5 participate in the management of, the real property liquidating
6 organizations will be immunized to the fullest extent possible against
7 potential liability under federal antitrust laws and state antitrust,
8 competition and trade practices laws arising from the operation of such
9 organizations.

10 * Sec. 3. AS 06 is amended by adding a new chapter to read:

11 CHAPTER 50. REAL PROPERTY LIQUIDATING ORGANIZATIONS.

12 Sec. 06.50.010. RESPONSIBILITY OF COMMISSIONER. (a) The com-
13 missioner shall administer this chapter.

14 (b) The commissioner shall adopt regulations to carry out the
15 purposes of organizations established under this chapter.

16 Sec. 06.50.020. FORMATION. (a) Three or more grantors as
17 defined in AS 06.50.900 may agree to create an organization to carry
18 out the purposes of this chapter.

19 (b) The establishment of a real property liquidating
20 organization shall be commenced by filing the organizational documents
21 with the commissioner. The commissioner will review the documents to
22 verify conformity with this section and consistency with the purposes
23 of this chapter. No conveyance of assets to, or disposition of real
24 property or other assets by, an organization shall be effective until
25 the organizational documents have been reviewed and approved by the
26 commissioner under this section.

27 (c) The organizational documents must recite the purpose of the
28 organization; identify all grantors who have subscribed to the
29 organization, and all persons who otherwise possess an interest in the

1 organization; describe the manner in which the organization will be
2 managed; and prescribe the method pursuant to which distributions to
3 the grantors and other beneficiaries will be made.

4 (d) The organizational documents shall provide for

5 (1) the conveyance to the organization of all or part of
6 the grantors' portfolios of commercial and residential Alaskan real
7 properties or other assets;

8 (2) the orderly disposition of property of the organization
9 at prices to be determined by the organization, subject to review and
10 approval by the commissioner under this chapter;

11 (3) the expenditure of assets to manage organization
12 property, including expenditures to preserve or enhance the value of
13 properties, as necessary; and

14 (4) the establishment of such other terms and conditions
15 relating to the sale or other disposition of assets that the grantors
16 deem necessary or appropriate to ensure that the organization will be
17 operated in a manner that will provide for orderly disposition of
18 property and promote a stable real estate market and economy.

19 Sec. 06.50.030. AUDITS AND REPORTS. (a) In addition to any
20 recordkeeping requirements specified in regulations adopted by the
21 commissioner or in the organizational documents, the organization
22 shall retain a certified public accountant to annually prepare and
23 submit to the department on or before April 1 of each calendar year an
24 audited balance sheet, income statement, statement of principal,
25 statement of changes in financial position, and schedule of all dispo-
26 sitions of real estate assets made by the organization during the
27 year. In connection with the preparation of such financial documents,
28 the accountant shall issue letters

29 (1) certifying that all sales of real estate assets and all

1 distributions during the relevant year were made in accordance with
2 the provisions of the organizational documents and this chapter, or
3 identifying any variance; and

4 (2) with respect to the internal financial controls and
5 practices of the organization, setting forth such recommendations as
6 the accountant may consider appropriate.

7 (b) The organization shall prepare and file with the
8 commissioner, on a quarterly basis, a report containing the following;

9 (1) a schedule of all real property held by the
10 organization;

11 (2) the sale price and all other significant terms of sale
12 for property sold since the date of the previous report; and

13 (3) a proposed operating plan for the next quarterly period
14 in conformity with regulations adopted by the commissioner.

15 Sec. 06.50.040. REVIEW AND APPROVAL BY COMMISSIONER. (a) The
16 commissioner shall review each report filed under AS 06.50.040(b) and
17 approve or disapprove the proposed quarterly operating plan within 20
18 days after filing. In reviewing the operating plan, the commissioner
19 shall consider current market conditions. Before approving the plan,
20 the commissioner must find that the plan comports with the purpose of
21 this chapter.

22 (b) All business records maintained by the organization shall be
23 available for review and examination by the department at the
24 organization's principal place of business during regular business
25 hours, on at least five days advance notice. The commissioner shall
26 conduct examinations on a regular basis, but in no event less than
27 twice per calendar year.

28 (c) Should the commissioner disapprove the proposed quarterly
29 operating plan submitted under AS 06.50.040(b) or conclude, after

1 examination, that the organization is being administered contrary to
2 statute or regulation, the commissioner shall notify the organization
3 and all grantors in writing, specifying all deficiencies and
4 prescribing appropriate remedies. If the organization fails to remedy
5 deficiencies in accordance with the commissioner's prescriptions
6 within 60 days following receipt of the notice, the commissioner may
7 commence proceedings to dissolve the organization in accordance with
8 the procedures in AS 06.01.030.

9 (d) The expenses of the department reasonable incurred in
10 reviewing and approving a plan or conducting an examination under this
11 section shall be charged to and paid by the organization in accordance
12 with AS 06.01.010.

13 Sec. 06.50.050. PRE-EMPTION. Organizations regulated under this
14 chapter that are formed and act solely to carry out the purposes of
15 this chapter are exempt from regulation by any other state agency or
16 under any other state laws. No political subdivision of the state may
17 require an organization regulated under this chapter to obtain an
18 authorization, permit or registration of any kind for conducting
19 transactions authorized under this chapter.

20 Sec. 06.50.900. DEFINITIONS. In this chapter,

21 (1) "grantor" means a federally or state chartered
22 financial institution, federal or state agency, licensed insurer, or
23 financing company that conveys assets to, and thereby obtains a
24 beneficial interest in and the right to participate in the management
25 of, a real property liquidating organization.

26 (2) "organization" means a corporation, partnership, trust,
27 fund, or other legal entity formed under and consistent with the
28 purposes of this chapter; and

29 (3) "real property liquidating organization" means an

1 entity created to acquire, maintain, manage, market, sell or otherwise
2 dispose of real property and to distribute to the trust's
3 beneficiaries, in accordance with the provisions of the trust
4 instruments, the proceeds derived from the sale or disposition of the
5 property.

6 * Sec. 4. AS 18.56 is amended by adding a new section to read:

7 Sec. AS 18.56.210. MARKET STABILIZATION POWERS. (a) The corpo-
8 ration may take appropriate action to stabilize the market price of
9 and demand for residential housing in the state.

10 (b) To accomplish the purposes of this section, the corporation
11 may

12 (1) enter into agreements with state and federally char-
13 tered financial institutions, state or federal agencies, insurers and
14 financing companies for the cooperative management and disposal of
15 real property owned by the corporation, financial institutions,
16 agencies or other contracting parties; and

17 (2) convey real property and other assets to, and acquire a
18 beneficial interest in, a real property liquidating organization
19 established under AS 06.50.

20 * Sec. 5. AS 44.88.080 is amended by adding a new paragraph to read:

21 (25) to convey real property and other assets to, and
22 acquire a beneficial interest in, a real property liquidating
23 organization established under AS 06.50.

24 * Sec. 6. This act takes effect immediately in accordance with
25 AS 01.10.070.

*Bob
Finn
drop Fed
w/Scott Hawkins*

IN THE _____

BY THE _____

_____ BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to agreements with the Anchorage Economic Development Corporation or its nonprofit subsidiary to secure the purchase of assets from the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation; and providing for an effective date."

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

*Section 1.(a) The legislature finds, determines and declares that

(1) the failure of certain Alaska banks and savings and loan associations has resulted in the transfer of a substantial number of real estate loans and foreclosed real estate to the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation;

B80009

(2) the liquidation of these assets would cause an immediate and severe negative impact on real estate values in Alaska increasing the over supply of property on the market and depressing values for all property owners in the major areas of the state;

(3) it is in the public interest to insure that the assets acquired from failed Alaska banks and savings and loan associations be managed in such a manner as to minimize negative impacts on property values and to provide for the continuation without foreclosure of those loans where a demonstrable ability to repay exists;

(4) the Anchorage Economic Development Corporation is an appropriate entity to acquire and manage the assets consistent with the policy established by the legislature. In this Act "corporation" shall mean the Anchorage Economic Development Corporation and any nonprofit subsidiary with powers to acquire and manage the assets on a statewide basis.

(b) it is declared to be the policy of the state, in the interest of promoting the health, security and general welfare of all the people of the state, and a public purpose to stabilize real estate values and promote the survival of business, to authorize the state to enter into agreements with the corporation to assist the corporation in financing the acquisition of assets located in the state from the Federal Deposit Insurance Corporation and the

Federal Savings and Loan Insurance Corporation. Payments by the state pursuant to such agreements are not a debt or liability of the state and shall be subject to annual appropriation by the legislature, but such are hereby declared to be a moral obligation of the state.

*Section 2. The commissioner of commerce and economic development is authorized to enter into agreements with the corporation for the contingent purchase by the state from the corporation of real property and loans acquired by the corporation from the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. Pursuant to the agreements the state shall be obligated to purchase such assets, if the assets do not produce sufficient revenue to satisfy such terms and conditions, at a price sufficient to insure that the corporation will meet its obligations to bondholders under the terms and conditions of any bond indenture or other contract entered into by the corporation to secure the bonds. All funds necessary to meet the obligations of the state pursuant to such agreements shall be subject to annual appropriation by the legislature.

*Section 3. The agreements entered into by the commissioner may include a provision for a reserve fund to secure the bonds of the corporation. In order to assure the maintenance of the required debt service reserve in the reserve

fund, the legislature may appropriate annually to the corporation for deposit in the fund the sum, certified by the corporation to the governor and to the legislature, that is necessary to restore the fund to an amount equal to the required debt service reserve. The corporation annually, before January 30, shall make and deliver to the governor and to the legislature a certificate stating the sum required to restore the fund to that amount, and the sum so certified may be appropriated and paid to the corporation during the then current state fiscal year. The corporation shall determine the amount of the required debt service reserve. Nothing in this subsection creates a debt or liability of the state.

*Section 4. Agreements entered into by the commissioner and the corporation may include policies and standards relating to the adjustment of purchased loans and the sale or liquidation of real estate and other collateral owned by the corporation.

*Section 5. The agreements entered into by the commissioner and the corporation shall provide that the corporation shall distribute surplus revenues, if any, after payment of expenses and debt service to public or nonprofit economic development organizations in the areas in which the assets are located and that corporation appoint as directors of its nonprofit subsidiary persons who represent affected areas of the state.

*Section 6. This Act shall be known as the Alaska Economic Stabilization and Development Act of 1988.

*Section 7. The authority authorized by this Act to enter into agreements with the corporation shall terminate on July 1, 1989 provided that the commissioner may enter into amendments or extensions of agreements entered into prior to July 1, 1989.

*Section 8. This Act takes effect immediately in accordance with AS 01.10.070 (c).

ALASKA NATIONAL BANK OF THE NORTH
FIRST INTERSTATE BANK OF ALASKA
COMBINED TOTAL

LOAN TYPE	AMOUNT	NUMBER OF ASSETS	AMOUNT OF ASSETS	NUMBER OF ASSETS
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Real Estate
a. Construction
b. Farmstead
c. 1-4 Family Res
d. Multi Family
e. Non-Farm/Non-Res

12,859,000
9,066,000
0
0
136,000

27,550,733
2,471,271
4,127,813
11,678,859

40,409,733
0
11,537,271
4,127,813
12,014,659

Total R/E Loans

22,551,000

45,828,676

66,083,676

Installment

610,000

432,264

1,102,264

Commercial

30,562,001

42,334,600

72,896,601

ORE

3,867,334

22,209,221

28,076,756

SUBTOTAL

99,300,325

110,664,761

170,165,296

Charged off

19,498,568

17,593,706

36,632,264

TOTAL

78,399,033

128,458,467

206,857,560

17 assets, 137 properties

68 106 assets, 465 properties

Also add in and show that in 1991 accounts that may come back

FIDIC BALANCES NET OF PARTICIPATIONS
 & PUTBACKS FROM ASSURING BANK

ALASKA NATIONAL BANK OF THE NORTH			FIRST INTERSTATE BANK OF ALASKA			COMBINED TOTAL	
LOAN TYPE	AMOUNT	NUMBER OF ASSETS	AMOUNT	NUMBER OF ASSETS	AMOUNT	NUMBER OF ASSETS	
* INCLUDES:							
A. SEA LOANS							
Sold qty portion	2,672,559	10			2,672,559	10	
FIDIC portion	584,068				584,068	0	
FIDIC wholly owned	2,535,344	11	5,728,100	27	8,263,444	38	
Total SEA's	5,791,991	21	5,728,100	27	11,520,091	48	
B. R/E PARTICIPATIONS							
Participant portion	5,828,640	58	13,018,975	44	18,847,615	102	
FIDIC portion	968,595		2,716,931	21	3,685,526	21	
Total R/E part	6,797,235	58	15,735,907	65	22,534,142	123	
C. COMMERCIAL PARTICIPATIONS							
Participant portion	773,770	3	723,754	5	1,497,524	8	
FIDIC portion			973,529		973,529		
Total Commercial part	773,770	3	1,697,283	5	2,471,053	8	
E. BANK PREMISES							
	2,791,133		19,629,604		22,420,737		



