

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1569 SCOMM 59: JNT. COMMITTEE ON ECONOMIC RECOVERY, 1988

1346

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

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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 that both the FDIC and Alliance Bank would 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.

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SENATOR TIM KELLY

February 8, 1988

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

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

Le Roccabella
24 Avenue Princesse Grace
Monte-Carlo
Principality of Monaco
Tel. (33) 93.50.95.50
Telecopy (33) 93.25.89.37
or (33) 93.50.71.45

To David Rose Alaska Permanent Fund By Fax 907 586 2057
18th Feb 1988

re Hallwood Alaskan Real Estate Stabilisation Trust

Dear David,

Herewith a clean ammended copy of the Trust Proposal. Please feel free to circulate the document at your discretion. I will be available for meetings in Alaska or elsewhere at any time after the 6th March next.

I have already copied the following on the proposal...

Governor Cowper

Tony Smith

Max Gruenberg

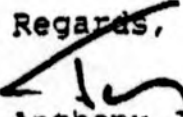
Senators Kelly and Sturgulewski

The Members of the House Subcommittee on Housing and Banking

Ashley Reed

I have also copied all our own people and the FDIC, FHLBB, MGIC, AHFC, AIDEA, Fannie Mae, N.Y. Life and any other Alaskan lending institutions which we feel may be interested in participating. I look forward to speaking to you again before I leave for my holiday on Monday.

Regards,


Anthony J. Gumbiner

PROPOSAL FOR THE ESTABLISHMENT OF THE HALLWOOD ALASKAN REAL ESTATE STABILIZATION TRUST

A liquidating trust formed to liquidate on an orderly basis at stable appraised prices in the best interests of the Beneficiary Institutions, the supply of distressed real estate properties and loans currently overhanging the Alaskan market.

Background

As a result of the current severe recession in the Alaskan economy which followed a period of strong economic growth in the commercial and residential real estate market, Alaskan lending institutions and certain state and government agencies who have assumed the obligations of failed institutions, are today burdened with an unprecedented holding of "bad" real estate loans, some of which have been foreclosed and all of which are at least partially non-performing. Real estate values have been declining monthly. Although the decline in real estate values has been slow and the recession is seen to be bottoming out, the recovery is extremely fragile and prices could be precipitously collapsed if the overhanging real estate were offered back into the market at distressed prices for forced sale.

Alliance Bancorporation ("Alliance") was recently formed by the merger of Alaska Mutual Bank, United Bank Alaska and United Bank Alaska South Eastern and was recently recapitalized by the Hallwood Group Incorporated ("Hallwood") and the FDIC. Alliance currently holds some \$300 million of bad real estate loans of which about \$80 million has already been foreclosed and the balance being in the form of classified and non and partly performing real estate loans. The FDIC, as Receiver of the failed First Interstate Bank of the North, holds about \$200 million of "bad" loans of which at least half are property related. Additionally, Fannie Mae, the Federal Home Loan Bank Board, Alaska Housing Finance, MGIC, New York Life and other Alaskan lending institutions all hold similar "bad" loan portfolios.

If any of the above institutions were to "dump" their real estate holdings into the local market they would collapse the fragile price structure and ensure the continuation of the current recession to the detriment of not

only themselves individually and as a group, but all Alaskan citizens and property owners.

The objective of "The Hallwood Alaskan Real Estate Stabilization Trust" is to prevent a further decline in real estate values by allowing the Trustee of the Trust to manage the liquidation of the trust assets so as to prevent an oversupply of property in the local marketplace such as would cause further declines in the price of residential or commercial properties.

The Proposal

In order to maintain a stable market and to encourage a recovery, Hallwood proposes the establishment of "The Hallwood Alaskan Real Estate Stabilization Trust" (the "Trust") to be formed as a liquidating trust with the purpose of liquidating trust property by sale or other disposition as promptly as shall be economically feasible in the best interests of the Beneficiary Institutions and to distribute the distributable proceeds to the Facilitating Beneficiary Institutions solely and exclusively in accordance with the provisions of a Distribution Agreement.

The Board of Alliance Bank has already agreed to subscribe its distressed portfolio of real estate assets to the Trust and we intend to invite the FDIC and the other concerned institutions mentioned above to become subscribers to the Trust prior to its formation date of March 31, 1988. Following subscription of assets to the Trust, beneficiary institutions will own an undivided interest in the Trust.

We anticipate that the transferred assets will consist of single family homes, condominium projects, apartment buildings, a few office buildings and other commercial structures, shopping centers and parcels of raw and improved land. We also anticipate receiving non-performing or partly performing mortgage loans secured by real estate.

It is our intention that all transferred assets will be recorded in the Trust's books at fair market value as of March 31, 1988. The fair market value of real estate properties will be based upon current independent appraisals except for those assets where a sale was pending and subsequently closed. In those cases the proposed selling price will be

considered as a more accurate indication of fair market value. Fair market value of real estate loans will be based upon current independent appraisals. All appraisals will be carried out in accordance with accepted appraisal methods by a qualified independent appraiser who is a member of the American Institute of Real Estate Appraisers and who regularly performs appraisal services for major financial institutions. Credit will be given in the appraisal process for any income flowing from any transferred asset.

It is intended that Hallwood will act as the Trustee for the Trust which would be established for a ten-year period expiring in March 1998. If all of the Trust assets have not been sold off by this time, then the Trust will come to an end unless a new five-year liquidating trust is established by the Beneficiary Institutions.

It is intended that a Procedures Agreement would be drafted to establish a minimum sales price for each of the Transferred Assets. Minimum sales prices will be based upon appraised values. The Procedures Agreement will also establish restrictions on financing by the Trust although it is intended that the Trust will offer financing to purchasers to assist in the sell-out (see "Marketing"). The requirements of the Procedures Agreement will assure the Beneficiary Institutions that no asset will be sold for less than a certain fixed amount and that the deferred portion of any sales price will be properly secured and payable over a limited period of time. The Trustee's powers and duties would be governed by a Trust Agreement which will generally authorize the Trustee to preserve and manage but not to develop the Trust assets. Accordingly the Trustee has discretion, for the purpose of marketing, to obtain necessary appraisals, feasibility studies, engineering studies or marketing surveys. The Trust cannot undertake to develop unimproved properties to the extent of commencement of any sort of major construction.

Generally the Trustee will limit expenses to any necessary management costs such as taxes, insurance and maintenance and to its own office budget and outside professional fees. Additionally, the Trust may expend sums necessary to preserve its properties or prevent the enforcement of liens superior to the Trust's mortgage loan assets.

As to borrowing funds, the Trust Agreement will provide that borrowings shall not exceed an aggregate of 10% of total Trust assets at appraised value and further that borrowings may only be made from the State of Alaska, secured on any future profit which may be realized from future sales of Trust Assets. Under such borrowings we would expect the State to roll over interest payments to the extent that such payments were not available out of Trust cash flow. It is not anticipated that the Trust will need to avail itself of this borrowing facility and it is anticipated that the cash flow from the prospective sale of Trust assets together with the \$15 million cash contribution which will be contributed by the State of Alaska (see "Assistance from the State of Alaska") will be sufficient to fund all ongoing operations of the Trust.

Under the terms of the Distribution Agreement, the Trustee will first satisfy itself that sufficient working capital is available to the Trustee to operate the Trust and will then distribute

a) To the Beneficiary Institutions such sum as represents a proportional return of appraised value and any profit achieved thereon unless some drawdown shall have been made by the Trustee under the standby credit facility from the State of Alaska more particularly mentioned hereafter.

b) If such drawdown shall have been made then any such profit shall first be applied to repay with interest any advance made by the State.

The Trustee will be empowered to sell off blocks of property to other trusts or corporations dedicated to a long term holding period such as that currently proposed by the Commissioner for the Department of Commerce and Economic Development for the State of Alaska and Sealaska Corporation.

As to the tax consequences of the Trust to the Beneficiary Institutions, the Trust will be treated as a "Grantor Trust" for federal income tax purposes and as such, all tax trust consequences flow through the Trust to its beneficiaries in accordance with their respective interests. The Trust

beneficiaries are fully insulated, on the other hand, from any liability which might arise out of the various Trust Assets.

To ensure that the Trust will distribute all distributable proceeds in a timely manner and in accordance with the proper percentages to the Beneficiary Institutions, the Trust Agreement will require that the Trust's financial statements will be examined by a firm of independent certified public accountants. Following each examination, the accountants will issue a letter to the Beneficiary Institutions stating whether all distributions have been made in accordance with the Trust Agreement and the Distribution Agreement.

The Trust Agreement will also require the Trustee to furnish the following reports to beneficiary banks:-

- a) A monthly statement of cash receipts and cash disbursements with a detailed description of all sales or dispositions of Trust property and of any modifications, amendments or extensions of obligations owing the Trust.
- b) A quarterly unaudited balance sheet, income statement, statement of Trust principal, statement of changes in financial position and a schedule of all distributions made during such quarter.
- c) A semi-annual summary of the status of each Transferred Asset and a description of any negotiations then in progress concerning the sale or other disposition of such Transferred Asset.
- d) An annual audited balance sheet, income statement, statement of Trust principal, statement of changes in financial position and a schedule of all dispositions made during the year.
- e) In connection with the examination of the annual reports and financial statements, the independent certified public accountants must issue letters stating:-

- i. that the sales and distributions made during the preceding year were in accordance with the terms of the Trust Agreement, Procedures Agreement and Distribution Agreement, and,
- ii. with respect to the internal financial controls and practices of the Trust, setting forth such recommendations as the independent certified public accountants may consider appropriate.

Assistance from the State of Alaska

In order to ensure that the Trust is funded with sufficient working capital, we shall request the State of Alaska, through one or more of its agencies, to subscribe the sum of \$15 million in cash to the Trust for which the State shall receive a beneficial interest in the Trust, in proportion to its subscription.

While it is anticipated that this \$15 million plus the proceeds of sale of Trust Assets will be sufficient to ensure the continuity of the Trust and the payment of all marketing and general and administrative costs and expenses of the Trustee, we shall request the State of Alaska to enter into a standby credit agreement with the Trust whereby the State will agree to advance to the Trust up to 10% of Trust Assets based on the appraised value as at March 31, 1988, secured by a first lien on any profit that may be realized by the Trustee from future sales of Trust Assets, such loan to bear interest at current market rates. The Trust shall have the power to roll over interest payments until sufficient cash flow becomes available from profits generated from Trust operations to make settlement. Repayment of interest and principal upon such loans drawn down during the life of the Trust shall have priority to any distributions of any profit which shall be made to Beneficiary Institutions.