Alaska State Legislature

SENATE

Office of the President

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3755

ECONOMIC RECOVERY LEGISLATION

Legislation Already Introduced:

- | | |
|--------|--|
| SB 333 | Priority wage claims in bank liquidations |
| SB 392 | Repeal of AIDEA's 2 percent delinquency rule |
| SB 408 | Establishing the Alaska stabilization assistance fund within AIDEA |
| SB 409 | Making a special appropriation to the Alaska stabilization assistance fund |
| SB 471 | Establishing an AIDEA program to guarantee loans and refinance debt |
| SB 474 | Increasing property exemptions for individuals who go into bankruptcy |
| SCR 32 | Urging financial institutions to adopt more flexible lending and collection policies |
| HB 432 | Authorizing AHFC to accept trades in certain cases |
| HB 433 | Establishing a moratorium on judicial and nonjudicial foreclosures |

Legislation Under Consideration for Introduction:

- | | |
|-----|--|
| SB | Temporarily reducing interest rates and monthly payments on AHFC loans |
| SB | Establishing a moratorium on judicial and nonjudicial foreclosures |
| SCR | Requesting state agencies to establish a moratorium on loans for new construction in areas of existing oversupply |
| SCR | Requesting AIDEA to develop a program to enable owners of commercial properties to avoid foreclosure |
| SCR | Requesting state agencies to remove substandard low income housing from the market, ship vacant mobile homes out of state, and convert existing vacant and unrentable units to |

15,000.00 as
agreed

Presented by
Hallowood
3/6/88

5-1863B ✓
Cook
3/16/88

VAR 1 6 1988

Original sponsors: Kelly and Sturgulewski

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 408 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska stabilization assis-
7 tance program; and providing for an effective date."

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

9 * Section 1. ALASKA STABILIZATION ASSISTANCE PROGRAM. (a) The purpose
10 of the Alaska stabilization assistance program is to promote the stabi-
11 lization of real property values in the state.

12 (b) The Alaska stabilization assistance fund is established in the
13 Alaska Industrial Development and Export Authority. The authority may use
14 money appropriated to the fund to make loans or investments to carry out
15 the purposes of this section. An appropriation to the Alaska stabilization
16 assistance fund lapses to the fund from which it was appropriated July 1,
17 1998, unless specified otherwise in the appropriation act. Other receipts
18 shall be separately accounted for and deposited into the general fund.
19 Each year the authority shall notify the legislature of the amount of these
20 receipts and the legislature may appropriate that amount into the ____.

21 (c) To encourage institutional lenders, state or federal agencies,
22 and other institutions not to attempt to dispose of real property in the
23 state until the real estate market becomes more stable, the authority may

24 (1) enter into contracts to provide for the management of real
25 property in the state that has been or could be foreclosed upon or other-
26 wise acquired through actions taken on defaulted loans;

27 (2) acquire interests in [corporations that have interests in]

28 (A) part-performing or nonperforming loans secured by real
29 property in the state; or

1 (B) loans acquired by an institution or federal or state
2 agency as a result of a bank failure in the state.

3 (d) Contracts entered into by the authority under (c)(1) of this
4 section may provide for the management of property only through June 30,
5 1998.

6 * Sec. 2. This Act is repealed July 1, 1998.

7 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
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5-1864L
Cook
3/16/88

Original sponsors: Kelly and Sturgulewski

MAR 16 1988

Funding Information

General Fund \$

Other Funds \$

B

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 409 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Alaska
7 stabilization assistance fund; and providing for an
8 effective date."

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

10 * Section 1. The sum of \$45,000,000 is appropriated from the _____
11 _____ to the Alaska stabilization assistance fund.

12 * Sec. 2. The appropriation made by sec. 1 of this Act lapses into the
13 _____ on July 1, 1998.

14 * Sec. 3. This Act takes effect on the effective date of a version of
15 an Act enacted by the Fifteenth Alaska State Legislature establishing the
16 Alaska stabilization assistance fund.

5-1863B ✓
Cook
3/16/88

VAR. 1 6 1988

Original sponsors: Kelly and Sturgulewski

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15 the purposes of this section. An appropriation to the Alaska stabilization
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17 1998, unless specified otherwise in the appropriation act. Other receipts
18 shall be separately accounted for and deposited into the general fund.
19 Each year the authority shall notify the legislature of the amount of these
20 receipts and the legislature may appropriate that amount into the ____.

21 (c) To encourage institutional lenders, state or federal agencies,
22 and other institutions not to attempt to dispose of real property in the
23 state until the real estate market becomes more stable, the authority may

24 (1) enter into contracts to provide for the management of real
25 property in the state that has been or could be foreclosed upon or other-
26 wise acquired through actions taken on defaulted loans;

27 (2) acquire interests [in corporations that have interests in] e

28 (A) part-performing or nonperforming loans secured by real
29 property in the state; or

1 (B) loans acquired by an institution or federal or state
2 agency as a result of a bank failure in the state.

3 (d) Contracts entered into by the authority under (c)(1) of this
4 section may provide for the management of property only through June 30,
5 1998.

6 * Sec. 2. This Act is repealed July 1, 1998.

7 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
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5-1864L
Cook
3/16/88

Original sponsors: Kelly and Sturgulewski

MAR 16 1988

Funding Information

General Fund \$

Other Funds \$

B

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 409 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Alaska
7 stabilization assistance fund; and providing for an
8 effective date."

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

10 * Section 1. The sum of \$45,000,000 is appropriated from the _____

11 _____ to the Alaska stabilization assistance fund.

12 * Sec. 2. The appropriation made by sec. 1 of this Act lapses into the

13 _____ on July 1, 1998.

14 * Sec. 3. This Act takes effect on the effective date of a version of
15 an Act enacted by the Fifteenth Alaska State Legislature establishing the
16 Alaska stabilization assistance fund.

Unanimous

BY HALFORD, FAIKS, UEHLING,
JOSEPHSON, STURGULEWSKI AND
ABOOD

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 471

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a program in the Alaska Indus-
7 trial Development and Export Authority to guarantee
8 business loans and to refinance debt; and providing
9 for an effective date."

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

11 * Section 1. AS 44.88 is amended by adding new sections to read:

12 ARTICLE 6A. BUSINESS ASSISTANCE PROGRAM.

13 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. The business assis-
14 tance fund is established in the authority from appropriations for the
15 purpose. Subject to the requirements of AS 44.88.500 - 44.88.599, the
16 authority may use money in the fund

17 (1) to guarantee loans, including loans made to refinance
18 existing loans, to businesses that qualify under AS 44.88.510(a) and
19 apply under AS 44.88.520(a); and

20 (2) to refinance the debt of businesses that qualify under
21 AS 44.88.510(b) and apply under AS 44.88.520(b).

22 Sec. 44.88.510. APPLICANT QUALIFICATIONS. (a) A business
23 enterprise may apply for a loan guarantee under AS 44.88.500 - 44.88.-
24 599. The authority may establish additional applicant qualifications
25 by regulation and these qualifications may vary depending upon the
26 type of business the applicant is engaged in.

27 (b) A business enterprise may apply under AS 44.88.500 - 44.88.-
28 599 to refinance existing debt. The authority may approve a refinanc-
29 ing of existing debt if the authority finds that

1 (1) the refinancing involves a viable project; and

2 (2) the refinancing will save existing jobs.

3 Sec. 44.88.520. APPLICATION. (a) An applicant for a loan
4 guarantee shall provide information that the authority may require by
5 regulation. The authority may require submission of an economic
6 benefit analysis prepared by a person acceptable to the authority.

7 (b) An applicant for refinancing of existing debt shall provide
8 the information that the authority may require by regulation.

9 Sec. 44.88.530. POWERS OF THE AUTHORITY. The authority may

10 (1) designate agents and delegate powers necessary to
11 implement AS 44.88.500 - 44.88.599;

12 (2) adopt regulations to implement AS 44.88.500 - 44.88.-
13 599;

14 (3) establish terms and conditions for loan guarantees and
15 refinancing agreements subject to the requirements of AS 44.88.500 -
16 44.88.599;

17 (4) make and execute contracts and other instruments to
18 implement AS 44.88.500 - 44.88.599;

19 (5) acquire real or personal property by purchase, trans-
20 fer, or foreclosure when the acquisition is necessary to protect an
21 interest in the fund; and

22 (6) exercise any other power necessary to implement AS 44.-
23 88.500 - 44.88.599.

24 Sec. 44.88.540. CONDITIONS OF LOAN GUARANTEES. (a) The author-
25 ity may guarantee a loan under AS 44.88.500 - 44.88.599 if the

26 (1) loan is commercially reasonable, contains amortization
27 provisions satisfactory to the authority, is secured by adequate
28 collateral, and the net cash flow from the borrower provides adequate
29 coverage for the debt service on the loan;

1 (2) term of the loan does not exceed 20 years;

2 (3) loan is originated with and serviced by a state char-
3 tered or federally chartered financial institution;

4 (4) portion of the loan not guaranteed by the authority is
5 held by the originating financial institution or another financial
6 institution approved by the authority;

7 (5) loan is made to a business with a majority interest
8 held by state residents; and

9 (6) the loan guarantee provides a benefit to the borrower.

10 (b) The authority may provide a guarantee from the fund for up
11 to 90 percent of a loan that qualifies under AS 44.88.500 - 44.88.599.
12 The ratio of the guarantee to the outstanding principal of the loan
13 may not increase over the term of the loan.

14 (c) The authority may not guarantee

15 (1) the payment of interest on the guaranteed portion of a
16 loan; or

17 (2) more than \$1,000,000 per loan.

18 Sec. 44.88.550. CONDITIONS OF DEBT REFINANCING. The authority
19 may not refinance debt unless the refinancing

20 (1) is necessary to extend substantial debt payments over a
21 longer period of time, thereby improving the applicant's net cash flow
22 and working capital position consistent with the useful life of the
23 assets being refinanced;

24 (2) assists with short-term debt or cash expenditures when
25 lenders will not extend reasonable longer terms to the applicant; or

26 (3) is necessary to place a permanent loan subsequent to an
27 interim loan for financing construction of the project.

28 Sec. 44.88.560. INTEREST. The maximum interest rate on a loan
29 guaranteed by the authority is

1 (1) for a loan guarantee that exceeds 80 percent of the
2 loan, one and one-half percentage points above the prime rate on the
3 day the loan guarantee is made; and

4 (2) for a loan guarantee that is equal to or less than 80
5 percent of the loan, two and three-quarters percentage points above
6 the prime rate on the day the loan guarantee is made.

7 Sec. 44.88.570. DEFAULT OR FORECLOSURE. (a) Payments received
8 toward satisfaction of a default on a loan guaranteed under AS 44.88.-
9 500 - 44.88.599 shall be allocated between the lender and the fund
10 according to the guaranteed percentage of the loan until the principal
11 balance has been repaid.

12 (b) The authority shall dispose of property acquired through
13 default or foreclosure of a loan guaranteed or refinanced under
14 AS 44.88.500 - 44.88.599. Disposal shall be in a manner that serves
15 the best interest of the state and may include the amortization of
16 payments over a period of years.

17 Sec. 44.88.580. SPECIAL ACCOUNT ESTABLISHED. (a) There is
18 established as a special account within the fund the foreclosure
19 expense account.

20 (b) The authority may expend money credited to the foreclosure
21 expense account when necessary to protect the state's security inter-
22 est in collateral on loans guaranteed or refinanced under AS 44.88.-
23 500 - 44.88.599 or to defray expenses incurred during a foreclosure
24 proceeding after a default.

25 Sec. 44.88.590. PREREQUISITE FOR OTHER LOANS. Notwithstanding
26 other provisions of law, a business enterprise that qualifies under
27 AS 44.88.510(a) to apply for a loan guarantee under AS 44.88.500 -
28 44.88.599 shall apply for a loan guarantee before it may apply for a
29 direct loan of state money under any other state loan program. Only

1 after an application for the guarantee of a loan to be used for a
2 particular purpose is rejected under AS 44.88.500 - 44.88.599 may a
3 business enterprise apply for a direct state loan for that purpose.

4 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599,

5 (1) "fund" means the business assistance fund established
6 under AS 44.88.500;

7 (2) "prime rate" means the lowest money center prime rate
8 of interest that is published in the Wall Street Journal.

9 * Sec. 2. APPLICABILITY. The provisions of AS 44.88.500(2), 44.88.-
10 510(b), 44.88.520(b), 44.88.530(3), 44.88.550, and 44.88.570(b), added by
11 sec. 1 of this Act, affirm the power of the Alaska Industrial Development
12 and Export Authority to refinance debt, but establish limitations on the
13 exercise of that power.

14 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
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5-1863N ✓
Cook
4/21/88

Original sponsors: Kelly and Sturgulewski

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 408 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to stabilization of the real estate
7 market; authorizing the establishment of real prop-
8 erty liquidating organizations; and providing for an
9 effective date."

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

11 * Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature
12 finds that

13 (1) there have been in the state several failures of state and
14 federally chartered financial institutions and one bank consolidation by
15 the Federal Deposit Insurance Corporation under 12 U.S.C. 1823(c);

16 (2) state and federal agencies currently hold large portfolios
17 of distressed real estate loans and real property;

18 (3) these financial institutions and government agencies need to
19 be permitted to cooperate in administering these properties to avoid fur-
20 ther adverse effects on the state's real estate markets and to stabilize
21 the state's banking system; and

22 (4) the maintenance of stable and orderly markets for the pur-
23 chase and sale of commercial and residential real estate in the state is
24 essential to the economy of the state and the welfare of its citizens.

25 (b) The legislature intends to ensure the stability of the state's
26 real estate markets and prevent a precipitous decline in real estate prices
27 by displacing competition with government regulation in matters relating to
28 the sale and disposition of real property held by financial institutions
29 and state and federal agencies as a result of foreclosure actions. By

1 authorizing the creation of real property liquidating organizations under
2 state supervision, the legislature intends to grant authority to the com-
3 missioner of commerce and economic development to provide by regulation
4 that persons and entities who subscribe or grant assets to, contribute
5 funds or services to, obtain a beneficial interest in, or participate in
6 the management of a real property liquidating organization will be immu-
7 nized as necessary possible against potential liability under federal
8 antitrust laws and state antitrust, competition, and trade practices laws
9 arising from the operation of the organizations.

10 * Sec. 2. AS 06 is amended by adding a new chapter to read:

11 CHAPTER 50. REAL PROPERTY LIQUIDATING ORGANIZATIONS.

12 Sec. 06.50.010. RESPONSIBILITY OF COMMISSIONER. The commis-
13 sioner shall administer this chapter and adopt regulations to carry
14 out the purposes of this chapter.

15 Sec. 06.50.020. FORMATION. (a) Three or more grantors may
16 create a real property liquidating organization by filing the orga-
17 nizational documents with the commissioner. The commissioner shall
18 review the documents and approve them if they comply with (b) of this
19 section and are consistent with the purposes of this chapter. Convey-
20 ance of assets to or disposition of real property or other assets by
21 an organization is not valid until the organizational documents have
22 been reviewed and approved by the commissioner.

23 (b) The organizational documents must

24 (1) state the purpose of the organization;

25 (2) identify all grantors who will subscribe to the orga-
26 nization and all persons who will possess an interest in the orga-
27 nization;

28 (3) describe the manner in which the organization will be
29 managed;

1 (4) prescribe the method under which distributions to the
2 grantors and other beneficiaries will be made;

3 (5) provide for the conveyance to the organization of all
4 or part of the grantors' portfolios of commercial and residential real
5 properties in the state or other assets;

6 (6) provide for the orderly disposition of property of the
7 organization at prices to be established in accordance with the orga-
8 nizational documents;

9 (7) provide for the expenditure of assets to manage orga-
10 nization property, including expenditures to preserve or enhance the
11 value of properties; and

12 (8) provide for the establishment of other terms and con-
13 ditions relating to the sale or other disposition of assets that the
14 grantors consider necessary or appropriate to ensure that the orga-
15 nization will be operated in a manner that will provide for orderly
16 disposition of property and promote a stable real estate market and
17 economy.

18 Sec. 06.50.030. AUDITS AND REPORTS. (a) In addition to the
19 record keeping requirements specified in regulations adopted by the
20 commissioner or in the organizational documents, the organization
21 shall retain a certified public accountant to annually prepare and
22 submit to the department on or before April 1 of each calendar year an
23 audited balance sheet, income statement, statement of principal,
24 statement of changes in financial position, and schedule of all dispo-
25 sitions of real estate assets made by the organization during the
26 year. In connection with the preparation of the financial documents,
27 the accountant shall issue letters

28 (1) certifying that all sales of real estate assets and all
29 distributions during the year were made in accordance with the

1 provisions of the organization documents and this chapter, or identi-
2 fying any variance; and

3 (2) with respect to the internal financial controls and
4 practices of the organization, providing recommendations the accoun-
5 tant considers appropriate.

6 (b) The organization shall prepare and file with the commission-
7 er, on a quarterly basis, a report containing the following:

8 (1) a schedule of all real property held by the organiza-
9 tion;

10 (2) the sale price and all other significant terms of sale
11 for real property sold since the date of the previous report; and

12 (3) a proposed operating plan for the next quarterly period
13 that conforms with regulations adopted by the commissioner.

14 Sec. 06.50.040. REVIEW AND APPROVAL BY COMMISSIONER. (a) The
15 commissioner shall review each report filed under (b) of this section
16 and approve or disapprove the proposed operating plan within 20 days
17 after filing. In reviewing the operating plan, the commissioner shall
18 consider current market conditions. Before approving the plan, the
19 commissioner must find that the plan complies with the purpose of this
20 chapter.

21 (b) Within five days after the department notifies an organiza-
22 tion of its intention to inspect business records, all business re-
23 cords maintained by the organization shall be available for review and
24 examination by the department at the organization's principal place of
25 business, during regular business hours. The commissioner shall
26 examine the business records of an organization on a regular basis at
27 least twice each calendar year.

28 (c) If the commissioner disapproves the proposed operating plan
29 or concludes, after examination, that the organization is being

1 administered contrary to statute or regulation, the commissioner shall
2 notify the organization and all grantors in writing, specifying all
3 deficiencies and prescribing appropriate remedies. If the organiza-
4 tion fails to remedy deficiencies in accordance with the commission-
5 er's prescriptions within 60 days after receipt of the notice, the
6 commissioner may commence proceedings under AS 06.01.030.

7 (d) The expenses of the department reasonably incurred in re-
8 viewing and approving a proposed operating plan or conducting an
9 examination under this section shall be charged to and paid by the
10 organization in accordance with AS 06.01.010.

11 Sec. 06.50.050. PREEMPTION. If the commissioner determines that
12 the exemption is necessary to carry out the purposes of this chapter,
13 the commissioner may by regulation exempt transactions under this
14 chapter by real property liquidating organizations from any fee,
15 authorization, permit, filing, or registration requirement of or
16 administered by the department.

17 Sec. 06.50.100. DEFINITIONS. In this chapter

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

20 (2) "department" means the Department of Commerce and
21 Economic Development;

22 (3) "grantor" means a federally or state chartered finan-
23 cial institution, federal or state agency, licensed insurer, or fi-
24 nancing company that conveys assets to, and thereby obtains a benefi-
25 cial interest in and the right to participate in the management of, a
26 real property liquidating organization;

27 (4) "real property liquidating organization" or "organiza-
28 tion" means a corporation, trust, fund, partnership, joint venture, or
29 other legal entity created to acquire, maintain, manage, market, sell,

1 or otherwise dispose of real property in the state and to distribute
2 to the beneficiaries, in accordance with the provisions of the orga-
3 nization documents, the proceeds derived from the sale or disposition
4 of the property.

5 * Sec. 3. AS 18.56 is amended by adding a new section to read:

6 Sec. 18.56.210. MARKET STABILIZATION POWERS. The corporation
7 may take appropriate action to stabilize the market price of and
8 demand for residential housing in the state. To accomplish the pur-
9 poses of this section, the corporation may

10 (1) enter into agreements with state and federally char-
11 tered financial institutions, state or federal agencies, insurers, and
12 financing companies for the cooperative management and disposal of
13 real property owned by the corporation, financial institutions, agen-
14 cies, or other contracting parties; and

15 (2) convey real property and other assets to, and acquire a
16 beneficial interest in, a real property liquidating organization
17 established under AS 06.50.

18 * Sec. 4. AS 44.88.080 is amended by adding a new paragraph to read:

19 (25) to convey real property and other assets to, and ac-
20 quire a beneficial interest in, a real property liquidating orga-
21 nization established under AS 06.50.

22 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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**STATE OF ALASKA
1988 LEGISLATIVE SESSION**

BILL VERSION: SB 408
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to the Alaska Sta-
bilization Assistance Program
Sponsor: Kelly and Sturgulewski
Requestor: _____

Alaska Industrial Development
Agency Affected: and Export Authority
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL		\$15.0 Mil	zero(0)	zero(0)	zero (0)	
---------	--	------------	---------	---------	----------	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		**				
TOTAL		\$15.0 Mil				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

**Funds will be appropriated from the Railbelt energy fund to the Alaska Stabilization Assistance fund established in the Alaska Industrial Development and Export Authority per SB 408.

Costs of administering the Alaska Stabilization Assistance Program will be absorbed by the Alaska Industrial Development and Export Authority

Prepared by: Bertram I. Wagnon, Executive Director Phone: 274-1651

Division: Alaska Industrial Development & Export Authority Date: February 22, 1988

Approved by Commissioner: J. Anthony Smith
Agency: Commerce and Economic Development

Date: 2/29/88

Distribution (by preparer):

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

1 IN THE SENATE

BY KELLY AND STURGULEWSKI

2

SENATE BILL NO. 408

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Alaska stabilization assistance program; and providing for an effective date."

7

8

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

9

* Section 1. ALASKA STABILIZATION ASSISTANCE PROGRAM. (a) The purpose of the Alaska stabilization assistance program is to promote the stabilization of real property values in the state.

12

(b) The Alaska stabilization assistance fund is established in the Alaska Industrial Development and Export Authority. The authority may use money appropriated to the fund to carry out the purposes of this section. An appropriation to the Alaska stabilization assistance fund lapses to the fund from which it was appropriated July 1, 1992, unless specified otherwise in the appropriation act. Other receipts shall be separately accounted for and deposited into the general fund. Each year the authority shall notify the legislature of the amount of these receipts and the legislature may appropriate that amount into the Railbelt energy fund established under AS 37.05.153.

22

(c) To encourage lenders not to attempt to dispose of real property in the state that has been foreclosed upon or otherwise acquired through actions taken on defaulted loans until the real estate market in the state becomes more stable, the authority may enter into contracts to provide for the management of the property. However, the authority may provide for the management of property only through June 30, 1992.

28

* Sec. 2. This Act is repealed July 1, 1992.

29

* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA

MEMBER

TENTH ALASKA LEGISLATURE
ELEVENTH ALASKA LEGISLATURE
TWELFTH ALASKA LEGISLATURE
THIRTEENTH ALASKA LEGISLATURE
FOURTEENTH ALASKA LEGISLATURE
FIFTEENTH ALASKA LEGISLATURE



SENATOR TIM KELLY

P. O. BOX V
JUNEAU, ALASKA 99811
(907) 485-3822

P. O. BOX 210001
ANCHORAGE, ALASKA 99521
(907) 561-7612

Feb. 9, 1988

To: All Senators
From: Senator Tim Kelly **TDK**

re: The Alaska Stabilization Assistance Program (ASAP)

I am introducing the attached legislation. It's essentially a "generic" bridge bank concept as originally proposed by Dave Rose.

Several different proposals for helping to slow the decline of property values throughout Alaska, and particularly Southcentral, have surfaced. I can support any number of these. If, however, the Legislature cannot within the next 90 days agree upon a more specific proposal, this legislation would enable AIEDA to contract with a separate entity to help maintain a floor on real estate values.

The problem is not just the portfolio the FDIC has assumed in Alaska, but also the Alliance Bank portfolio, which could be an even larger problem, as well as several other institutions and banks with similar serious concerns. If a separate entity can be created to pool these problem properties and effectively prevent competitive "dumping", I believe a service will be done. I understand the Alliance Bank might be interested in exploring such a concept.

I have initially capitalized the ASAP through a \$15 million loan from the Railbelt Energy Fund. I'm not wed to this source of funding. Either AIEDA or General Fund money might be used, but as the problem, while statewide, appears to be predominately a railbelt problem, I'm not shy about proposing borrowing the money from the Railbelt account.

Both private industry and the FDIC have been extremely active in trying to solve this serious problem. I believe the State should also become a limited player at this time.

I urge your co-sponsorship.