Assistance from State Agencies

We shall also ask state agencies such as AHFC and AIDEA to assist by placing moratoriums on financing new supply of Real Estate. These restrictions can be waived if local government so requests.

Marketing

Immediately following the establishment of the Trust, the Trustee shall prepare a five-year cash projection to determine how quickly the Beneficiary Institutions can reasonably expect the transferred assets to be sold and to what extent their interests could be converted into cash. At the outset the Trustee will review all of the non-performing real estate loans and real estate owned to identify essential problem areas. Problems involving construction, design, budgets, cash flow, management location, competition, marketing techniques and various other factors must be analyzed to determine the causes of non-performance or under-performance for each specific asset. Independent appraisals will have to be obtained to arrive at a minimum selling price for each real estate property and further, an initial status report must be prepared for the real estate unit for each asset containing the description of the asset, the loan history, net book value, current status, pending litigation.

For real estate owned, professional quality sales packages will need to be prepared for each real estate property. Each package will contain a full description of the property site and improvements, income and expense information, lease abstracts, information on available utilities, zoning, taxes, etc.

Regarding loan workouts, the Trustee will evaluate the financial condition of the debtor and the prospect for recovery and will evaluate existing collateral and the prospect for obtaining additional collateral in addition to various types of loan modification, intervention in management or leasing, increased monitoring and control of collateral and possible turnaround methods may also be considered.

Both real estate owned and real estate loans deemed appropriate for foreclosure, i.e., future real estate owned, will be marketed for sale although particular care will be taken with regard to the amount and pricing of real estate offered for sale in the local Alaskan marketplace. The major marketing effort will be made to foreign, i.e., non-American, prospective purchasers through Hallwood's international network around the world.

Hallwood is a public company listed on the New York and London Stock Exchange, specializing in the financial services industry and owned by approximately 35,000 shareholders and institutional investors. Prominent amongst these are the Fidelity Group of Boston, one of the largest fund managers in the United States with offices in London, Hong Kong, Singapore, and various other countries. Fidelity owns approximately 11.2% of Hallwood's equity. Another major shareholder is M&G, one of the largest fund managers in the United Kingdom, controlled by Kleinwort Benson, an international merchant bank with a major presence around the world. Hallwood has considerable expertise in the liquidation and management of distressed real estate. In 1979, Hallwood restructured First Pennsylvania Mortgage Trust, a New York Stock Exchange listed real estate investment trust, owning a major portfolio of distressed real estate and mortgage loans located throughout the United States.

In 1981 Hallwood restructured the Umet Trust, a New York Stock Exchange listed real estate investment trust formed by Union Bank of California, again holding a major portfolio of distressed real estate and real estate loans.

In 1983 Hallwood restructured the Institutional Investors Trust, yet another New York Stock Exchange listed real estate investment trust, this time formed by Donaldson, Lufkin, Jenrette, the New York investment bank, again holding a portfolio of poor quality distressed real estate. Finally, in 1984, Hallwood acquired the assets of The Twenty Seven Trust which was formed to liquidate the assets of the bankrupt Chase Manhattan Mortgage and Realty Trust for the beneficiaries of 26 creditor banks and the FDIC. This current proposal is based upon the arrangements entered into by the creditor banks and the FDIC for the liquidation of The Twenty Seven Trust's assets.

Over the years, Hallwood has liquidated the assets of all of the above through its Cleveland-based Property Liquidation Division and has performed several similar functions in the United Kingdom where we have liquidated the assets of Bank and Commercial Holdings Limited acquired in 1978, West Kent Estates Limited acquired in 1980, Redfern

and Rankpert Limited acquired in 1981 and the Globe Group of Companies acquired in 1985.

The total value of real estate properties and loans liquidated over the last five years is in excess of \$300 million.

Hallwood intends to offer the Alaskan real estate assets to investors in Japan, Hong Kong, Taiwan, Australia, New Zealand, Malaysia, Singapore, the Philippines, Korea, Canada, South America, Germany, Switzerland, Holland, the United Kingdom, France, Scandinavia and also in the US. Sales Brochures will stress the current Alaskan economic climate and the cyclical nature of the economy and likelihood of early recovery. Foreign investors will be offered a speculative real estate investment on a highly leveraged, non-recourse basis. For the payment of a 20% deposit, buyers will be speculating on the dollar, the oil price and the Alaskan economic recovery with the benefit of an attractive loan package. In short, anywhere where there is a local investment market and no exchange controls, Hallwood will find and motivate an experienced local agent to offer Alaskan real estate investment properties, both residential and commercial. Buyers will also be offered a management service where our local managers will, for a small fee, manage local investment properties on behalf of non-resident investors, seek new tenants and advise as to prospects for resale. We believe that marketing to foreign investors in this way will not pose a threat to the stability of the local market as an investor buying from Hallwood will be buying on a long term hold with a view to a large capital gain some years in the future.

Hallwood will also be organizing regular marketing trips to Alaska by foreign investors, many of whom may also be interested in other Alaskan commercial investment projects.

Management

The Trustee will enter into agreement with Alliance whereby Alliance will provide the Trust with management services on a non-profit, recovery of costs only, basis utilising the services of Gordon Willhite and his 50-strong workout staff. The Trust will be administered from offices in Anchorage and the Trustee will employ and/or retain employees, real

estate consultants, real estate brokers, real estate management and leasing agents, appraisers, architects, engineers, mortgage correspondents, mortgage servicing agents, escrow agents, attorneys, accountants and any other such persons as the Trustee may deem necessary to assist it in fulfilling the purpose of the Trust.

In order to facilitate the sale of Trust Assets, the Trustee may grant a loan to purchasers to facilitate such sale as follows:-

1. Subject to receiving a cash deposit of 20% of the purchase price, the Trust may grant a non-recourse loan secured by a valid first mortgage lien on the asset sold for a term of not more than twenty years on an amortizing basis at a variable rate of interest floating not less than one point above Alliance Bank minimum lending rate as posted from time to time.
2. Should an asset be sold with less than 20% deposit, then the Trustee may sell the asset with a twenty year amortizing loan as described above but with recourse to the credit of the purchaser.
3. If the deposit of 25% or more is received, then the Trustee may lend up to twenty years on an interest only basis as described above.
4. Under no circumstances may the Trustee sell with less than a 5% deposit.

Upon the formation of the Trust each of the Beneficiary Institutions shall be entitled to nominate a committee member to the Trust Committee. The Trust Committee shall have the power to remove the Trustee and appoint a successor Trustee in the event of any breach of the Trust Agreement, Procedures Agreement or Distribution Agreement.

Distributions to Beneficiary Institutions

Subject to the unanimous vote of the Institutional Beneficiaries following the establishment of the Trust, the Trustee may arrange for the issuance and flotation of 7 year participating Loan Notes in an amount equal to

80% of the appraised value of the Trust Assets. All or part of the Trust Assets may be sold in this way.

The Loan Notes will be non interest bearing but will be guaranteed as to principal in proportion to their beneficial interests by the beneficiaries of the Trust. We do not anticipate a joint and several guarantee.

Hallwood will arrange for the sale and distribution of the Loan Notes to investors who will be entitled to 100% of future distributions from the Trust thereafter, i.e., they will purchase at a 20% discount the future distributions from the Trust. Proceeds from the sale of the Loan Notes will be distributed to the Institutional Beneficiaries thereby providing a mechanism to "cash out" early at a discount.

Fees to the Trustee

Hallwood as Trustee will not receive any fee in respect of its services hereunder as it is acting to preserve its own financial interests as 85% shareholder of Alliance.

Hallwood will however expect to charge a normal commercial fee in respect of its best effort distribution of the Participating Loan Notes should this occur.

The Trustee will expect to be reimbursed for all its necessary expenses expended in connection with the Trust's business.

February 18th 1988

The Hallwood Group Inc.
767 Third Avenue
New York NY 10017

Tel: 212-319-2360

**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.

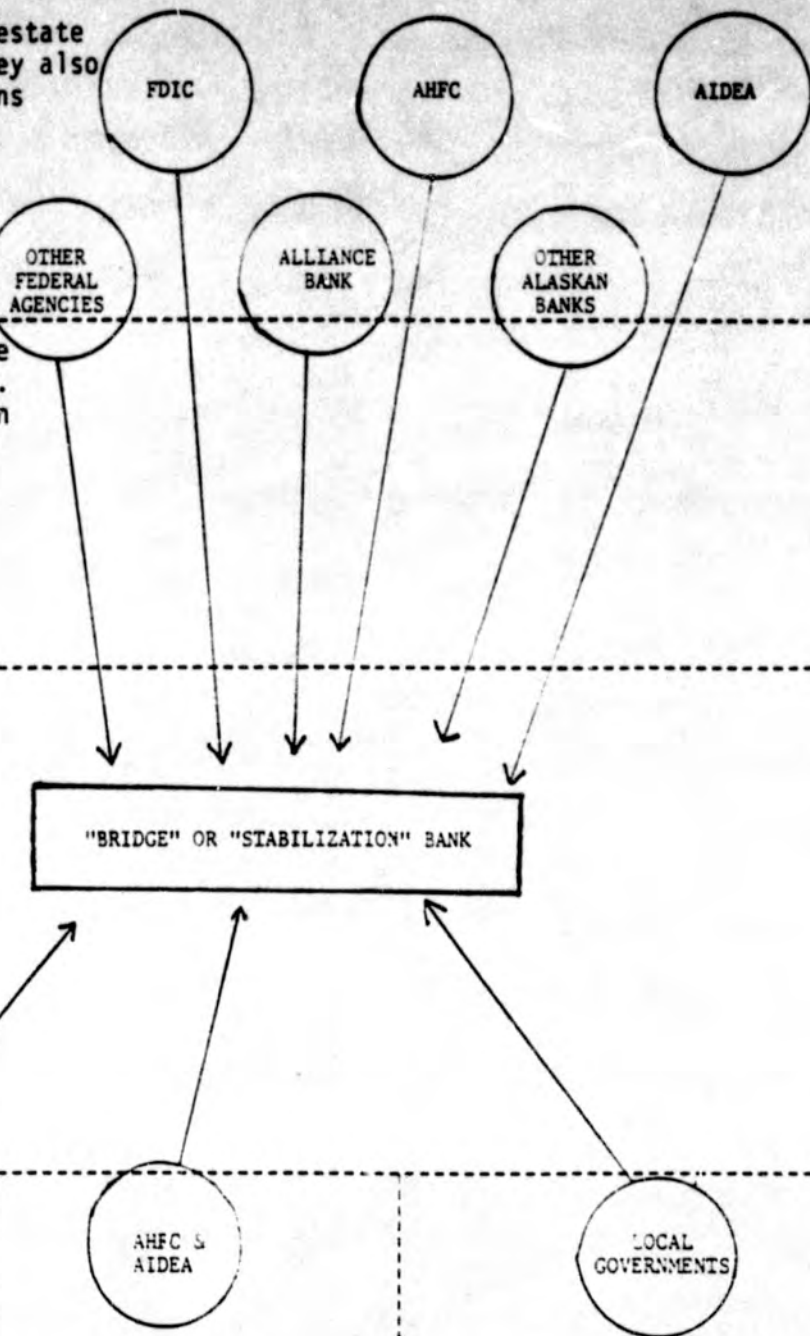
These agencies/entities contribute the above assets to "bridge" bank. They own an undivided interest (on a pro-rata basis in proportion to contribution) in this pool.