STATE OF ALASKA

MEMBER

TENTH ALASKA LEGISLATURE
ELEVENTH ALASKA LEGISLATURE
TWELFTH ALASKA LEGISLATURE
THIRTEENTH ALASKA LEGISLATURE
FOURTEENTH ALASKA LEGISLATURE
FIFTEENTH ALASKA LEGISLATURE



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(907) 561-7812

SENATOR TIM KELLY

February 8, 1988

TO: Tam Cook
FROM: Sen. Tim Kelly *TDK*

re: Alaska Stabilization Assistance Program (ASAP)

Please draft legislation which:

1) Creates a distinct "Alaska Stabilization Assistance Program" within the Alaska Industrial and Export Development Authority (AIEDA);

- a) stating that the purpose of the program is to facilitate the development of a separate organization to promote the stabilization of real estate values in Alaska;
- b) placing the account under the direction of the Board of Directors of AIEDA;
- c) authorizing AIEDA to contract with an entity to assume management of foreclosed upon property held by financial institutions and loans collateralized by real estate, for the purpose of reorganizing and stabilizing that property, and;
- d) stating that AIEDA shall contract to retain management of said property until such time as it is determined that property market values have stabilized and improved.

2) Appropriates \$15 million from the Railbelt Energy Account to the "Alaska Stabilization Assistance Program" of the Alaska Industrial and Export Development Authority, for the purpose of paying operational costs involved in the management of foreclosed property;

Attach a letter stating:

It is the intent of the Legislature that these funds shall be construed as a five year interest bearing loan to AIEDA, with the interest to be determined by the annualized prime rate.

As funds are recovered from the management of this property, these funds shall be returned to the Stabilization Assistance Program which will distribute these funds first to the General Account of the State of Alaska, with appropriate notice to the legislature as to the derivation of these funds so they can be returned to the Railbelt Energy Fund, then to the lending institutions from whom the property management was assumed.

Effective Date: Immediate

**A CONCEPTUAL PLAN FOR AN
ALASKA STABILIZATION ASSISTANCE PROGRAM**

**A FEDERAL, STATE, LOCAL GOVERNMENT
AND PRIVATE SECTOR PARTNERSHIP**

This paper expands, clarifies and combines some options set forth in a White Paper entitled "Options to Improve the Alaskan Economy" dated January 1988 and attached hereto.

DAR/FEB.88

These agencies/entities own real estate as the result of foreclosure. They also hold defaulted and delinquent loans secured by real estate.

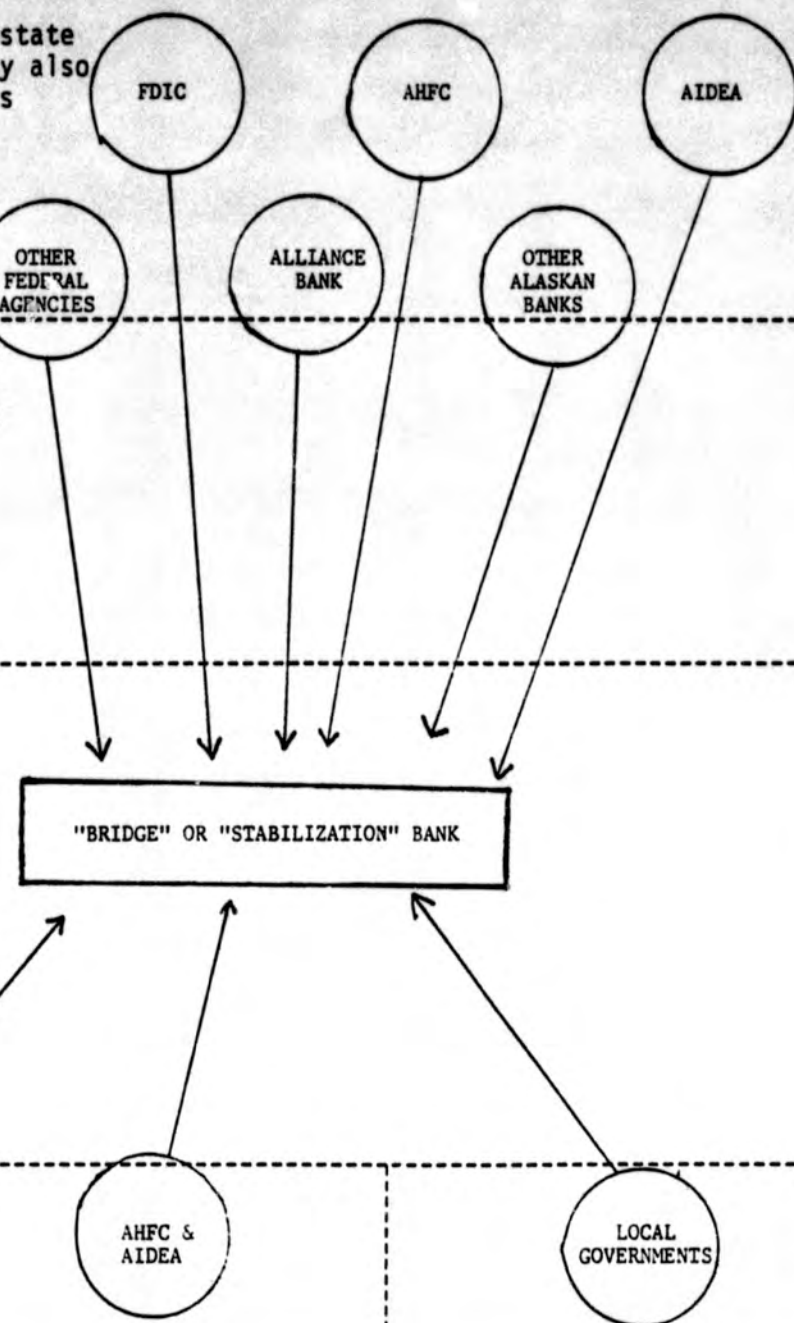
These agencies/entities contribute the above assets to "bridge" bank. They own an undivided interest (on a pro-rata basis in proportion to contribution) in this pool.

Responsible for:

Stabilization
Loan Reschedules
Loan Workouts
Liquification of
Assets and
Cash Return
To Pool Contr-
ibutors on a
Pro-rata basis.

If Required.
Provides working
capital of about
\$15,000,000

Receives return of
above prior to payout
to pool "owners".



Impose new supply
moratoriums which
can be subject to
waiver upon request
of local governments.

Restrict new supply:

Platting
Zoning
Utility Expansion

May request waiver of
moratoriums after public
hearings.

1. This concept requires the combined efforts of federal, state, local and private entities.... A partnership to address mutual problems and solve them on a cooperative basis.
2. It does not "bail out" anybody. No purchases of assets occur, no checks are written. Those entities who "own" problems continue to own them through pro-rata interests in a common pool.
3. Valuation of assets does not present a problem because no purchase takes place. All assets are valued at municipal assessment levels as of a given date. Valuation is utilized only to determine pro-rata share of the common pool.
4. The pool holds assets to stabilize values, eventually liquifies these assets and returns proceeds to pool owners.
5. The State provides a loan (up to \$15,000,000) for working capital which is repaid prior to distributions to pool owners. This working capital may not be needed if there is adequate cash flow generated by pool assets but it is evidence of the State's interest and intent to help address and solve this problem.
6. State agencies such as AHFC and AIDEA place moratoriums on financing new supply. These can be waived if local governments so request. (General, statewide moratoria may not be in the best interests of those communities which do not have excess supply of all -- or certain types of -- real estate.)
7. Local governments cannot exacerbate the supply problem by encouraging new construction. Therefore they may consider local moratoria on rezones, replats and utility extensions in order to discourage new construction in those categories of real estate where there currently is excess supply.

NOTE: AHFC = Alaska Housing Finance Corporation is an instrumentality of the State.

AIDEA = Alaska Industrial Development and Export Authority is an instrumentality of the State.

EXECUTION

The establishment of the "Bridge" or "Stabilization" bank is coordinated by a State agency which also serves as the recipient of the State appropriation.

The State agency, using the appropriation (and subsequent loan) as a lever, binds the parties together by contract. It does not operate the bridge bank but does insure that it is contractually obligated to hold assets for stabilization.

The bridge bank is operated by a Board of Directors who set policy and appoint officers who select and direct staff. The Board of Directors of the bridge bank are chosen by the pool participants who vote their pro-rata share of asset contribution.

Value of Mat-Su property plunges 15 to 20 percent

By DAVID HULEN
Daily News reporter

WASILLA — New figures show that the value of property in the Matanuska-Susitna Borough, which grew like almost no place else in Alaska during the oil boom, has now plummeted to 1984 levels. Some real estate brokers say the price of property is continuing to slide.

Property tax assessment notices to be mailed out by the borough later this month spell out what many homeowners have known or suspected for months — that Mat-Su homes and businesses are worth an average of 15 to 20 percent less than they were a year ago.

To the borough, the drop in the total worth of Mat-Su

property means a shrinking tax base. It'll put the borough assembly in the position later this year of deciding whether to raise tax rates to continue schools and services, making new cuts, or finding new sources of money.

To landowners, it could mean a corresponding drop in property taxes, although that may not be much consolation to people who've watched the real worth of their homes sink below the mortgage value.

The figures, which reflect the prices paid for homes that have been sold over the past year, are just another sign that the economy in the Valley continues its slide, along with the much of the rest of the state. Anchorage is expect-

ted to experience a similar drop this year.

The drop in real estate values — as much as 30 percent on some homes and commercial properties — has resulted in something of a mini-boom in real estate sales, especially in the latter months of 1987, according to several real estate brokers.

"Last year was definitely an improvement over '86," said Kristan Tanner, a Wasilla broker. The slow market had led brokers to dub the area as "Death Valley," she said. Four years ago, there were 275 licensed real estate brokers in the Valley; today there are 105.

"Most of the Realtors that

See Page B-2, VALLEY

VALLEY: Property values plummet 15 to 20 percent since last year

Continued from Page B-1

are left are doing quite well. It definitely has picked up. We're real happy," Tanner said.

About 600 Mat-Su homes were sold last year, according to borough figures.

The problem, Tanner and others noted, is that the increase in homes being sold is coming at the expense of people being forced to sell their homes at prices lower than their mortgage values. No longer able to make payments, people have been selling homes for whatever they'll bring, and prices have dropped further and further in recent months. Foreclosures and repossessions continue.

"I see institutions panicking and still lowering prices," said Penny Milton, a Wasilla broker whose agency handles homes repossessed by the De-

partment of Housing and Urban Development.

"That pulls everything down. There are a lot of buyers now ... you have investors and people who are renting now. But it's getting to the point where anyone who owns a house here — anyone who bought in during the boom — is facing an impossible situation as far as selling at what they paid."

For the first time, many Mat-Su residents likely are seeing their property assessments from the borough dip below the mortgage value of their homes, said Borough Assessor Gary Lewis. While prices began sliding in Anchorage two or three years ago, the crash hit Mat-Su later and many properties didn't change in value during last year's assessment.

"Just about anybody who bought a house in '83-'84-'85 is looking at negative equity out

here now," he said. About the only things that have held their value, he said, are recreation properties.

The borough assessments are used to compute the amount of property tax owed and are based on selling prices of similar properties. Until last year, the total value of Mat-Su property rose every year from the time the borough was established in 1964, peaking at \$2.4 billion in 1985. Last year, values dropped between 1 percent and 2 percent, and will drop to around \$2 billion this year, Lewis said.

Borough assemblymen have been vowing in recent weeks that they won't try to raise tax rates to make up for it. Instead, they say, they'll continue lobbying for more state assistance, and will consider further cuts when they write budgets this spring.

Mat-Su unemployment in

December was 17.4 percent, the highest in this part of Alaska and nearly double the statewide rate. And that number includes only those classified by the state as actively looking for work, and generally doesn't count seasonal workers and those who only work from time to time.

Many people are working fewer hours or at lower wages. There are almost 1,000 fewer jobs in Mat-Su than two years ago, according to state figures.

No boroughwide population estimate has been done since 1986, but there are signs that people are continuing to trickle Outside to get away from the depressed economy. School enrollments and utility connections, for instance, are down about 4 percent from a year ago.

Businesses continue to close; the Chevrolet dealership in Wasilla is among the

major ones to go under in recent months.

Although it is not dramatic, there have been a few positive signs. Some new retail businesses have opened. Over the next couple of weeks, VECO Inc., plans to temporarily hire between 50 and 60 ironworkers, welders and heavy equipment operators to build a pair of oilfield modules for use on the North Slope. The jobs, paying an average of about \$15 an hour, are expected to last until March.

The \$45 million Colony school project near Palmer has kept a flicker of heavy construction activity alive, with as many as 100 workers. The schools are scheduled to be completed later this year, although, because of drops in school budgets and number of pupils, it remains unclear whether the schools will be opened.

WORK DRAFT

WORK DRAFT

WORK DRAFT

HEARING
THURSDAY
SEN. FIN.

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Cook
4/16/88

1 IN THE SENATE

BY KELLY AND STURGULEWSKI

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 408

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to stabilization of the real estate
7 market; authorizing the establishment of real prop-
8 erty liquidating organizations; and providing for an
9 effective date."

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

11 * Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature
12 finds that

13 (1) there have been in the state several failures of state and
14 federally chartered financial institutions and one bank consolidation by
15 the Federal Deposit Insurance Corporation under 12 U.S.C. 1823(c);

16 (2) state and federal agencies currently hold large portfolios
17 of distressed real estate loans and real property;

18 (3) these financial institutions and government agencies need to
19 be permitted to cooperate in administering these properties to avoid fur-
20 ther adverse effects on the state's real estate markets and to stabilize
21 the state's banking system; and

22 (4) the maintenance of stable and orderly markets for the pur-
23 chase and sale of commercial and residential real estate in the state is
24 essential to the economy of the state and the welfare of its citizens.

25 (b) The legislature intends to ensure the stability of the state's
26 real estate markets and prevent a precipitous decline in real estate prices
27 by displacing competition with government regulation in matters relating to
28 the sale and disposition of real property held by financial institutions
29 and state and federal agencies as a result of foreclosure actions. By

1 authorizing the creation of real property liquidating organizations under
2 state supervision, the legislature intends to grant authority to the com-
3 missioner of commerce and economic development to provide by regulation
4 that persons and entities who subscribe or grant assets to, contribute
5 funds or services to, obtain a beneficial interest in, or participate in
6 the management of a real property liquidating organization will be immu-
7 nized as necessary possible against potential liability under federal
8 antitrust laws and state antitrust, competition, and trade practices laws
9 arising from the operation of the organizations.

10 * Sec. 2. AS 06 is amended by adding a new chapter to read:

11 CHAPTER 50. REAL PROPERTY LIQUIDATING ORGANIZATIONS.

12 Sec. 06.50.010. RESPONSIBILITY OF COMMISSIONER. The commis-
13 sioner shall administer this chapter and adopt regulations to carry
14 out the purposes of this chapter.

15 Sec. 06.50.020. FORMATION. (a) Three or more grantors may
16 create a real property liquidating organization by filing the orga-
17 nizational documents with the commissioner. The commissioner shall
18 review the documents and approve them if they comply with (b) of this
19 section and are consistent with the purposes of this chapter. Convey-
20 ance of assets to or disposition of real property or other assets by
21 an organization is not valid until the organizational documents have
22 been reviewed and approved by the commissioner.

23 (b) The organizational documents must

24 (1) state the purpose of the organization;

25 (2) identify all grantors who will subscribe to the orga-
26 nization and all persons who will possess an interest in the orga-
27 nization;

28 (3) describe the manner in which the organization will be
29 managed;

1 (4) prescribe the method under which distributions to the
2 grantors and other beneficiaries will be made;

3 (5) provide for the conveyance to the organization of all
4 or part of the grantors' portfolios of commercial and residential real
5 properties in the state or other assets;

6 (6) provide for the orderly disposition of property of the
7 organization at prices to be established in accordance with the orga-
8 nizational documents;

9 (7) provide for the expenditure of assets to manage orga-
10 nization property, including expenditures to preserve or enhance the
11 value of properties; and

12 (8) provide for the establishment of other terms and con-
13 ditions relating to the sale or other disposition of assets that the
14 grantors consider necessary or appropriate to ensure that the orga-
15 nization will be operated in a manner that will provide for orderly
16 disposition of property and promote a stable real estate market and
17 economy.

18 Sec. 06.50.030. AUDITS AND REPORTS. (a) In addition to the
19 record keeping requirements specified in regulations adopted by the
20 commissioner or in the organizational documents, the organization
21 shall retain a certified public accountant to annually prepare and
22 submit to the department on or before April 1 of each calendar year an
23 audited balance sheet, income statement, statement of principal,
24 statement of changes in financial position, and schedule of all dispo-
25 sitions of real estate assets made by the organization during the
26 year. In connection with the preparation of the financial documents,
27 the accountant shall issue letters

28 (1) certifying that all sales of real estate assets and all
29 distributions during the year were made in accordance with the

1 provisions of the organization documents and this chapter, or identi-
2 fying any variance; and

3 (2) with respect to the internal financial controls and
4 practices of the organization, providing recommendations the accoun-
5 tant considers appropriate.

6 (b) The organization shall prepare and file with the commission-
7 er, on a quarterly basis, a report containing the following:

8 (1) a schedule of all real property held by the organiza-
9 tion;

10 (2) the sale price and all other significant terms of sale
11 for real property sold since the date of the previous report; and

12 (3) a proposed operating plan for the next quarterly period
13 that conforms with regulations adopted by the commissioner.

14 Sec. 06.50.040. REVIEW AND APPROVAL BY COMMISSIONER. (a) The
15 commissioner shall review each report filed under (b) of this section
16 and approve or disapprove the proposed operating plan within 20 days
17 after filing. In reviewing the operating plan, the commissioner shall
18 consider current market conditions. Before approving the plan, the
19 commissioner must find that the plan complies with the purpose of this
20 chapter.

21 (b) Within five days after the department notifies an organiza-
22 tion of its intention to inspect business records, all business re-
23 cords maintained by the organization shall be available for review and
24 examination by the department at the organization's principal place of
25 business, during regular business hours. The commissioner shall
26 examine the business records of an organization on a regular basis at
27 least twice each calendar year.

28 (c) If the commissioner disapproves the proposed operating plan
29 or concludes, after examination, that the organization is being

1 administered contrary to statute or regulation, the commissioner shall
2 notify the organization and all grantors in writing, specifying all
3 deficiencies and prescribing appropriate remedies. If the organiza-
4 tion fails to remedy deficiencies in accordance with the commission-
5 er's prescriptions within 60 days after receipt of the notice, the
6 commissioner may commence proceedings under AS 06.01.030.

7 (d) The expenses of the department reasonably incurred in re-
8 viewing and approving a proposed operating plan or conducting an
9 examination under this section shall be charged to and paid by the
10 organization in accordance with AS 06.01.010.

11 Sec. 06.50.050. PREEMPTION. If the commissioner determines that
12 the exemption is necessary to carry out the purposes of this chapter,
13 the commissioner may by regulation exempt real property liquidating
14 organizations from any state law other than this chapter or from any
15 regulation other than one adopted under this chapter.

16 Sec. 06.50.100. DEFINITIONS. In this chapter,

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

19 (2) "department" means the Department of Commerce and
20 Economic Development;

21 (3) "grantor" means a federally or state chartered finan-
22 cial institution, federal or state agency, licensed insurer, or fi-
23 nancing company that conveys assets to, and thereby obtains a benefi-
24 cial interest in and the right to participate in the management of, a
25 real property liquidating organization;

26 (4) "real property liquidating organization" or "organiza-
27 tion" means a corporation, trust, fund, partnership, joint venture, or
28 other legal entity created to acquire, maintain, manage, market, sell,
29 or otherwise dispose of real property in the state and to distribute

1 to the beneficiaries, in accordance with the provisions of the orga-
2 nization documents, the proceeds derived from the sale or disposition
3 of the property.

4 * Sec. 3. AS 18.56 is amended by adding a new section to read:

5 Sec. 18.56.210. MARKET STABILIZATION POWERS. The corporation
6 may take appropriate action to stabilize the market price of and
7 demand for residential housing in the state. To accomplish the pur-
8 poses of this section, the corporation may

9 (1) enter into agreements with state and federally char-
10 tered financial institutions, state or federal agencies, insurers, and
11 financing companies for the cooperative management and disposal of
12 real property owned by the corporation, financial institutions, agen-
13 cies, or other contracting parties; and

14 (2) convey real property and other assets to, and acquire a
15 beneficial interest in, a real property liquidating organization
16 established under AS 06.50.

17 * Sec. 4. AS 44.88.080 is amended by adding a new paragraph to read:

18 (25) to convey real property and other assets to, and ac-
19 quire a beneficial interest in, a real property liquidating orga-
20 nization established under AS 06.50.

21 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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5-1796N
Chenoweth
4/5/88

Original sponsors: Halford, Faiks,
Uehling, et al.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 471 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a program in the Alaska Indus-
7 trial Development and Export Authority to guarantee
8 business loans and to refinance debt; and providing
9 for an effective date."

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

11 * Section 1. AS 44.88 is amended by adding new sections to read:

12 ARTICLE 6A. BUSINESS ASSISTANCE PROGRAM.

13 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. The business assis-
14 tance fund is established in the authority from appropriations for the
15 purpose and from money in the authority's reserves. Subject to the
16 requirements of AS 44.88.500 - 44.88.599, the authority may use money
17 in the fund

18 (1) to guarantee loans, including loans made to refinance
19 existing loans, to businesses that qualify under AS 44.88.505 and
20 apply under AS 44.88.510; and

21 (2) to refinance the debt of businesses that qualify under
22 AS 44.88.545 and apply under AS 44.88.550.

23 Sec. 44.88.505. QUALIFICATIONS OF APPLICANT FOR LOAN GUARANTEE.
24 A business enterprise may apply for a loan guarantee under AS 44.88.-
25 500 - 44.88.599. The authority may establish additional applicant
26 qualifications by regulation and these qualifications may vary depend-
27 ing upon the type of business the applicant is engaged in.

28 Sec. 44.88.510. APPLICATION FOR LOAN GUARANTEE. An applicant
29 for a loan guarantee shall provide information that the authority may

1 require by regulation. The authority may require submission of an
2 economic benefit analysis prepared by a person acceptable to the
3 authority.

4 Sec. 44.88.515. CONDITIONS OF LOAN GUARANTEES. (a) The author-
5 ity may guarantee a loan under AS 44.88.500 - 44.88.599 if the

6 (1) loan is commercially reasonable, contains amortization
7 provisions satisfactory to the authority, is secured by adequate
8 collateral, and the net cash flow from the borrower provides adequate
9 coverage for the debt service on the loan;

10 (2) term of the loan does not exceed 20 years;

11 (3) loan is originated with and serviced by a state char-
12 tered or federally chartered financial institution;

13 (4) portion of the loan not guaranteed by the authority is
14 held by the originating financial institution or another financial
15 institution approved by the authority;

16 (5) loan is made to a business with a majority interest
17 held by state residents; and

18 (6) the loan guarantee provides a benefit to the borrower.

19 (b) The authority may provide a guarantee from the fund for up
20 to 90 percent of a loan that qualifies under AS 44.88.500 - 44.88.599.
21 The ratio of the guarantee to the outstanding principal of the loan
22 may not increase over the term of the loan.

23 (c) The authority may not guarantee the payment of interest on
24 the guaranteed portion of a loan.

25 Sec. 44.88.520. LIMITATIONS OF LOAN GUARANTEES FROM THE FUND.
26 The authority may not guarantee

27 (1) a total of more than \$50,000,000 of loans;

28 (2) more than \$25,000,000 of loans in which the amount of
29 the loan guarantee exceeds \$500,000.

25/1000

1 Sec. 44.88.525. LIMITATIONS OF LOAN GUARANTEES WITH RESPECT TO
2 BORROWERS. The authority may not guarantee person acceptable to the
3 authority. (1) a loan of more than \$1,000,000;

4 (2) loans to an individual borrower that cumulatively
5 exceed \$1,000,000 of indebtedness.

6 Sec. 44.88.530. INTEREST ON GUARANTEED LOAN. The maximum inter-
7 est rate on a loan guaranteed by the authority is

8 (1) for a loan guarantee that exceeds 80 percent of the
9 loan, one and one-half percentage points above the prime rate on the
10 day the loan guarantee is made; and

11 (2) for a loan guarantee that is equal to or less than 80
12 percent of the loan, two and three-quarters percentage points above
13 the prime rate on the day the loan guarantee is made.

14 Sec. 44.88.535. DEFAULT OR FORECLOSURE OF A GUARANTEED LOAN.

15 (a) Payments received toward satisfaction of a default on a loan
16 guaranteed under AS 44.88.500 - 44.88.599 shall be allocated between
17 the lender and the fund according to the guaranteed percentage of the
18 loan until the principal balance has been repaid.

19 (b) The authority shall dispose of property acquired through
20 default or foreclosure of a loan guaranteed under AS 44.88.500 -
21 44.88.599. Disposal shall be in a manner that serves the best in-
22 terest of the state and may include the amortization of payments over
23 a period of years.

24 Sec. 44.88.540. RELATIONSHIP TO OTHER LOANS. Notwithstanding
25 other provisions of law, a business enterprise that qualifies under
26 AS 44.88.505 to apply for a loan guarantee under AS 44.88.500 - 44.-
27 88.599 shall apply for a loan guarantee before it may apply for a
28 direct loan of state money under any other state loan program. Only
29 after an application for the guarantee of a loan to be used for a

1 particular purpose is rejected under AS 44.88.500 - 44.88.599 may a
2 business enterprise apply for a direct state loan for that purpose.