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.

January 29, 1988

MEMORANDUM

TO: Jan

FROM: Dave

SUBJECT: Dave Rose's "Bridge Bank"

The idea would be to create an entity which would act like a bank. It would work like this: an institution or agency (AHFC, FDIC, private banks, Commission on Postsecondary Education) would give the "Bridge Bank" real estate and delinquent loans, in exchange for stock or debentures, or a combination.

Thus, these non-producing assets are exchanged for an interest (maybe preferred stock) in this new entity. Initially the Bridge Bank might produce only a minimal return, but it would be better than what these assets are currently generating.

The Bridge Bank would then buy, sell, and trade real estate and other loans, and reschedule debt to maximize the revenue from the overall portfolio. It would do everything possible to convert illiquid assets into cash and income producing assets while covering expenses and eventually making a profit.

Rose says it would probably take about \$15 - 20 million to get the Bridge Bank initially capitalized. This financing could come from private sources, but more likely it would come from an agency like the FDIC. Currently the FDIC is spending a lot of money trying to deal with these non-producing assets, and they could probably solve their problems for less money by giving the assets and some initial capital to the Bridge Bank. As a last resort, consideration may have to be given to an initial State grant or loan, but Rose says that in all likelihood this

would only be necessary to capitalize a part of the \$15 - 20 million.

Rose says this is very similar to how he started AIDA 8 years ago, a small initial capital outlay for substantial potential long term returns. He says this way the problem gets solved without a big state financial bailout.

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 Department 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.

Alliance Bank

February 19, 1988

Senator Arliss Sturgelewski
Box V, Capitol
Juneau
Alaska 99811.

Dear Senator Sturgulewski,

Mr. Anthony J. Gumbiner of The Hallwood Group, has asked me to send you a copy of the Hallwood Alaskan Real Estate Stabilization Trust proposal which is enclosed.

If you have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in dark ink, appearing to read 'F. H. Burrow', with a long horizontal flourish extending to the right.

FRED H. BURROW
President

:khe1/30

PROPOSAL FOR THE ESTABLISHMENT OF THE HALLWOOD
ALASKAN REAL ESTATE STABILIZATION TRUST

A liquidating trust formed to liquidate on an orderly basis at stable appraised prices in the best interests of the Beneficiary Institutions, the supply of distressed real estate properties and loans currently overhanging the Alaskan market.

Background

As a result of the current severe recession in the Alaskan economy which followed a period of strong economic growth in the commercial and residential real estate market, Alaskan lending institutions and certain state and government agencies who have assumed the obligations of failed institutions, are today burdened with an unprecedented holding of "bad" real estate loans, some of which have been foreclosed and all of which are at least partially non-performing. Real estate values have been declining monthly. Although the decline in real estate values has been slow and the recession is seen to be bottoming out, the recovery is extremely fragile and prices could be precipitously collapsed if the overhanging real estate were offered back into the market at distressed prices for forced sale.

Alliance Bancorporation ("Alliance") was recently formed by the merger of Alaska Mutual Bank, United Bank Alaska and United Bank Alaska Southeastern, and was recently recapitalized by the Hallwood Group Incorporated ("Hallwood") and the FDIC. Alliance currently holds some \$360 million of bad real estate loans of which about \$80 million has already been foreclosed and the balance being in the form of classified and non and partly performing real estate loans. The FDIC, as Receiver of the failed First Interstate Bank of the North, holds about \$200 million of bad loans of which at least half are property related. Additionally, Fannie Mae, the Federal Home Loan Bank Board, Alaska Housing Finance Agency, New York Life and other Alaskan lending institutions all hold similar "bad" real estate portfolios.

If any of the above institutions were to "dump" their real estate holdings into the local market they would collapse the fragile price structure and ensure the continuation of the current recession to the detriment of not only themselves, individually and as a group, but all Alaskan citizens and property owners.

The objective of "The Hallwood Alaskan Real Estate Stabilization Trust" is to prevent a further decline in real estate values by allowing the Trustee of the Trust to manage the liquidation of the trust assets so as to prevent an oversupply of property in the local marketplace such as would cause further declines in the price of residential or commercial properties.

The Proposal

In order to maintain a stable market and to encourage a recovery, Hallwood proposes the establishment of "~~The Hallwood Alaskan Real Estate Stabilization Trust~~" (the "Trust") to be formed as a liquidating trust with the purpose of liquidating trust property by sale or other disposition as promptly as shall be economically feasible in the best interests of the Beneficiary Institutions and to distribute the distributable proceeds to the Facilitating Beneficiary Institutions solely and exclusively in accordance with the provisions of a Distribution Agreement.

The Board of Alliance Bank has already agreed to subscribe its distressed portfolio of real estate assets to the Trust and we intend to invite the FDIC and the other concerned institutions mentioned above to become subscribers to the Trust prior to its formation date of March 31, 1988. Following subscription of assets to the Trust, beneficiary institutions will own an individied interest in the Trust.

~~We anticipate that the transferred assets will consist of single family homes, condominium projects, apartment buildings, a few office buildings and other commercial structures, shopping centers and parcels of raw and improved land. We also anticipate receiving non-performing or partly performing mortgage loans secured by real estate.~~

It is our intention that all transferred assets will be recorded in the Trust's books at fair market value as of March 31, 1988. The fair market value of real estate properties will be based upon current independent appraisals except for those assets where a sale was pending and subsequently closed. In those cases the proposed selling price will be considered as a more accurate indication of fair market value. Fair market value of real estate loans will be based upon current independent appraisals. All appraisals will be carried out in accordance

with accepted appraisal methods by a qualified independent appraiser who is a member of the American Institute of Real Estate Appraisers and who regularly performs appraisal services for major financial institutions. Credit will be given in the appraisal process for any income flowing from any transferred asset.

It is intended that Hallwood will act as the Trustee for the Trust which would be established for a ten-year period expiring in March 1998. If all of the Trust assets have not been sold off by this time, then the Trust will come to an end unless a new five-year liquidating trust is established by the Beneficiary Institutions.

It is intended that a Procedures Agreement would be drafted to establish a minimum sales price for each of the Transferred Assets. Minimum sales prices will be based upon appraised values. The Procedures Agreement will also establish restrictions on financing by the Trust although it is intended that the Trust will offer financing to purchasers to assist in the sell-out (see "Marketing"). The requirements of the Procedures Agreement will assure the Beneficiary Institutions that no asset will be sold for less than a certain fixed amount and that the deferred portion of any sales price will be properly secured and payable over a limited period of time. The Trustee's powers and duties would be governed by a Trust Agreement which will generally authorize the Trustee to preserve and manage but not to develop the Trust assets. Accordingly the Trustee has discretion, for the purpose of marketing, to obtain necessary appraisals, feasibility studies, engineering studies or marketing surveys. The Trust cannot undertake to develop unimproved properties to the extent of commencement of any sort of major construction.

Generally the Trustee will limit expenses to any necessary management costs such as taxes, insurance and maintenance and to its own office budget and outside professional fees. Additionally, the trust may expend sums necessary to preserve its properties or prevent the enforcement of liens superior to the Trust's mortgage loan assets.

As to borrowing funds, the Trust Agreement will provide that borrowings shall not exceed an aggregate of 10% of total Trust assets at appraised value and further that ~~borrowings may only be made from the State of Alaska, secured~~

~~by the State of Alaska, and the profit which may be realized from future sales of Trust Assets.~~

Under such borrowings we would expect the State to roll over interest payments to the extent that such payments were not available out of Trust cash flow. It is not anticipated that the Trust will need to avail itself of this borrowing facility and it is anticipated that the cash flow from the prospective sale of Trust assets together with the \$15 million cash contribution which will be contributed by the State of Alaska (see "Assistance from the State of Alaska") will be sufficient to fund all ongoing operations of the Trust.

Under the terms of the Distribution Agreement, the Trustee will first satisfy itself that sufficient working capital is available to the Trustee to operate the Trust and will then distribute:

a) To the Beneficiary Institutions such sum as represents a proportional return of appraised value and any profit achieved thereon unless some drawdown shall have been made by the Trustee under the standby credit facility from the State of Alaska more particularly mentioned hereafter.

b) If such drawdown shall have been made then any such profit shall first be applied to repay with interest any advance made by the State.

The Trustee will be empowered to sell off blocks of property to other trusts or corporations dedicated to a long term holding period such as that currently proposed by the Commissioner for the Department of Commerce and Economic Development for the State of Alaska and Sealaska Corporation.

As to the tax consequences of the Trust to the Beneficiary Institutions, the Trust will be treated as a "Grantor Trust" for federal income tax purposes and as such, all tax trust consequences flow through the Trust to its beneficiaries in accordance with their respective interests. The Trust beneficiaries are fully insulated, on the other hand, from any liability which might arise out of the various Trust Assets.

To ensure that the Trust will distribute all distributable proceeds in a timely manner and in accordance with the proper percentages to the Beneficiary Institutions, the Trust Agreement will require that the Trust's financial statements will be examined by a firm of independent certified public accountants. Following each examination, the accountants will issue a letter to the Beneficiary Institutions stating whether all distributions have been made in accordance with the Trust Agreement and the Distribution.

The Trust Agreement will also require the Trustee to furnish the following reports to beneficiary banks:

- a) A monthly statement of cash receipts and cash disbursements with a detailed description of all sales or dispositions of Trust property and of any modifications, amendments or extensions of obligations owing the Trust.
- b) A quarterly unaudited balance sheet, income statement, statement of Trust principal, statement of changes in financial position and a schedule of all distributions made during such quarter.
- c) A semi-annual summary of the status of each Transferred Asset and a description of any negotiations then in progress concerning the sale or other disposition of such Transferred Asset.
- d) An annual audited balance sheet, income statement, statement of Trust principal, statement of changes in financial position and a schedule of all dispositions made during the year.
- e) In connection with the examination of the annual reports and financial statements, the independent certified public accountants must issue letters stating:
 - i. that the sales and distributions made during the preceeding year were in accordance with the terms of the Trust Agreement, Procedures Agreement and Distribution Agreement, and,

- ii. With respect to the internal financial controls and practices of the Trust, setting forth such recommendations as the independent certified public accountants may consider appropriate.

Assistance from the State of Alaska

In order to ensure that the Trust is funded with sufficient working capital, we shall request the State of Alaska, through one or more of its agencies, to subscribe the sum of \$15 million in cash to the Trust for which the State shall receive a beneficial interest in the Trust, in proportion to its subscription.

When it is anticipated that this \$15 million plus the proceeds of sale of Trust Assets will be sufficient to ensure the continuity of the Trust and the payment of all marketing and general and administrative costs and expenses of the Trustee, we shall request the State of Alaska to enter into a standby credit agreement with the Trust whereby the State will agree to advance to the Trust up to 10% of Trust Assets based on the appraised value as at March 31, 1988, secured by a first lien on any profit that may be realized by the Trustee from future sales of Trust Assets, such loan to bear interest at current market rates. The Trust shall have the power to roll over interest payments until sufficient cash flow becomes available from profits generated from Trust operations to make settlement. Repayment of interest and principal upon such loans drawn down during the life of the Trust shall have priority to any distributions of any profit which shall be made to Beneficiary Institutions.

Assistance from State Agencies

We shall also ask state agencies such as AHFC and AIDEA to assist by placing moratoriums on financing new supply of Real Estate. These restrictions can be waived if local government so requests.

Marketing

Immediately following the establishment of the Trust, the Trustee shall prepare a five-year cash projection to determine how quickly the Beneficiary Institutions can reasonably expect the transferred assets to be sold and to what extent their interests could be converted into cash. At the outset the Trustee will review all of the non-performing real estate loans and real estate owned to identify essential problem areas. Problems involving construction, design, budgets, cash flow, management location, competition, marketing techniques and various other factors must be analyzed to determine the causes on non-performance or under-performance for each specific asset. Independent appraisals will have to be obtained to arrive at a minimum selling price for each real estate property and further, an initial status report must be prepared for the real estate unit for each asset containing the description of the asset, the loan history, net book value, current status, pending litigation.

For real estate owned, professional quality sales packages will need to be prepared for each real estate property. Each package will contain a full description of the property site and improvements, income and expense information, lease abstracts, information on available utilities, zoning, taxes, etc.

Regarding loan workouts, the Trustee will evaluate the financial condition of the debtor and the prospect for recovery and will evaluate existing collateral and the prospect for obtaining additional collateral in addition to various types of loan modification, intervention in management or leasing, increased monitoring and control of collateral and possible turnaround methods may also be considered.

Both real estate owned and real estate loans deemed appropriate for foreclosure, i.e., future real estate owned, will be marketed for sale although particular care will be taken with regard to the amount and pricing of real estate offered for sale in the local Alaskan marketplace. ~~The major marketing effort will be made to foreign, Japanese, American, prospective purchasers through Hollywood's international network around the world.~~

Hallwood is a public company listed on the New York and London Stock Exchange, specializing in the financial services industry and owned by approximately 35,000 shareholders and institutional investors. Prominent amongst these are the Fidelity Group of Boston, one of the largest fund managers in the United States with offices in London, Hong Kong, Singapore, and various other countries. Fidelity owns approximately 11.2% of Hallwood's equity. Another major shareholder is M&G, one of the largest fund managers in the United Kingdom, controlled by Kleinwort Benson, an international merchant bank with a major presence around the world. Hallwood has considerable expertise in the liquidation and management of distressed real estate. In 1979, Hallwood restructured First Pennsylvania Mortgage Trust, a New York Stock Exchange listed real estate investment trust, owning a major portfolio of distressed real estate and mortgage loans located throughout the United States.

In 1981 Hallwood restructured the Umet Trust, a New York Stock Exchange listed real estate investment trust formed by Union Bank of California, again holding a major portfolio of distressed real estate and real estate loans.

In 1983 Hallwood restructured the Institutional Investors Trust, yet another New York Stock Exchange listed real estate investment trust, this time formed by Donaldson, Lufkin, Jenrette, the New York investment bank, again holding a portfolio of poor quality distressed real estate. Finally, in 1984, Hallwood acquired the assets of The Twenty Seven Trust which was formed to liquidate the assets of the bankrupt Chase Manhattan Mortgage and Realty Trust for the beneficiaries of 26 creditor banks and the FDIC. This current proposal is based upon the arrangements entered into by the creditor banks and the FDIC for the liquidation of The Twenty Seven Trust's assets.

Over the years, Hallwood has liquidated the assets of all the above through its Cleveland-based Property Liquidation Division and has performed several similar functions in the United Kingdom where we have liquidated the assets of Bank and Commercial Holdings Limited acquired in 1978, West Kent Estates Limited acquired in 1980, Redfern and Rankpert Limited acquired in 1981 and the Globe Group of Companies acquired in 1985.

The total value of real estate properties and loans liquidated over the last five years is in excess of \$300 million.

Hallwood intends to offer the Alaskan real estate assets to investors in Japan, Hong Kong, Taiwan, Australia, New Zealand, Malaysia, Singapore, the Philippines, Korea, Canada, South America, Germany, Switzerland, Holland, the United Kingdom, France, Scandinavia and also in the U.S. Sales brochures will stress the current Alaskan economic climate and the cyclical nature of the economy and likelihood of early recovery. Foreign investors will be offered a speculative real estate investment on a highly leveraged, non-recourse basis. For the payment of a 20% deposit, buyers will be speculating on the dollar, the oil price and the Alaskan economic recovery with the benefit of an attractive loan package. In short, anywhere there is a local investment market and no exchange controls, Hallwood will find and motivate an experienced local agent to offer Alaskan real estate investment properties, both residential and commercial. Buyers will also be offered a management service where our local managers will, for a small fee, manage local investment properties on behalf of non-resident investors, seek new tenants and advise as to prospects for resale. We believe that marketing to foreign investors in this way will not pose a threat to the stability of the local market as an investor buying from Hallwood will be buying on a long term hold with a view to a large capital gain some years in the future.

Hallwood will also be organizing regular marketing trips to Alaska by foreign investors, many of whom may also be interested in other Alaskan commercial investment projects.

Management

The Trustee will enter into agreement with Alliance whereby Alliance will provide the Trust with management services on a non-profit, recovery of costs only basis, utilizing the services of Gordon Willhite and his 50-strong workout staff. The Trust will be administered from offices in Anchorage, and the Trustee will employ and/or retain employees, real estate consultants, real estate brokers, real estate management and leasing agents, appraisers, architects, engineers, mortgage correspondents, mortgage servicing agents, escrow agents, attorneys, accountants and any other such persons as the Trustee may deem necessary to assist it in fulfilling the purpose of the Trust.

In order to facilitate the sale of trust Assets, the Trustee may grant a loan to purchasers to facilitate such sale as follows:

1. Subject receiving a cash deposit of 20% of the purchase price, the Trust may grant a non-recourse loan secured by a valid first mortgage lien on the asset sold for a term of not more than twenty years on an amortizing basis at a variable rate of interest floating not less than one point above Alliance Bank minimum lending rate as posted from time to time.
2. Should an asset be sold with less than 20% deposit, then the Trustee may sell the asset with a twenty year amortizing loan as described above but with recourse to the credit of the purchaser.
3. If the deposit of 25% or more is received, then the Trustee may lend up to twenty years on an interest only basis as described above.
4. Under no circumstances may the Trustee sell with less than a 5% deposit.

Upon the formation of the Trust each of the Beneficiary Institutions shall be entitled to nominate a committee member to the Trust Committee. The Trust Committee shall have the power to remove the Trustee and appoint a successor Trustee in the event of any breach of the Trust Agreement, Procedures Agreement or Distribution Agreement.

Distribution to Beneficiary Institutions

Subject to the unanimous vote of the Institutional Beneficiaries following the establishment of the Trust, the Trustee may arrange for the issuance and flotation of 7 year participating Loan Notes in a par amount equal to 80% of the appraised value of the Trust Assets. All or part of the Trust Assets may be sold in this way.

The Loan Notes will be non interest bearing but will be guaranteed as to principal in proportion to their beneficial interests by the beneficiaries of the Trust. We do not anticipate a joint and several guarantee.

Hallwood will arrange for the sale and distribution of the Loan Notes to investors who will be entitled to 100% of future distributions from the Trust thereafter, i.e., they will purchase at a 20% discount the future distributions from the Trust. Proceeds for the sale of the Loan Notes will be distributed to the Institutional Beneficiaries thereby providing a mechanism to "cash out" early at a discount.

Fees to the Trustee

Hallwood as Trustee will not receive any fee in respect of its services hereunder as it is acting to preserve its own financial interests as 85% shareholder of Alliance.

Hallwood will however expect to charge a normal commercial fee in respect of its best effort distribution of the Participating Loan Notes should this occur.

The Trustee will expect to be reimbursed for all its necessary expenses expended in connection with the Trust's business.

February 18, 1988

The Hallwood Group Inc.
767 Third Avenue
New York, NY 10017

Tel: (212) 319-2360

Funding Information
General Fund \$15,000,000
Other Funds -0-
\$15,000,000

1 IN THE SENATE

BY KELLY AND STURGULEWSKI

2

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 \$15,000,000 is appropriated from the Railbelt
energy fund (AS 37.05.153) to the Alaska stabilization assistance fund.

12

* Sec. 2. The appropriation made by sec. 1 of this Act lapses into the
Railbelt energy fund (AS 37.05.153) on July 1, 1992.

14

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

16

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

1 IN THE SENATE

2 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 to businesses that qualify under
18 AS 44.88.510(a) and apply under AS 44.88.520(a); and

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

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

26 (b) A business enterprise may apply under AS 44.88.500 -
27 44.88.599 to refinance existing debt. The authority may approve a
28 refinancing of existing debt if the authority finds that

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

1 (2) the refinancing will save existing jobs.

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

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

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

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

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

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

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

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

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

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

25 (1) loan is commercially reasonable, secured by adequate
26 collateral, and the net cash flow from the borrower provides adequate
27 coverage for the debt service on the loan;

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

29 (3) loan is originated with and serviced by a state

1 chartered or federally chartered financial institution;

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

5 (5) loan is made to a business with a majority interest
6 held by state residents.

7 (b) The authority may provide a guarantee from the fund for up
8 to 90 percent of a loan that qualifies under AS 44.88.550 - 44.88.560.
9 The ratio of the guarantee to the outstanding principal of the loan
10 shall remain the same over the term of the loan.