3 Sec. 44.88.545. QUALIFICATIONS OF APPLICANT FOR DEBT REFINANC-
4 ING. A business enterprise may apply under AS 44.88.500 - 44.88.599
5 to refinance existing debt. The authority may approve a refinancing
6 of existing debt if the authority finds that

7 (1) the refinancing involves a viable project; and

8 (2) the refinancing will save existing jobs.

9 Sec. 44.88.550. APPLICATION FOR DEBT REFINANCING. An applicant
10 for refinancing of existing debt shall provide the information that
11 the authority may require by regulation.

12 Sec. 44.88.555. CONDITIONS OF DEBT REFINANCING. The authority
13 may not refinance debt unless the refinancing

14 (1) is necessary to extend substantial debt payments over a
15 longer period of time, thereby improving the applicant's net cash flow
16 and working capital position consistent with the useful life of the
17 assets being refinanced;

18 (2) assists with short-term debt or cash expenditures when
19 lenders will not extend reasonable longer terms to the applicant; or

20 (3) is necessary to place a permanent loan subsequent to an
21 interim loan for financing construction of the project.

22 Sec. 44.88.560. DEFAULT OR FORECLOSURE OF A REFINANCED LOAN.

23 (a) The authority shall dispose of property acquired through default
24 or foreclosure of a loan refinanced under AS 44.88.500 - 44.88.599.
25 Disposal shall be in a manner that serves the best interest of the
26 state and may include the amortization of payments over a period of
27 years.

28 Sec. 44.88.565. POWERS OF THE AUTHORITY. The authority may

29 (1) designate agents and delegate powers necessary to

1 implement AS 44.88.500 - 44.88.599;

2 (2) adopt regulations to implement AS 44.88.500 - 44.88.-
3 599;

4 (3) establish terms and conditions for loan guarantees and
5 refinancing agreements subject to the requirements of AS 44.88.500 -
6 44.88.599;

7 (4) make and execute contracts and other instruments to
8 implement AS 44.88.500 - 44.88.599;

9 (5) acquire real or personal property by purchase, trans-
10 fer, or foreclosure when the acquisition is necessary to protect an
11 interest in the fund; and

12 (6) exercise any other power necessary to implement AS 44.-
13 88.500 - 44.88.599.

14 Sec. 44.88.570. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the fund the foreclosure
16 expense account.

17 (b) The authority may expend money credited to the foreclosure
18 expense account when necessary to protect the state's security inter-
19 est in collateral on loans guaranteed or refinanced under AS 44.88.-
20 500 - 44.88.599 or to defray expenses incurred during a foreclosure
21 proceeding after a default.

22 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599,

23 (1) "fund" means the business assistance fund established
24 under AS 44.88.500;

25 (2) "prime rate" means the lowest money center prime rate
26 of interest that is published in the Wall Street Journal.

27 * Sec. 2. PROCEDURES GOVERNING PROGRAM REVIEW. (a) AS 44.66.050 and
28 44.66.060 apply to AS 44.88.500 - 44.88.599 (Business Assistance Program of
29 the Alaska Industrial Development and Export Authority).

1 (b) The First Session of the Seventeenth Alaska State Legislature
2 shall conduct the legislative oversight proceedings required by (a) of this
3 section.

4 * Sec. 3. AS 44.88.500 - 44.88.599 are repealed July 1, 1991.

5 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
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SBA short funded in our area
A. & D.A.

5-1796P -
Chenoweth
4/7/88

Original sponsors: Halford, Faiks,
Uehling, et al.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 - CS FOR SENATE BILL NO. 471 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a program in the Alaska Indus-
7 trial Development and Export Authority to guarantee
8 business loans; and providing for an effective date."

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

10 * Section 1. AS 44.88 is amended by adding new sections to read:

11 ARTICLE 6A. BUSINESS ASSISTANCE PROGRAM.

12 Sec. 44.88.500. BUSINESS ASSISTANCE FUND. (a) The business
13 assistance fund is established in the authority from money in the
14 authority's reserves designated by the authority for the purpose.
15 Subject to the requirements of AS 44.88.500 - 44.88.599, the authority
16 may use money in the fund

17 (1) to guarantee new loans; and

18 (2) to guarantee loans made to refinance existing loans.

19 (b) The holder of a debt instrument for a loan guaranteed by the
20 authority does not have recourse to the assets of the authority beyond
21 those designated by the authority from its reserves for the purpose.

22 Sec. 44.88.505. QUALIFICATIONS OF APPLICANT FOR NEW LOAN GUARAN-
23 TEE. (a) A business enterprise may apply for a new loan guarantee
24 under AS 44.88.500(a)(1).

25 (b) The authority may establish additional applicant qualifica-
26 tions by regulation. These qualifications may vary depending upon the
27 type of business the applicant is engaged in.

28 Sec. 44.88.510. APPLICATION FOR NEW LOAN GUARANTEE. An appli-
29 cant for a new loan guarantee shall provide information that the

1 authority may require by regulation. The authority may require sub-
2 mission of an economic benefit analysis prepared by a person accept-
3 able to the authority.

4 Sec. 44.88.515. QUALIFICATIONS OF APPLICANT FOR DEBT REFINANCING
5 GUARANTEE. A business enterprise may apply under AS 44.88.500(a)(2)
6 to guarantee the refinancing of existing debt.

7 Sec. 44.88.520. APPLICATION FOR DEBT REFINANCING GUARANTEE. An
8 applicant for a debt refinancing guarantee shall provide the informa-
9 tion that the authority may require by regulation.

10 Sec. 44.88.525. CONDITIONS OF DEBT REFINANCING GUARANTEE. The
11 authority may not guarantee refinanced debt

12 (1) unless the refinancing

13 (A) is necessary to extend substantial debt payments
14 over a longer period of time, thereby improving the applicant's
15 net cash flow and working capital position consistent with the
16 useful life of the assets being refinanced;

17 (B) assists with short-term debt or cash expenditures
18 when lenders will not extend reasonable longer terms to the
19 applicant; and

20 (C) creates additional economic opportunity or im-
21 proves the viability of the borrower rather than just reducing
22 the liability of the lender; or

23 (2) unless the refinancing is necessary to place a perma-
24 nent loan subsequent to an interim loan for financing construction of
25 the project.

26 Sec. 44.88.530. APPLICABILITY OF PROVISIONS. AS 44.88.535 -
27 44.88.560 apply to

28 (1) new loan guarantees under AS 44.88.500(a)(1); and

29 (2) debt refinancing guarantees under AS 44.88.500(a)(2).

1 Sec. 44.88.535. CONDITIONS OF LOAN GUARANTEE. (a) The author-
2 ity may guarantee a loan under AS 44.88.500 - 44.88.599 if the

3 (1) loan is commercially reasonable, contains amortization
4 provisions satisfactory to the authority, is secured by adequate
5 collateral, and the net cash flow from the borrower provides adequate
6 coverage for the debt service on the loan;

7 (2) term of the loan does not exceed 20 years;

8 (3) loan is originated with and serviced by a state char-
9 tered or federally chartered financial institution;

10 (4) loan guaranteed by the authority is held by the orig-
11 inating financial institution or another financial institution ap-
12 proved by the authority;

13 (5) loan is made to a business with a majority interest
14 held by state residents; and

15 (6) loan guarantee provides a benefit to the borrower.

16 (b) The authority may provide a guarantee from the fund for up
17 to 75 percent of a loan that qualifies under AS 44.88.500 - 44.88.599.
18 The ratio of the guarantee to the outstanding principal of the loan
19 may not increase over the term of the loan.

20 (c) The authority may not guarantee the payment of interest on
21 the guaranteed portion of a loan.

22 Sec. 44.88.540. LIMITATIONS OF GUARANTEES FROM THE FUND. The
23 authority may not guarantee

24 (1) a total of more than \$50,000,000 of loans;

25 (2) more than \$25,000,000 of loans in which the amount of
26 the loan guarantee exceeds \$500,000.

27 Sec. 44.88.545. LIMITATIONS OF GUARANTEES WITH RESPECT TO BOR-
28 ROWERS. The authority may not guarantee

29 (1) a loan of more than \$1,000,000;

ind or
ind who owns 10% of
a corp

10% is INDIVIDUAL

(2) loans to an individual borrower that cumulatively exceed \$1,000,000 of indebtedness.

Sec. 44.88.550. INTEREST ON GUARANTEED LOAN. The maximum interest rate on a loan guaranteed by the authority is

(1) for a loan guarantee that exceeds 65 percent of the loan, one and one-half percentage points above the prime rate on the day the loan guarantee is made; and

(2) for a loan guarantee that is equal to or less than 65 percent of the loan, two and three-quarters percentage points above the prime rate on the day the loan guarantee is made.

Sec. 44.88.555. SERVICING OF GUARANTEED LOANS. (a) The financial institution that holds a loan guaranteed by the authority under AS 44.88.500 - 44.88.599 shall

- (1) service the loan;
- (2) exercise diligence in collecting amounts due under the loan; and
- (3) comply with all requirements of the loan guarantee agreement.

(b) Amounts received toward satisfaction of a default on a loan guaranteed under AS 44.88.500 - 44.88.599 shall be allocated between the lender and the fund according to the guaranteed percentage of the loan until the principal balance has been repaid.

Sec. 44.88.560. POWERS OF THE AUTHORITY. The authority may

- (1) adopt regulations to implement AS 44.88.500 - 44.88.599;
- (2) establish terms and conditions for loan guarantees and refinancing agreements subject to the requirements of AS 44.88.500 - 44.88.599;
- (3) make and execute contracts and other instruments to

1 implement AS 44.88.500 - 44.88.599;

2 *19 to 4th*
3 *Amendment* (4) acquire real or personal property by purchase, trans-
4 fer, or foreclosure when the acquisition is necessary to protect an
5 interest in the fund; and

6 (5) exercise any other power necessary to implement AS 44.-
7 88.500 - 44.88.599.

8 Sec. 44.88.599. DEFINITIONS. In AS 44.88.500 - 44.88.599,

9 (1) "fund" means the business assistance fund established
10 under AS 44.88.500;

11 (2) "prime rate" means the lowest money center prime rate
12 of interest that is published in the Wall Street Journal.

13 * Sec. 2. PROCEDURES GOVERNING PROGRAM REVIEW. (a) AS 44.66.050 and
14 44.66.060 apply to AS 44.88.500 - 44.88.599 (Business Assistance Program of
15 the Alaska Industrial Development and Export Authority).

16 (b) The First Session of the Seventeenth Alaska State Legislature
17 shall conduct the legislative oversight proceedings required by (a) of this
18 section.

19 * Sec. 3. AS 44.88.500 - 44.88.599 are repealed July 1, 1991.

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

21 *loans to be dist. equitably.*

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5-2095B
Cook
4/20/88

Original sponsor: Finance Committee

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 502 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL.

6 For an Act entitled: "An Act relating to the economic stabilization pro-
7 gram; and providing for an effective date."

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

9 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

10 (1) financial institutions that are chartered in the state and
11 have a principal place of business in the state provide a substantial
12 portion of consumer, housing, and small business loans in the state and are
13 an important source of financing for the state's small businesses;

14 (2) these financial institutions have, in the last two years,
15 lost a portion of their capital due to some circumstances not of their mak-
16 ing;

17 (3) some of these financial institutions are having problems
18 adequately serving the communities in which they maintain branches and
19 fulfill their historic role of providing an alternative source of financing
20 in the state's marketplace;

21 (4) the state can invest money in these financial institutions,
22 thereby reducing the risk of future problems in the real estate market;

23 (5) these financial institutions will be able to increase their
24 lending by a factor of at least 10 times the amount of money received by
25 them from the state investments.

26 (b) The purpose of the legislature in establishing the economic
27 stabilization program is to provide a source of money that can be invested
28 in financial institutions that are chartered in the state and have a prin-
29 cipal place of business in the state so that their capital can be in-

1 creased. The legislature intends to achieve this purpose by authorizing
2 the Alaska Industrial Development and Export Authority to invest in inter-
3 est-bearing debentures of these financial institutions which shall be
4 repaid or redeemed at maturity.

5 * Sec. 2. ECONOMIC STABILIZATION PROGRAM. (a) The economic stabi-
6 lization program is established in the Alaska Industrial Development and
7 Export Authority. Under this program the authority is authorized to use up
8 to \$15,000,000 for investments in debentures issued by a financial institu-
9 tion with

10 (1) a charter issued by the state;

11 (2) its principal office located in the state; and

12 (3) assets that totaled on December 31, 1987, less than
13 \$150,000,000 when combined with assets of all its affiliates.