11 (c) The authority may not guarantee

12 (1) the payment of interest on the guarantee portion of a
13 loan; or

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

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

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

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

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

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

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

1 (2) for a loan guarantee that is less than 80 percent of
2 the loan, two and three-quarters percentage points above the prime
3 rate on the day the loan guarantee is made.

4 Sec. 44.88.570. DEFAULT OR FORECLOSURE. (a) Payments received
5 toward satisfaction of a default on a loan guaranteed under AS 44.88.-
6 500 - 44.88.599 shall be allocated between the lender and the fund
7 according to the guaranteed percentage of the loan until the principal
8 balance has been repaid.

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

14 Sec. 44.88.580. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the fund the foreclosure
16 expense account. The account is established as a reserve from fund
17 equity.

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

23 Sec. 44.88.590. PREREQUISITE FOR OTHER LOANS. Notwithstanding
24 other provisions of law, a business enterprise that qualifies under
25 AS 44.88.510(a) to apply for a loan guarantee under AS 44.88.500 -
26 44.88.599 shall apply for a loan guarantee before it may apply for a
27 direct loan of state money under any other state loan program. Only
28 after an application for the guarantee of a loan to be used for a
29 particular purpose is rejected under AS 44.88.500 - 44.88.599 may a

1 business enterprise apply for a direct state loan for that purpose.

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

3 (1) "fund" means the business assistance fund established
4 under AS 44.88.500;

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

7 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

February 11, 1988

SUBJECT: Summary of business assistance program
proposed for AIDEA (Work order 5-1796B)

TO: Senator Jan Faiks

FROM: Jack Chenoweth
Legislative Counsel

The proposed business assistance program would permit the Alaska Industrial Development and Export Authority to become involved with business loan guarantees and with refinancing of existing business debt. The costs of both the loan guarantees and the refinancing would be met from a proposed "business assistance fund" in AIDEA, to which the legislature would make appropriations. The bill grants AIDEA general powers to implement the proposed business assistance program.

Loan guarantees: The applicant must be a business enterprise that meets qualifications set by AIDEA. The applicant must submit an economic benefit analysis and other information that AIDEA may require. AIDEA may guarantee a loan that meets the specific requirements and conditions of proposed AS 44.88.540, but generally limited to 90 percent of the loan that qualifies, with a guarantee of not more than \$1 million per loan. The bill sets maximum interest rates on a loan guaranteed by the authority expressed in terms of the relationship to the then-payable prime rate. Standard provisions are included to cover default and foreclosure. The bill would tend to make the AIDEA business assistance fund a principal source of state support for business borrowing in priority position to loans from other state sources in that it conditions further direct state loans to a qualifying business from other state sources on application for an AIDEA loan guarantee enterprise and rejection of the loan guarantee application.

Debt refinancing: The qualifications of an applicant for debt refinancing track those established for an applicant for a loan guarantee. Refinancing is limited to debt asso-

Senator Jan Faiks
Page 2
February 11, 1988

ciated with a viable project for which the refinancing may be show to save existing jobs. AIDEA may set specific requirements for information to be submitted in support of refinancing of debt, and may approve a debt refinancing application only if it meets the specific requirements and conditions of proposed AS 44.88.550. Under the grant of general authority to AIDEA to "exercise any other power necessary to implement" the business assistance program, the authority may establish additional procedures and requirements relevant to debt refinancing.

JBC:bb
wkb2/073



National Bank of Alaska

CORPORATE HEADQUARTERS • BOX 100600 • ANCHORAGE, ALASKA 99510-0600

ROBERT P. GRAY
PRESIDENT

December 21, 1987

Senator Jan Faiks
Senator Rick Halford
Senator Arliss Sturgulewski

Dear Senators:

It was refreshing and beneficial to have a candid meeting between you and representatives of some of the major financial institutions in the State. It would be highly desirable if such interchanges of ideas should continue into the future.

On a general basis, we feel that the following represents some major economic realities in South Central Alaska:

1. There is an imbalance between supply and demand in the real estate area. This is largely caused by a gross oversupply of properties, particularly strip malls, condominiums and lots.
2. The real estate segment is the most adversely affected part of our economy.
3. Our economy suffers from too much debt. This debt load needs to be worked down and, in some instances, renegotiated. It appears that additional debt would be, in general, counterproductive.
4. The mobile home program is a disaster and needs drastic solutions.
5. There is a general feeling of uncertainty in the marketplace which is causing customers and businesses to defer spending decisions.
6. There is a continuing tragic loss of good, highly qualified people from Alaska.

7. A stable banking environment (including State agencies) is necessary for an economic resurgence.
8. The present stituation will not allow a "quick-fix". Any such proposed solution should be judged very critically.
9. The banking industry unanimously expressed the opinion that they have an excellent working relationship with SBA. It would seem logical, therefore, that the SBA--banking relationship should be examined as a role model for a State agency - bank relationship.
10. The Alaska economy is uneven - some geographic areas are doing well (Kodiak, Ketchikan, etc.) while some are doing poorly (Wasilla, Anchorage, Kenai Peninsula). Specifically, there are actions that can be taken which we feel would be helpful.
 - A. The State should not fund new building projects into areas of oversupply. Instead, it should look at buying some of that oversupply (at prices much below the cost of new construction) for such items as UAA dorms, ASHA low-income housing, etc.
 - B. The legislature should alter or repeal the sections of the law setting a delinquency rate cap for individual banks. As it is presently enacted, if a bank exceeds that cap for that program, it is forbidden from participating further in the program. I understand AIDEA will be proposing a bill to rectify this.
 - C. AIDEA should consider doing loans based on a guarantee (as does SBA) rather than direct funding. That guaranteed portion could then be sold to the Permanent Fund. The advantages of this approach are several:
 - (1) The expensive bond underwriting costs are avoided.
 - (2) Restrictive conditions that can be imposed by bond underwriters are avoided.
 - (3) The Permanent Fund could acquire a large pool of Alaskan, good-yield, almost no-risk loans. By having these loans guaranteed by AIDEA, the Permanent Fund's prudent man rule would be met.

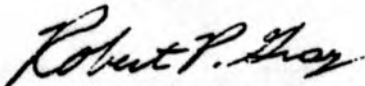
Senator Faiks
Senator Halford
Senator Sturgulewski
Page 3

- D. A change in composition of the AHFC and AIDEA boards toward more public representation would be helpful.
- E. More cooperation and/or latitude is necessary in negotiating troubled commercial real estate loans with AIDEA. The comments by Mr. Cox were illustrative of tactics that could be useful.
- F. The staffing needs of AHFC and AIDEA should be analyzed. Not only may they need more staff, they may need staff with different types of qualifications than the present staff have. In particular, AIDEA may need work-out specialists. AHFC probably is in need of operations/systems people.
- G. The only solution I can see on mobile homes that would work is to move the homes from the glutted areas. If mobile homes were sold at very low prices, those customers that are presently paying on their homes may react precipitously.

In summary, most of the elements for the financial community are in place. However, the working relationships between the State agencies and the banks need to be improved if the customers are to receive efficient, timely and proper treatment. An AIDEA guarantee program seems to have merit. It could be used, for example, for a change of ownership in an existing property.

I hope these comments are of benefit.

Sincerely,



Robert P. Gray
President

RPG:sl



National Bank of Alaska

December 24, 1987

Corporate Headquarters: P.O. Box 100600 • Anchorage, Alaska 99510-0600 • (907) 276-1132

Senator Jan Faiks
Alaska State Legislature
3111 C Street, Suite 525
Anchorage, AK 99503

Re: AIDEA Guaranteed Loan Program

Dear Senator Faiks:

I was requested to provide a model of a guaranteed loan program that could be utilized by AIDEA. I am enclosing a copy of an outline provided by the Bureau of Indian Affairs for their guaranteed loan program which I believe covers most of the bases. Of course the name of the agency would have to be changed as would the eligibility requirements of the borrowers. I would recommend that such a guaranteed loan program not allow for a guarantee exceeding 20 years. I would also suggest that the maximum interest rates on loans with guarantees in excess of 80% be limited to prime + 1 1/2%. On those loans with guarantees of 80% or lower the maximum interest rate should be limited to prime + 2 3/4%. The SBA and BIA limit the maximum interest rate to prime + 2 3/4% either floating or fixed.

I would also recommend consideration of the subsidy feature as outlined in paragraph ten of the BIA document on loans that are currently financed through state loans programs when refinanced with a guaranteed loan. This subsidy should be allowed in cases where it is proven that the project cannot carry the interest rate with the existing state agency, that the project will not support a market interest rate such as prime + 1 1/2% under a refinance program, and the state agency and participating bank would face an economic loss if they foreclosed on the property. Such an interest subsidy, I believe, should be limited to 3% and only for the length of time that the property demonstrates a need for the subsidy.

The loans should be allowed to be used by participating institutions as security for deposits and assignment by the banks for liquidity purposes. This could hopefully assist our weak banking system. You might also consider an annual legislative review of the amount of guarantees issued by the authority. For instance, allow AIDEA to guarantee up to \$200 million in loans in the first year and every year thereafter establish a quota.

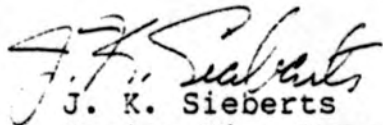
You were concerned about the banking community's support of such a program. Virtually every bank in the state that we have contacted, large and small, except for one, showed an interest in such a program. The other bank indicated that the state should get out of all lending activities.

Senator Jan Faiks
December 24, 1987
Page Two

NBA has participated in government guaranteed programs through SBA, Farmers Home Administration, business and industrial loan programs, the Bureau of Indian Affairs Guaranteed Loan Program and various home guaranteed loan programs. We have had good success in the operation of these guarantees. A guaranteed loan program allows the bank to structure loans around the needs of the consumer rather than in the current case of AIDEA's bond programs which has structured the loans to the needs of the bond underwriters. This has been very costly to the consumers and has provided restrictions that have caused substantial problems to consumers who relied on the expertise of this state authority to provide them with a program that would be reasonable to deal with.

We would also recommend AIDEA's consideration of the use of an equity participation program for problem work-out loans to reduce debt service to the consumer. Alternatively, a more flexible policy in reducing interest rates should be considered. If I can provide you with any additional advice in this regard, feel free to call upon me.

Sincerely yours,



J. K. Sieberts
Senior Vice President

js

cc: Rick Halford



IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Juneau Area Office
P. O. Box 3-8000
Juneau, Alaska 99802

February 1, 1987

Dear

Enclosed is information you have requested about our Loan Guaranty Program. Please be aware of our requirements for applicant/lender eligibility, eligible loans, and lender premium payments.

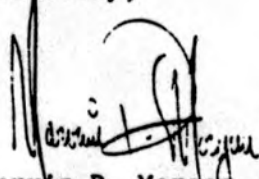
Not contained in the enclosed information are the following policies recently put into effect for our Loan Guaranty Program:

1. Lenders under our loan guaranty program should bear more than 10 percent of the risk, especially where the project generates sufficient revenue. However, no more than 90 percent of any loan will be guaranteed. This means that there can be no side guarantees for the 10 percent unguaranteed portion.
2. The interest rate that will be allowed under our loan guaranty program will be based upon the percentage of the loan guaranty. For a 90 percent loan guaranty, the maximum interest rate will be 1-1/2 percent above the prime rate as published in the Wall Street Journal. For a 80 or lower percent loan guaranty, the maximum interest rate will be 2-3/4 percent above the prime rate as published in the Wall Street Journal. The lender's interest rate would not be adjusted more often than quarterly. Every effort should be made to obtain a lower rate than the maximum allowed. There should be a relationship between risk and the interest rate charged.
3. The approval of an interest subsidy on a guaranteed loan is based on need. This determination will be made at the time of loan approval and will be reconsidered after five years. When submitting the loan guaranty request, calculate the interest subsidy that will be needed for the remainder of the year and three months of the next fiscal year. Submit a request for allotment for the interest subsidy with the loan guaranty request.

4. The Bureau's interest rate for the purpose of computing interest subsidies will be fixed for the term of the subsidy period.
5. Borrower must have at least 20 percent equity injection into their enterprise/project.
6. The Bureau of Indian Affairs will not consider a loan guaranty if such guaranty can be obtained from another source (i.e., the Small Business Administration).

Please call Roger Fitzjarrald at 586-7062 or me at 586-7103 should you have any additional questions or need clarification on any of the information presented above or enclosed.

Sincerely,



Marvin D. Morgan
Area Credit Officer

**FINANCIAL ASSISTANCE
Guaranteed Loans
GENERAL INFORMATION**

Note: 25 CFR means Code of Federal Regulations, Title 25 (Indians)

1. **Purpose.** This supplement sets forth the types of loans eligible for guarantee pursuant to Title II of the Indian Financing Act of April 12, 1974 (88 Stat. 77, 25 U.S.C. 1461 et. seq.), and the Federal Regulations applicable thereto, 25 CFR 103, and the procedures for processing, approving and servicing such loans. The Act provides for guaranteeing up to 90% of a loan made by eligible lenders to Indians and Indian organizations. In addition the Act provides for paying an interest subsidy on such loans to reduce the rate of interest paid by the borrower to the cost of borrowing from the United States. The guaranty is subject to payment of a premium by the lender to the Bureau of Indian Affairs.
2. **Responsibility.** The full faith and credit of the United States Government, acting through the Commissioner of Indian Affairs, is responsible for all obligations entered into herein. Accordingly, Bureau employees have a responsibility to carefully review and analyze applications and supporting documents to assure compliance with the regulations and recommend or approve loans that indicate applicants have a reasonable prospect for repayment, based upon sound customary lending criteria. The Indian applicant has a responsibility and obligation to repay the amount borrowed, and the lender assumes the responsibility of servicing the loan adequately and effectively, exerting every reasonable means in default cases to assist the borrower against loss of his home, farm, or business. The Bureau of Indian Affairs, on behalf of the United States, must require that all parties fully discharge these responsibilities.
3. **Eligible Lender (25 CFR 103.9).** Those financial institutions subject to examination and supervision by an Agency of the United States, a State or the District of Columbia, having the capacity to evaluate, process, disburse and service loans and Indian tribes making loans from their own funds to other tribes or organization of Indians are eligible to have loans insured under these regulations. Loans may be guaranteed for any lender regularly engaged in making loans, having the capacity to accept and process applications and service loans, and who is satisfactory to the Commissioner.
4. **Eligible Organizations (25 CFR 103.7).** Loans to tribes and Indian organizations having a form of organization satisfactory to the Commissioner and recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs are eligible to be guaranteed when there is reasonable assurance of repayment of the loan.
Cooperative associations, corporations and partnerships shall be organized pursuant to state, Federal or tribal law. Cooperative associations, corporations and partnerships applying for a guaranteed loan to purchase, establish or operate an economic enterprise on a reservation must comply with the requirements of applicable rules, resolutions or ordinances enacted by the governing body of the tribe.
5. **Eligible Individuals (25 CFR 103.8).** Only Indians who are members of tribes recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs are eligible for guaranteed loans. Individuals applying for a guaranteed loan to purchase, establish or operate an economic enterprise on a

reservation must comply with the requirements of applicable rules, resolutions or ordinances enacted by the governing body of the tribe and state and Federal laws, if applicable.

An Eligibility Certificate for Guaranteed Loan, Form 5-4752, may be obtained from the Agency having jurisdiction over the area in which the applicant resides.

6. Eligible Loans (25CFR 103.3). Loans to eligible organizations and individuals for financing economic enterprises which will contribute to the economy of a reservation and loans for housing on a reservation to be occupied by the borrower may be guaranteed. The following loans, when meeting the criteria of the preceding sentence, may be guaranteed.

A. Business. Loans to purchase land, buildings, supplies, equipment, machinery, tools, inventory and for working capital to be used in a business enterprise or in pursuing a gainful occupation may be guaranteed.

B. Agriculture. Loans to acquire lands, buildings, livestock, equipment, machinery, supplies and operating capital necessary to develop and operate all types of farming, ranching or other agricultural enterprises are eligible.

C. Land. Loans to purchase and develop land, within or adjacent to a reservation, to be used by an economic enterprise owned by the borrower may be guaranteed if there is economic benefit to the reservation.

D. Refinance. Funds loaned to refinance unsecured debts may be guaranteed only when it is clearly justified by the financial condition of the borrower and is clearly in his benefit.

F. Non-Recoverable Items. Funds included in loans for nonrecoverable items may be guaranteed only if the items are required in the direct operation of an economic enterprise.

7. Ineligible Loans (25 CFR 103.3 and 103.10). The following loans may not be guaranteed:

A. Payment of Personal Bills. Amounts included in loans to pay personal bills or obligations may not be guaranteed.

B. Non-Recoverable Items. Amounts included in loans for purchase of furniture, passenger carrying automobiles, trucks or pickups, household appliances, and similar items may not be guaranteed.

C. Refinance. Funds included to refinance debts to reduce the debt exposure of the lender may not be guaranteed.

D. Financing a Relending Program. Loans for financing a relending program may not be guaranteed.

E. Loans by Other Federal Agencies. Loans made by any agency or instrumentality of the Federal Government may not be guaranteed.

F. Funds Borrowed from the United States. Loans made by an organization of Indians making loans from funds borrowed from the United States may not be guaranteed.

G. Non-Taxable Interest Income. Loans may not be guaranteed where the interest income from the loans is not taxable income under Chapter 1 of the Internal Revenue Code of 1954, as amended.

H. Term Restrictions Loans with repayment terms exceeding 30 years may not be guaranteed.

I. Educational Loans. Loans for educational purposes are not eligible under the Guarantee Program.

8. Amount of Guaranty (25 CFR 103.13). The percentage of a loan to be guaranteed shall be the minimum necessary to obtain financing for an applicant, but may not exceed 90% of the unpaid principal and interest.

A. The liability under the guaranty shall increase or decrease with any increase or decrease in the unpaid principal of the obligation. Loans to individual Indians may not be guaranteed where the principal amount exceeds \$350,000. Loans to individuals may not be guaranteed where the principal amount is less than \$2,500 or where repayment terms are less than one year. An exception to these limits on time and amounts may be approved by the Commissioner.

B. Applications of minors as determined by applicable state and Federal laws, may not be approved unless the natural parents or legal guardians, with reputations of being responsible individuals, co-sign the promissory note(s) and securing documents.

C. Not more than one guaranteed loan may be in effect with the same borrower at any time without prior approval of the Commissioner.

9. Interest (25 CFR 103.41). Interest rates charged by lenders on guaranteed loans, exclusive of loan service charges, if any, shall not exceed such percent per annum on the principal obligation outstanding as the Commissioner determines to be reasonable and legal at the time a loan is guaranteed, taking into account the rates prevailing in the private market for similar loans and the risks assumed by the United States. Each loan shall show the rate of interest to be charged. Interest shall be payable at least annually. Once a loan is closed, the interest rate may not be increased even though the lender increases the rate on new loans. Lenders may not charge interest on loan funds used for payment of loan service charges.

10. Interest Subsidy (25 CFR 103.42). The Commissioner will pay an interest subsidy to lenders on loans which are guaranteed under 25 CFR 103 at rates which are necessary to reduce the interest rate payable by the borrowers to a rate determined in accordance with Title 1, Section 104, of the Indian Financing Act of 1974 (P.L. 93-262, 88 Stat. 77).

A. The rate of interest subsidy will be established by the Commissioner at the time of issuance of a guaranty certificate on loans requiring approval by the Commissioner, or at the time of approval of Form 5-4755, Request for Loan Guaranty and Approval. Interest subsidies paid to lenders by the United States on behalf of borrowers shall continue to be paid over the remaining life of the original term of a loan even if the lender elects to discontinue the guaranty or otherwise causes the termination of the guaranty by failure to make guaranty payments as required in #103.43. Interest subsidy payments by the United States shall be discontinued on such loans when one of the following occurs:

- 1) The loan is paid in full prior to the expiration of the original term.
- 2) The loan is refinanced by a new loan.
- 3) The repayment schedule on the principal balance owing is extended beyond the original term, unless an exception is approved by the Commissioner. The interest subsidy shall only be discontinued as to the balance which has been extended beyond the original term of the loan.
- 4) The lender on a defaulted loan is reimbursed for a guaranteed loss. The date of the check shall be the date of reimbursement.

B. After receiving notice from the lender, the Commissioner will establish the interest subsidy rate and notify the lender of the rate established.

At the option of the lender, interest subsidies will be paid on the unpaid principal balance owed by a borrower either annually, semiannually, quarterly or monthly. Using Form 5-4749, Lenders Report of Premiums and interest Subsidies Due. Lenders should notify the Commissioner of loan payments received from borrowers and request payment of the subsidy. The interest subsidy, computed to the date payment was made by the borrower, will be paid to the lender. Interest subsidies may not be prepaid. Lenders shall promptly notify the Commissioner when borrowers pay interest or principal in advance of the due date(s) provided in the loan agreement.