14 (b) The Alaska Industrial Development and Export Authority may not
15 make an investment under this section until

16 (1) at least one public hearing has been held on the proposed
17 investment; and

18 (2) the authority and the director of banking, securities and
19 corporations make a written finding that the proposed investment is in the
20 public interest.

21 (c) The Alaska Industrial Development and Export Authority may charge
22 a fee in connection with investments under this section that the authority
23 considers to be reasonable. The authority may only invest in debentures
24 that

25 (1) pay interest quarterly or more often;

26 (2) bear interest at a rate established by the authority that is
27 not less than one and one-half percent above the prime rate as determined
28 by the authority; in establishing interest the authority shall consider the
29 cost of brokered deposits;

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1 invest at least 15 percent of the purchase price in areas of the state
2 outside of metropolitan areas within three years after receipt of the
3 purchase price. The authority shall by regulation define "metropolitan
4 areas" for purposes of this subsection.

5 * Sec. 3. This Act is repealed July 1, 1990.

6 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
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liability of the stockholders is valid until it is approved by the department.

(c) If a state bank fails to maintain its total adjusted capital accounts and reserves in an amount equal to the substandard assets as reported by the Federal Deposit Insurance Corporation or the state in a bank's latest report of examination, the department shall consider the failure as endangering the safety of the depositor and may direct the bank's directors to increase the capital accounts in an amount sufficient to cover substandard assets. (§ 3.202 ch 129 SLA 1951; am § 11 ch 230 SLA 1968; am §§ 6, 7 ch 63 SLA 1969; am § 21 ch 169 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "paid-in capital" for "a paid-up capital," "\$250,000" for "\$100,000," "paid-in surplus" for "a paid-up surplus," and "of paid-in capital" for "of paid-up capital" in subsection (a), added the language beginning "and it is unlawful" to the end of subsection (a), deleted former subsection (b), designated

former subsections (c) and (d) as present subsections (b) and (c), rewrote the second sentence of present subsection (b), and substituted "Federal Deposit Insurance Corporation" for "FDIC" in subsection (c).

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

C.J.S. reference. — 9 C.J.S. Banks and Banking § 58.

Sec. 06.05.307. Capital notes or debentures. (a) A bank organized under the laws of this state may, with the approval of stockholders owning two-thirds of the stock of the bank entitled to vote or without this approval if authorized by its articles of incorporation, issue convertible or nonconvertible capital notes or debentures with the written consent of the department. The principal amount of notes and debentures outstanding at any time may not exceed $33\frac{1}{3}$ per cent of the capital stock and surplus fund of the bank at the date of issue. The rate and term are subject to the approval of the department but in no event may the term be more than 20 years after the date of issue.

(b) No bank may retire capital notes or debentures if the retirement creates an impairment of its capital. Capital notes and debentures are subordinated in right of payment in the event of insolvency or liquidation of the bank to the prior payment of all deposits and all claims of other creditors except the holders of securities on a parity with the capital notes and debentures and the holders of securities expressly subordinated to the capital notes and debentures.

(c) Bank assets may not be pledged to secure capital notes and debentures but the bank may, for the security and the protection of the holders of the capital notes and debentures, agree through its board of directors to restrict the payment of dividends.

(d) The amount of outstanding notes and debentures not maturing within one year shall be added to the capital, surplus account, and undivided profits of the issuing bank for the purpose of determining the maximum amount that may be loaned by the bank as provided in § 205 of this chapter.

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5-2103X

Bradley
5/6/88

Original sponsor: Judiciary Committee

1 IN THE SENATE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 515 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to foreclosure of a deed of trust or
7 a suit on a deed of trust note; and providing for an
8 effective date."

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

10 * Section 1. AS 34.20.070(a) is amended to read:

11 (a) If a deed of trust is executed conveying real property
12 located in the state to a trustee as security for the payment of an
13 indebtedness and the deed provides that in case of default or noncom-
14 pliance with the terms of the trust, the trustee may sell the property
15 for condition broken, the trustee, in addition to the right of fore-
16 closure and sale, may execute the trust by sale of the property, upon
17 the conditions and in the manner set forth in the deed of trust,
18 without first securing a decree of foreclosure and order of sale from
19 the court, if the trustee has complied with the notice requirements of
20 (b) of this section. If the deed of trust is foreclosed judicially or
21 the note secured by the deed of trust is sued on and a judgment is ob-
22 tained by the beneficiary, the beneficiary may not exercise the
23 nonjudicial remedies described in this section.

24 * Sec. 2. AS 34.20 is amended by adding a new section to read:

25 Sec. 34.20.160. NOTICE OF OTHER REMEDIES. (a) When a lender
26 uses a note as evidence of an obligation secured by a mortgage or deed
27 of trust, the note must affirmatively advise the mortgagor or trustor
28 and any other party bound by the note if the mortgagee or beneficiary
29 wants the option to bring suit directly on the note to collect an

1 amount owing under the note without first foreclosing the mortgage or
2 deed of trust. This option must be stated in writing within the note
3 or as a separate document. If a note executed after the effective
4 date of this Act fails to contain the notice specified in this sec-
5 tion, the debt secured by the mortgage or deed of trust may be fore-
6 closed under AS 09.45.170 - 09.45.220 or AS 34.20.070 - 34.20.135.

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

10 The mortgagor or trustor (borrower) is personally obligated
11 and fully liable for the amount due under the note. The
12 mortgagee or beneficiary (lender) has the right to sue on
13 the note and obtain a personal judgment against the mort-
14 gator or trustor for satisfaction of the amount due under
15 the note either before or after a judicial foreclosure of
16 the mortgage or deed of trust under AS 09.45.170 - 09.45.-
17 220.

18 * Sec. 3. APPLICABILITY. Section 1 of this Act applies to deed of
19 trust foreclosure proceedings and suits on a deed of trust note that are in
20 progress during, or that begin after, the effective date of this Act,
21 unless the real property has been sold before the effective date of this
22 Act under AS 34.20.080, or unless a judgment has been entered before the
23 effective date of this Act in a judicial foreclosure action or judicial
24 action for breach of contract arising out of the deed of trust.

25 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
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5-2091B
Bradley
4/21/88

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

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 555 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the Alaska Housing Finance Corpo-
7 ration to stabilize the market price of and the
8 demand for residential housing in the state; and
9 providing for an effective date."

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

11 * Section 1. AS 18.56 is amended by adding a new section to read:

12 Sec. 18.56.210. MARKET STABILIZATION POWERS. (a) If the board
13 of directors determines that it is in the best interest of the corpo-
14 ration, the corporation may take appropriate action under this sec-
15 tion to stabilize the market price of and demand for residential
16 housing in the state. To accomplish the purposes of this section, the
17 corporation may

18 (1) make and execute necessary agreements and conveyances
19 under which a borrower may exchange residential housing securing a
20 mortgage loan owned, held, or sold by the corporation for other res-
21 idential housing owned by the corporation;

22 (2) repurchase a mortgage loan sold or pledged by the
23 corporation for the purpose of exercising a power conferred by this
24 section;

25 (3) for the purpose of qualifying residential housing
26 situated in a condominium project for the best available financing for
27 mortgage loans, make and execute agreements and contracts necessary to
28 encourage all owners who occupy units in a condominium project that is
29 not eligible for financing under this chapter to exchange their

1 ownership interest for a condominium unit owned by the corporation in
2 another project;

3 (4) make and execute appropriate agreements with insurers,
4 investors, and guarantors concerning the temporary removal of residen-
5 tial housing owned by the corporation from the resale market;

6 (5) demolish residential housing owned by the corporation
7 if the corporation determines that

8 (A) the housing is substandard compared to housing
9 available on the open market;

10 (B) the housing cannot be converted to a public or
11 charitable use; and

12 (C) there is a substantial oversupply of similar
13 housing on the open market;

14 (6) convert residential housing owned by the corporation
15 that is designed and constructed for owner occupancy to another bene-
16 ficial use;

17 (7) make bulk sales of property owned by the corporation
18 under procedures and terms the corporation determines are in the best
19 interests of the corporation;

20 (8) provide financing under terms established by the board
21 to promote the sale of residential housing owned by the corporation if
22 the board of directors determines that the terms of financing do not
23 work an excessive hardship on competing individual sellers of residen-
24 tial housing;

25 (9) invest funds of the corporation in the removal and
26 disposal of substandard publicly-owned residential housing if the
27 board of directors determines that the investment is prudent, properly
28 secured, and in the long-term best interests of the corporation;

29 (10) create subsidiary entities to implement a power

1 conferred by this section and to provide insurance under AS 18.56.093
2 and 18.56.095; and

3 (11) take other actions necessary, convenient, or desirable
4 to carry out the powers granted in this subsection.

5 (b) The corporation shall implement the powers conferred by (a)
6 of this section by adopting regulations under AS 18.56.088.

7 * Sec. 2. AS 45.50.572 is amended by adding a new subsection to read:

8 (i) AS 45.50.562 - 45.50.596 do not prohibit activities of the
9 Alaska Housing Finance Corporation to stabilize the market price of
10 and demand for residential housing in the state under AS 18.56.210.

11 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
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Offered: 5/7/88
Referred: Rules

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

14/5 w/ letter
JP tent 5-2091X
H.A.D.
Sponer

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 555 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the Alaska Housing Finance Corpo-
7 ration to stabilize the market price of and the
8 demand for residential housing in the state; and
9 providing for an effective date."

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

11 * Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature
12 finds that

13 (1) the Alaska Housing Finance Corporation and other financial
14 institutions currently hold large portfolios of foreclosed residential
15 housing;

16 (2) these financial institutions should be permitted to cooper-
17 ate in administering foreclosed properties to avoid further adverse effects
18 on the state's real estate markets and to stabilize the state's banking
19 system;

20 (3) it is in the state's best interests in certain instances to
21 reduce the supply of residential housing in the state by demolishing sub-
22 standard publicly owned residential housing;

23 (4) residential housing situated in condominium projects with
24 high vacancy rates caused by defaults and foreclosures presents special
25 problems because mortgage investors and insurers have established con-
26 ditions relating to owner-occupancy that adversely affect the ability to
27 sell or finance a mortgage loan secured by a condominium unit; and

28 (5) the maintenance of stable and orderly markets for the pur-
29 chase and sale of residential housing in the state is essential to the



1 economy of the state and the welfare of its citizens.

2 (b) The legislature intends to improve the stability of the state's
3 market for residential housing. It is desirable to prevent a precipitous
4 decline in the price of available housing that will erode the tax base of
5 municipalities and further weaken the state's financial institutions. The
6 legislature intends to accomplish these ends by government regulation of
7 matters relating to the sale and disposition of residential housing held by
8 financial institutions, the Alaska Housing Finance Corporation, and federal
9 agencies. By authorizing the Alaska Housing Finance Corporation to exer-
10 cise the market stabilization powers enacted in sec. 2 of this Act, the
11 legislature intends to immunize to the fullest extent possible the board of
12 directors of the Alaska Housing Finance Corporation against potential
13 liability under federal antitrust and state antitrust, competition, and
14 trade practices laws arising from the exercise of stabilization powers.

15 * Sec. 2. AS 18.56 is amended by adding a new section to read:

16 Sec. 18.56.210. MARKET STABILIZATION POWERS. (a) If the board
17 of directors determines that it is in the best interest of the corpo-
18 ration, the corporation may take appropriate action under this sec-
19 tion to stabilize the market price of and demand for residential
20 housing in the state. To accomplish the purposes of this section, the
21 corporation may

22 (1) make and execute necessary agreements and conveyances
23 under which a borrower may exchange residential housing securing a
24 mortgage loan owned, held, or sold by the corporation for other res-
25 idential housing owned by the corporation;

26 (2) repurchase a mortgage loan sold or pledged by the
27 corporation for the purpose of exercising a power conferred by this
28 section;

29 (3) for the purpose of qualifying residential housing

1 situated in a condominium project for the best available financing for
2 mortgage loans, make and execute agreements and contracts necessary to
3 encourage all owners who occupy units in a condominium project that is
4 not eligible for financing under this chapter to exchange their owner-
5 ship interest for a condominium unit owned by the corporation in
6 another project;

7 (4) make and execute appropriate agreements with insurers,
8 investors, and guarantors concerning the temporary removal of residen-
9 tial housing owned by the corporation from the resale market;

10 (5) convert residential housing owned by the corporation
11 that is designed and constructed for owner occupancy to another bene-
12 ficial use;

13 (6) make bulk sales of property owned by the corporation
14 under procedures and terms the corporation determines are in the best
15 interests of the corporation;

16 (7) after giving due consideration to the interests of
17 competing individual sellers of residential housing, provide financing
18 under terms established by the board to promote the sale of residen-
19 tial housing owned by the corporation;

20 (8) invest funds of the corporation in the removal and
21 disposal of substandard publicly owned residential housing if the
22 board of directors determines that the investment is prudent, properly
23 secured, and in the long-term best interests of the corporation;

24 (9) create subsidiary entities to implement a power con-
25 ferred by this section and to provide insurance under AS 18.56.093 and
26 18.56.095; and

27 (10) establish the interest rate on a mortgage loan for
28 residential housing in the rural areas of the state at one percent
29 less than the interest rate determined under AS 18.56.098(g)(1) - (4);

1 (11) take other actions necessary, convenient, or desirable
2 to carry out the powers granted in this subsection.