11. Lender's Service Charge (25 CFR 103.44). Lenders may charge borrowers reasonable fees for appraisals and compliance inspections; for lien searches and filing and recording; for tax assessments and similar items necessary to protect the integrity of the loan; for insurance premiums, survey costs, title examinations and insurance; and for such other charges as may be authorized by the Commissioner at the time a loan is made. Service charges, if any, may be paid from the proceeds of a guaranteed loan when authorized in the loan agreement if the borrower cannot pay the charges from his own funds. However, if this is done, lenders may not charge interest on the amount advanced to pay service charges.

Borrowers shall not be required to pay points, finder's fees, loan origination fees, bonuses, commissions or similar charges.

12. Premium (25 CFR 103.43). A premium will be charged lenders on the unpaid principal balance of guaranteed loans at a rate established by the Commissioner.

A. Premium charges will not be charged to, collected from, or otherwise passed on to borrowers. The Commissioner will establish the premium rate to be charged on guaranteed loans made during a specified period of time and will notify lenders of the rate which will be charged during the period established. By advance written notice to lenders making guaranteed loans, the Commissioner may change or continue the rate established for the preceding period. The premium rate established for loans made during a given period of time will remain in effect for the duration of the loan. The Commissioner may require a change in the premium rate on refinanced guaranteed loans to the rate in effect at the time of refinancing.

B. The initial premium on guaranteed loans shall be remitted, payable to the Bureau of Indian Affairs, to the Superintendent of the local Agency within 10 days of the advance of loan funds to the borrower. The premium shall be for the six months or portion of six months in which the loan is made. Thereafter, premiums will be paid as of June 30 and December 31 on the principal balance outstanding at the end of each semi-annual period. The guaranty or a new loan, or of additional advances on existing loans, will not be effective until the Commissioner receives the premium due.

The guarantee of a loan shall cease to be effective if the premium is not remitted within 30 days of the close of the semi-annual period.

13. Loan Servicing (25CFR 103.46). The guaranty of a loan by the Commissioner will be based on the requirement that adequate loan servicing will be performed by the lender. Loan servicing will be without cost to the borrower, unless the Commissioner authorizes a charge at the time the loan is made pursuant to #103.44. Authorizations for such charges shall be in writing and included in the loan agreement. Lenders are expected to follow accepted standards employed by prudent lenders in the area in servicing similar type loans. In servicing loans lenders will make every effort to prevent and minimize potential losses. Lenders will use prudence in disbursing loan funds to borrowers to assure, to the extent feasible, that loan funds are used only for the purposes for which the loan is made. Unless approved by the Commissioner, any amounts disbursed for purposes other than those provided in the loan agreement shall be excluded in computing the amount for which the lender may be reimbursed in the event of a loss on a loan.
14. Modification of Loan Agreements (25 CFR 103.21). Guaranteed loans may be modified with the approval of the parties of the original loan agreement. The Commissioner's approval is required to modify guaranteed loans which required the Commissioner's approval only if the modification repayment (1) changes the repayment schedule, (2) changes the prime security, (3) changes the interest rate, (4) changes the use of loans funds, (5) increases the principal amount of a loan, except as provided on #103.22, (6) changes to the plan of operation, (7) amendment or changes in the organization papers of the borrower, (8) changes in partnership agreements, or (9) changes the location of an enterprise.
15. Sale or Assignment of Guaranteed Loans (25 CFR 103.51). Lenders may sell or assign a guaranteed loan, including the security and guaranty certificate, to any other financial institution that is subject to examination and supervision by an agency of the United States, a state or the District of Columbia. The institution acquiring the loan shall notify the Commissioner to writing within 30 days after acquisition. Form 5-4758, Notice of Acquisition of Loan, furnishes the required information and when furnished to the Superintendent of the Agency Office servicing the guaranteed loan shall constitute written notice to the Commissioner. Failure of the acquiring lender to furnish such notice within the 30 day period will void the guaranty unless the Commissioner authorizes an exception because of extenuating circumstances.

Lenders should submit the original and two copies of Form 5-4758 to the Agency Superintendent who is assigned responsibility for recordkeeping and servicing of the loan. The Superintendent will immediately acknowledge receipt on the bottom of the form and return a copy to the acquiring lender. The Superintendent will retain one copy for his records and submit the original, through the Area Director, to the Central Office, Division of Financial Assistance.

16. Release of Security (25 CFR 103.35). The prime security for a loan will not be released unless the property is to be sold and the net proceeds will be applied to the loan. When approved by the Commissioner, the prime security may be released when the proceeds from property sold are to be used to purchase property of similar nature and use and of at least equal value and lien priority, and when the lender, borrower and Commissioner agree that the sale and such use of the proceeds are necessary for the success of an economic enterprise. Lenders may release property which is planned to be sold in the regular course of business when the proceeds are to be used for purposes which the lender determines are necessary and proper in connection with the type of economic enterprise involved. Releases of security involving trust income or trust or restricted land will require prior approval of the Commissioner.

17. Preparation of Applications. It is immaterial whether an applicant makes arrangements for a loan with the lender first or approaches the Bureau. The following sets forth in general the responsibility of the applicant, lender and the Bureau of Indian Affairs (BIA).

A. Loan Applicant. The applicant will need to obtain written proof that he is eligible to obtain a guaranteed loan. To evidence eligibility of an applicant for a guaranteed loan, an Eligibility Certificate for Guaranteed Loan, Form 5-4752, will be issued at the request of an applicant, by the Superintendent of the reservation on which the applicant resides or which will benefit from the business venture. In addition, each applicant will be responsible to develop data to prepare a loan application. Many Indians have dealt with commercial lenders for some time either as an individual or in business, and they should continue to do so.

B. Lender's Responsibility. The lender shall make the necessary credit evaluation to determine if an applicant is a good credit risk and if a loan applicant has a reasonable chance to repay a loan. If the lender feels he could make a loan, providing that the Bureau will guarantee it, he will prepare the Request for Loan Guaranty and Approval, Form 5-4755.

(1) Guaranteed Loans. The lender will attach required financial statements and the loan application to Form 5-4755 and submit the docket to the local Agency Superintendent requesting a guarantee certificate.

C. Bureau Responsibility. Indian applicants may seek advice and assistance from the Bureau, as to probable lenders, necessary plans, financial data, feasibility reports, etc., in preparing a loan docket. Upon request, the Bureau credit staff will, to the extent possible, advise Indian applicants regarding the feasibility of a proposal.

BY HALFORD, FAIKS, UEHLING,
FANNING, SZYMANSKI, KERTTULA
AND ABOOD

1 IN THE SENATE

2

SENATE BILL NO. 474

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act increasing property exemptions."

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

8 * Section 1. AS 09.38.010(a) is amended to read:

9 (a) An individual is entitled to an exemption as a homestead of
10 the individual's interest in property in this state used as the
11 principal residence of the [THAT] individual or the dependents of the
12 [THAT] individual, but the value of the homestead exemption may not
13 exceed \$54,000 [\$27,000].

14 * Sec. 2. AS 09.38.010(b) is amended to read:

15 (b) If property owned by the entirety or in common is used by
16 one or more individual owners or their dependents as their principal
17 residence, each owner is entitled to a homestead exemption of that
18 owner's interest in the property as provided in (a) of this section.
19 The aggregate value of multiple homestead exemptions allowable with
20 respect to a single living unit may not exceed \$54,000 [\$27,000]. If
21 there are multiple owners of property exempt as a homestead, the value
22 of the exemption of each individual owner may not exceed the [THAT]
23 individual owner's pro rata portion of \$54,000 [\$27,000].

24 * Sec. 3. AS 09.38.020 is amended to read:

25 Sec. 09.38.020. EXEMPTIONS OF PERSONAL PROPERTY SUBJECT TO VALUE
26 LIMITATIONS. (a) An individual is entitled to an exemption in prop-
27 erty not to exceed an aggregate value of \$3,000 [\$1,500] chosen by the
28 individual from the following categories of property:

29 (1) household goods and wearing apparel reasonably

1 necessary for one household;

2 (2) if reasonably held for the personal use of the indi-
3 vidual or a dependent, books and musical instruments; and

4 (3) family portraits and heirlooms of particular senti-
5 mental value to the individual.

6 (b) An individual is entitled to exemption of jewelry, not
7 exceeding \$1,000 [\$500] in aggregate value, if held for the personal
8 use of the individual or a dependent.

9 (c) An individual is entitled to exemption, not exceeding \$2,800
10 [\$1,400] in aggregate value, of implements, professional books, and
11 tools of the trade.

12 (d) An individual is entitled to the exemption of pets to the
13 extent of a value not exceeding \$1,000 [\$500].

14 (e) An individual is entitled to an exemption of one motor
15 vehicle to the extent of a value not exceeding \$3,000 [\$1,500] if the
16 full value of the motor vehicle does not exceed \$20,000 [\$10,000].

17 * Sec. 4. AS 09.38.025(a) is amended to read:

18 (a) Except as provided in this section, an individual is enti-
19 tled to exemption of unmatured life insurance and annuity contracts
20 owned by the individual. If the contracts have accrued dividends and
21 loan values available to the individual aggregating more than \$10,000
22 [\$5,000], a creditor may obtain a court order requiring the individual
23 debtor to pay the creditor, and authorizing the creditor on the
24 debtor's behalf to obtain payment of, the amount of the accrued divi-
25 dends and loan values in excess of \$10,000 [\$5,000] or the amount of
26 the creditor's claim, whichever is less.

27 * Sec. 5. AS 09.38.030(a) is amended to read:

28 (a) Except as provided in (b) and (c) of this section and
29 AS 09.38.050, an individual debtor is entitled to an exemption of the

1 individual debtor's weekly net earnings not to exceed \$350 [\$175].
2 The weekly net earnings of an individual are determined by subtracting
3 from the weekly gross earnings all sums required by law or court order
4 to be withheld. The weekly net earnings of an individual paid on a
5 monthly basis are determined by subtracting from the monthly gross
6 earnings of the individual all sums required by law or court order to
7 be withheld and dividing the remainder by 4.3. The weekly net earn-
8 ings of an individual paid on a semi-monthly basis are determined by
9 subtracting from the semi-monthly gross earnings all sums required by
10 law or court order to be withheld and dividing the remainder by 2.17.

11 * Sec. 6. AS 09.38.030(b) is amended to read:

12 (b) An individual who does not receive earnings either weekly,
13 semi-monthly or monthly is entitled to a maximum exemption for the
14 aggregate value of cash and other liquid assets available in any month
15 of \$1,400 [\$700], except as provided in AS 09.38.050. The term
16 "liquid assets" includes deposits, securities, notes, drafts, accrued
17 vacation pay, refunds, prepayments, and receivables.