3 (b) The corporation shall implement the powers conferred by (a)
4 of this section by adopting regulations under AS 18.56.088.

5 * Sec. 3. AS 45.50.572 is amended by adding a new subsection to read:

6 (i) AS 45.50.562 - 45.50.596 do not prohibit activities of the
7 Alaska Housing Finance Corporation to stabilize the market price of
8 and demand for residential housing in the state under AS 18.56.210.

9 * Sec. 4. (a) The stabilization fund is established in the Alaska
10 Housing Finance Corporation. Notwithstanding AS 18.56.210(a)(8), the fund
11 may be expended by the corporation to make a grant to a state agency to
12 finance the cost of demolishing state-owned residential housing.

13 (b) It is the intent of the legislature that the board of directors
14 of the Alaska Housing Finance Corporation transfer \$2,700,000 from the
15 Alaska Housing Finance revolving fund (AS 18.56.082) to the stabilization
16 fund established in (a) of this section.

17 * Sec. 5. Section 4 of this Act is repealed July 1, 1991.

18 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

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

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 555 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act authorizing the Alaska Housing Finance Corpo-
7 ration to stabilize the market price of and the
8 demand for residential housing in the state; and
9 providing for an effective date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature
12 finds that
13 (1) the Alaska Housing Finance Corporation and federal agencies
14 currently hold large portfolios of foreclosed residential housing;
15 (2) these governmental agencies should be permitted to cooperate
16 in administering foreclosed properties to avoid further adverse effects on
17 the state's real estate markets and to stabilize the state's banking sys-
18 tem;
19 (3) it is in the state's best interests in certain instances to
20 reduce the supply of residential housing in the state by demolishing sub-
21 standard publicly owned residential housing;
22 (4) residential housing situated in condominium projects with
23 high vacancy rates caused by defaults and foreclosures presents special
24 problems because mortgage investors and insurers have established con-
25 ditions relating to owner-occupancy that adversely affect the ability to
26 sell or finance a mortgage loan secured by a condominium unit; and
27 (5) the maintenance of stable and orderly markets for the pur-
28 chase and sale of residential housing in the state is essential to the
29 economy of the state and the welfare of its citizens.

1 (b) The legislature intends to improve the stability of the state's
2 market for residential housing. It is desirable to prevent a precipitous
3 decline in the price of available housing that will erode the tax base of
4 municipalities and further weaken the state's financial institutions. The
5 legislature intends to accomplish these ends by government regulation of
6 matters relating to the sale and disposition of residential housing held by
7 financial institutions, the Alaska Housing Finance Corporation, and federal
8 agencies. By authorizing the Alaska Housing Finance Corporation to exer-
9 cise the market stabilization powers enacted in sec. 2 of this Act, the
10 legislature intends to immunize to the fullest extent possible the board of
11 directors of the Alaska Housing Finance Corporation against potential
12 liability under federal antitrust and state antitrust, competition, and
13 trade practices laws arising from the exercise of stabilization powers.

14 * Sec. 2. AS 18.56 is amended by adding a new section to read:

15 Sec. 18.56.210. MARKET STABILIZATION POWERS. (a) If the board
16 of directors determines that it is in the best interest of the corpo-
17 ration, the corporation may take appropriate action under this sec-
18 tion to stabilize the market price of and demand for residential
19 housing in the state. To accomplish the purposes of this section, the
20 corporation may

21 (1) make and execute necessary agreements and conveyances
22 under which a borrower may exchange residential housing securing a
23 mortgage loan owned, held, or sold by the corporation for other res-
24 idential housing owned by the corporation;

25 (2) repurchase a mortgage loan sold or pledged by the
26 corporation for the purpose of exercising a power conferred by this
27 section;

28 (3) for the purpose of qualifying residential housing
29 situated in a condominium project for the best available financing for

1 mortgage loans, make and execute agreements and contracts necessary to
2 encourage all owners who occupy units in a condominium project that is
3 not eligible for financing under this chapter to exchange their owner-
4 ship interest for a condominium unit owned by the corporation in
5 another project;

6 (4) make and execute appropriate agreements with insurers,
7 investors, and guarantors concerning the temporary removal of residen-
8 tial housing owned by the corporation from the resale market;

9 (5) demolish residential housing owned by the corporation
10 if the corporation determines that

11 (A) the housing is substandard compared to housing
12 available on the open market;

13 (B) the housing cannot be converted to a public or
14 charitable use; and

15 (C) there is a substantial oversupply of similar
16 housing on the open market;

17 (6) convert residential housing owned by the corporation
18 that is designed and constructed for owner occupancy to another bene-
19 ficial use;

20 (7) make bulk sales of property owned by the corporation
21 under procedures and terms the corporation determines are in the best
22 interests of the corporation;

23 (8) provide financing under terms established by the board
24 to promote the sale of residential housing owned by the corporation if
25 the board of directors determines that the terms of financing do not
26 work an excessive hardship on competing individual sellers of residen-
27 tial housing;

28 (9) invest funds of the corporation in the removal and
29 disposal of substandard publicly owned residential housing if the

1 board of directors determines that the investment is prudent, properly
2 secured, and in the long-term best interests of the corporation;
3 (10) create subsidiary entities to implement a power con-
4 ferred by this section and to provide insurance under AS 18.56.093 and
5 18.56.095; and
6 (11) take other actions necessary, convenient, or desirable
7 to carry out the powers granted in this subsection.
8 (b) The corporation shall implement the powers conferred by (a)
9 of this section by adopting regulations under AS 18.56.088.
10 * Sec. 3. AS 45.50.572 is amended by adding a new subsection to read:
11 (i) AS 45.50.562 - 45.50.596 do not prohibit activities of the
12 Alaska Housing Finance Corporation to stabilize the market price of
13 and demand for residential housing in the state under AS 18.56.210.
14 * Sec. 4. (a) The stabilization fund is established in the Alaska
15 Housing Finance Corporation. Notwithstanding AS 18.56.210(a)(9), the fund
16 may be expended by the corporation to make a grant to a state agency to
17 finance the cost of demolishing state-owned residential housing.
18 (b) It is the intent of the legislature that the board of directors
19 of the Alaska Housing Finance Corporation transfer \$2,700,000 from the
20 Alaska Housing Finance revolving fund (AS 18.56.082) to the stabilization
21 fund established in (a) of this section.
22 * Sec. 5. Section 4 of this Act is repealed July 1, 1991.
23 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

SENATE AMENDMENT

2

BY: Josephson

TO: _____ SENATE BILL NO. _____
TO: _____ CS HOUSE BILL NO. 555

AMENDMENT TO AMENDMENT NO. 1

After the semicolon (;) at the end of subparagraph (a), insert "and";

Delete subparagraph (b) and reletter subparagraph (c) accordingly.

(TURN IN ORIGINAL AMENDMENT TO SENATE SECRETARY'S OFFICE.
THE AMENDMENT WILL BE NUMBERED, COPIED AND DISTRIBUTED.)

BY: Josephson, Binkley, Duncan, Eliason, Hensley, and Zharoff

PROPOSED AMENDMENT TO HB 555

Senate Amendment #1

DELETE ON PAGE 3, LINES 27-29 AND REPLACE WITH:

(10) PURCHASE LOANS FROM THE HOUSING ASSISTANCE LOAN FUND (AS 44.47.380) IF AND ONLY IF:

(A) THE PAYMENTS OF PRINCIPAL AND INTEREST ON THE LOANS ARE DEPOSITED IN A SEPARATE FUND OF THE CORPORATION TO BE USED FOR THE PURPOSES, AND SUBJECT TO THE STANDARDS AND CRITERIA, OF AS 44.47.360-44.47.500 AS THOSE STATUTES PROVIDED ON THE EFFECTIVE DATE OF THIS ACT;

(B) THE LOANS ARE PURCHASED AT FAIR MARKET VALUE; AND

(C) THE CORPORATION HAS ESTABLISHED A SOURCE OF MORTGAGE INSURANCE FOR NEW LOANS SUBJECT TO THE PROVISIONS OF AS 44.47.360-AS 44.47.560.

*as amended
18-1
S. Zharoff*

LETTER OF INTENT

(CS HB 555 (Finance))

It is the intent of the Senate that an oversight committee composed of two members from each house be appointed by the President of the Senate and the Speaker of the House of Representatives. This committee shall advise and assist Alaska Housing Finance Corporation in stabilizing the real estate portfolio of the corporation.

Offered: 3/4/88
Referred: Judiciary and
Finance

Original sponsors: Donley, Ellis,
Boucher, et al.

*make signature
in neg. agency
might be the
answer*

5-1644B

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 432 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act authorizing the Alaska Housing Finance Corpo-
7 ration to accept tradcs in certain cases; and provid-
8 ing for an effective date."

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

10 * Section 1. PURPOSE AND AUTHORIZATION. (a) The legislature finds
11 that a sizeable proportion of the residents of the state have mortgages
12 that exceed both the present value of the property and the present ability
13 of the mortgagors of the property to make the payments agreed to in the
14 past. The purpose of this Act is to direct the Alaska Housing Finance
15 Corporation to use creative solutions to the present crisis in the housing
16 market and, at the same time, to permit the corporation to seek the dis-
17 posal of surplus residences within the corporation's inventory.

18 (b) The Alaska Housing Finance Corporation may permit mortgagors who
19 are experiencing difficulty in meeting their mortgage payments to return
20 the residence and its mortgage to the Alaska Housing Finance Corporation
21 and to enter into a new mortgage for different residential property subject
22 to the control of the corporation at rates that are more within the ability
23 of the mortgagors.

24 (c) The Alaska Housing Finance Corporation may also permit a mortga-
25 gor who is willing to accept the responsibility for a larger mortgage to
26 offer an existing residence and its mortgage to the corporation and enter
27 into a new mortgage for different residential property subject to the
28 control of the corporation.

29 (d) The Alaska Housing Finance Corporation, the mortgage insurers,

1 and the mortgagor shall, in each case, work together to reduce the negative
2 equity that may be present in individual cases.

3 (e) Subject to appropriations, the Alaska Housing Finance Corporation
4 may use up to 1 percent of its total fund equity to achieve the purposes of
5 this section.

6 (f) In this section, "residence" includes mobile homes.

7 * Sec. 2. This Act is repealed July 1, 1991.

8 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

*could be as much as
15MM.*

*wanted to be handled in equitable
fashion -*

*Suggest a cert - neg equity
How much underwater.
A. H. F. C. use cert - carry to
new property -*

MEMORANDUM

Sen. Sturgulewski
State of Alaska

TO: See Distribution

DATE: March 7, 1988

FILE NO:

TELEPHONE NO:

THRU:

SUBJECT: Comments on Various
Economic Recovery
Proposals

FROM:


J. Anthony Smith
Commissioner
Department of Commerce and
Economic Development

Due to the number of issues being discussed relative to legislative suggestions for possible actions to address our economic troubles, we are providing the following comments on a number of various issues/bills.

1. SB 392 & HB 402 -- AIDEA -- These bills address the issue of bank participation with AIDEA and the current statutory withholding of such participation because of the "2% rule." The Governor's bill, HB 402, also addresses a number of other issues which the Board of AIDEA has identified as limitations on AIDEA's ability to be responsive to the current economic conditions. The Department of Commerce and Economic Development supports both of these bills, and strongly supports passage of the entire package of proposals contained in HB 402.
2. SB 471 -- AIDEA Loan Guarantees and Refinancing -- Both of these issues have been the subject of considerable discussion among the board members of AIDEA. There is not at this time a consensus of opinion on the board on the relative merits or structure of either proposal. All members of the board are most concerned about preserving AIDEA's current bonding ability and ratings. Hence, close scrutiny must be utilized when incorporating any new financial service into AIDEA's powers.

The Department of Commerce and Economic Development is conceptually supportive of both proposals. With respect to the guarantee program, we believe it is most appropriate to fund the reserve for such a program by new appropriation to AIDEA. For consideration, we suggest that a portion of the current unappropriated portfolio of DCED's Division of Investments be appropriated to fund a reserve for the insurance program. The funded reserve will be the only asset offered to insure against losses, e.g., neither AIDEA nor the state