18 * Sec. 7. AS 09.38.050(b) is amended to read:

19 (b) The exemption amounts under AS 09.38.030 may be increased
20 when the individual submits an affidavit, under penalty of perjury,
21 stating that the individual's earnings alone support the individual's
22 household; by so doing, the maximum part of the individual's aggregate
23 disposable earnings for any week subject to execution may not exceed
24 the amount by which the individual's disposable earnings for that week
25 exceed \$550 [\$275], or, if the individual is claiming an exemption for
26 cash or other liquid assets under AS 09.38.030(b), a maximum amount of
27 \$2,200 [\$1,100] available in a [ANY] month is exempt.

Patrick M. Rodey
Senator

Alaska State Legislature



Senate

1024 W. 6th Avenue, Suite 308
Anchorage, Alaska 99501
(907) 276-6731

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3717

TO : Senator Arliss Sturgulewski

FROM: Senator Patrick M. Rodey

DATE: February 29, 1988

RE: Limitation on use of new exemption in bankruptcy proceedings

Attached is a copy of the drafted amendment I mentioned which would exempt interests and payments under certain retirement plans from seizure by creditors.

I would appreciate you reviewing this proposal and would welcome your suggestions and input.

Attachment

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 29, 1988

SUBJECT: Limitation on use of new exemption
 in bankruptcy proceedings

TO: Senator Pat Rodey

FROM: Theresa L. Bannister *TB*
 Legislative Counsel

This memo accompanies the amendment for SB 474 that you requested to exempt interests and payments under certain retirement plans from seizure by creditors. Please be aware, however, that with regard to bankruptcy proceedings the bill will not protect those plans where the individual establishes the individual's plan or where the individual can invade the corpus of the trust before retirement, disability or death. Legislation will not prevent this result because it is based on court interpretation of the bankruptcy law. Change in the federal law would be necessary to extend the protection to the presently unprotected plans. The court interpretation is based on the belief that a person should not be able to prevent creditors from reaching assets by establishing a retirement plan.

Please review proposed AS 09.38.017(c) of the bill to make sure it accomplishes what you want. The meaning of the corresponding section (sec. 33-1126 B.1.) in the Arizona bill was unclear, so I drafted what I thought it meant.

If I may be of further assistance, please advise.

Attachment

TLB:bb
WKB3:041

A M E N D M E N T

Offered in the SENATE

By Rodey

TO: SB 474

Page 1, following line 23:

Insert a new bill section to read:

"* Sec. 3. AS 09.38 is amended by adding a new section to read:

Sec. 09.38.017. EXEMPTION OF RETIREMENT PLAN INTERESTS AND PAYMENTS. (a) In addition to the exemption under AS 09.38.015(b), the following are exempt from a claim of an individual's creditor:

(1) the interest of the individual in a retirement plan;
and

(2) the money or other assets payable to the individual from a retirement plan.

(b) The exemptions provided by (a) of this section do not apply to a contribution made by an individual to a retirement plan within 120 days before the individual files for bankruptcy.

(c) The exemptions provided by (a) of this section do not prevent the payment of benefits under a retirement plan to an alternate payee under a qualified domestic relations order. In this subsection, "qualified domestic relations order" has the meaning given in 26 U.S.C. 414(p).

(d) In this section,

(1) "alternate payee" has the meaning given in 26 U.S.C. 414(p)(8);

(2) "individual" means an individual who is a participant in, a beneficiary of, or an alternate payee of a retirement plan;

(3) "retirement plan" means a retirement plan that is qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b), 26 U.S.C. 408, or 26 U.S.C. 409 (Internal Revenue Code)."

Renumber the following bill sections accordingly.

Page 2, line 18, after "section":

Insert "or in AS 09.38.017"

Page 3, following line 17:

Insert a new bill section to read:

"* Sec. 8. AS 09.38.030(e) is amended to read:

(e) The following property, unless exempt without limitation under AS 09.38.015 or 09.38.017, upon receipt by and while it is in the possession of the individual, shall be treated as earnings, income, cash, or other liquid assets under this section:

(1) benefits paid by reason of disability, illness, or unemployment;

(2) money or property received for alimony or separate maintenance;

(3) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent;

(4) proceeds or benefits paid or payable on the death of an insured, if the individual was the spouse or a dependent of the insured; and

(5) amounts paid under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract, providing benefits by reason of age, illness, disability, or length of service."

Renumber the following bill section accordingly.

Page 3, following line 27:

Insert new bill sections to read:

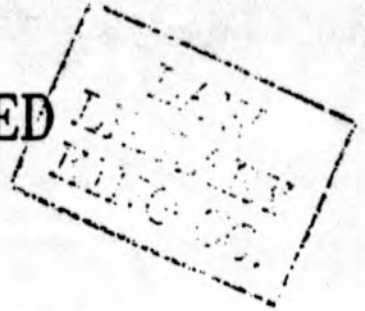
"* Sec. 10. AS 09.38.055 is amended to read:

Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under 11 U.S.C. (Bankruptcy) [THE BANKRUPTCY ACT (11 U.S.C.)] only the exemptions under AS 09.38.010, 09.38.015(a), 09.38.017, 09.38.020, 09.38.025 and 09.38.030 apply.

* Sec. 11. AS 09.38.017, as enacted by sec. 3 of this Act, does not apply to the assets of a bankruptcy estate in a proceeding filed under 11 U.S.C. (Bankruptcy) before the effective date of this Act."

ARIZONA REVISED STATUTES

~~~~~  
ANNOTATED



1987

Supplementary Pamphlet  
*Covering Years 1975 to 1987*

*For Use In 1987-1988*

Replacing 1986 Pocket Part in back of volume

Volume 11  
Titles 33 to 35

Including Legislation Enacted Through The First  
Regular Session And The First Through Third  
Special Sessions Of The Thirty-Eighth  
Legislature (1987)

ST. PAUL, MINN.

WEST PUBLISHING CO.

11 Ariz.Rev.Stats —1  
1987 Supp.Pamph.

## PROPERTY

in excess of a fair market value of one hundred dollars.

one bicycle, one sewing machine, a family bible, a lot in any burial or one rifle or one pistol, not in excess of an aggregate fair market value of one hundred dollars.

motor vehicle not in excess of a fair market value of one thousand five hundred dollars or is maimed or crippled, the fair market value of the motor vehicle not in excess of one thousand dollars.

prescribed prostheses for the debtor or a dependent of the debtor, or any other personal property.

Ariz. Ch. 170, § 22; Laws 1983, Ch. 237, § 10.

and application of Laws Law Review Commentaries  
the following § 12-2401. Arizona's new exemption statute. 19 Ariz. Bar J. No. 3, p. 32 (1983).

### Benefits or proceeds

property of a debtor shall be exempt from execution, attachment or seizure by any court:

received by or payable to a surviving spouse or child upon the life of a debtor or legal guardian, not exceeding twenty thousand dollars.

for the minor child of a debtor or the proceeds thereof by reason of a contract of insurance not contracted for the special benefit of such minor child.

proceeds or benefits of any kind to be paid in a lump sum or to be paid on an installment basis to the insured or any beneficiary under any contract of life, accident or disability insurance or any similar plan or program of benefits, except for premiums payable on such policy or debt of the insured, and except for collection of any debt or obligation for which no payment has been paid under the plan or policy and except for payment for support of a person from proceeds and benefits furnished in lieu of which no payment has been subject to such order and subject to any exemption not so replaced.

proceeds from any claim for the destruction of, or damage to, exempt property or benefits of any kind arising from fire or other insurance not exempt under this article.

under the value of insurance policies where for a continued, unexpired term such policies have been owned by a debtor and have named as beneficiary a surviving spouse, child, parent, brother, sister, or any dependent, not to exceed five thousand dollars for each surviving spouse, child, parent, brother, sister, or any dependent, not to exceed five thousand dollars in the aggregate. For this purpose, a person is defined as one who is dependent upon the insured debtor for not less than support.

proceeds recoverable by any person by reason of any levy upon or by reason of his exempt personal property or by reason of the wrongful taking of property by any person, and the judgment recovered for such property.

not in excess of fifty dollars held in a single account in any one financial institution. § 6-101. The property declared exempt by this paragraph is not subject to service charges assessed against the account by the financial institution in which the account is carried.

other assets payable to a participant or beneficiary from, or any other assets payable to or for the benefit of, a retirement plan which is qualified under section 408 or 409 of the United States Internal Revenue Code of 1986, shall be exempt from any and all claims of creditors of the beneficiary or of the debtor shall not apply:

## PROPERTY

1. To an alien or to a foreign corporation, partnership, or other entity, § 414(p) of the Internal Revenue Code.

2. To a debtor in bankruptcy; or

3. To the assets of a debtor. The interest of any creditor of the debtor.

C. Any person claiming an exemption from this state and who may claim as a creditor, including secured creditors, residence, not a residence.

Amended by Laws 1983, Ch. 170, § 22; Laws 1983, Ch. 237, § 10.

Section 33-110.

For effective 1976, Ch. 170, § 22.

Reviser's Notes.

1983 Note. Paragraph 41-1304.02, in part, substituted for "most" for "most" clerical error.

1987 Note.

§ 41-1304.02, substituted as subparagraph 8, subdivided as paragraph 8, was relettered as paragraph 8.

Cross Reference.

Garnishment, accounts, without § 12-1578.

§ 33-1130. To profess

The following business or profession

1. The tools, equipment, and other property primarily used in the profession of the debtor, the value of two thousand dollars or less, do not include household property.

2. Farm machinery, equipment, and other property not in excess of five thousand dollars of a debtor whose principal business is farming.

3. All arms and ammunition. Added by Laws 1983, Ch. 170, § 22.

For effective 1976, Ch. 170, § 22.

Law Review Commentaries.

Arizona's new exemption statute. J. No. 3, p. 32 (1983).

## PROPERTY

in any burial  
fair market

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motor vehicle

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ttachment or

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and dollars.  
by reason of  
minor child.

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for payment  
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## PROPERTY

## § 33-1130

1. To an alternate payee under a qualified domestic relations order, as defined in § 414(p) of the United States Internal Revenue Code of 1986, as amended; or

2. To amounts contributed within one hundred twenty days before a debtor files for bankruptcy; or

3. To the assets of bankruptcy proceedings filed before July 1, 1987.

The interest of any and all alternate payees shall be exempt from any and all claims of any creditor of the alternate payee.

C. Any person the age of eighteen years or over, married or single, who resides within this state and who does not claim a homestead exemption under article 1 of this chapter<sup>1</sup> may claim as a personal property homestead exempt from all process prepaid rent, including security deposits as provided in § 33-1321, subsection A, for the claimant's residence, not exceeding the lesser of one thousand dollars or one and one-half month's rent.

Amended by Laws 1976, Ch. 170, § 23; Laws 1983, Ch. 237, § 11; Laws 1986, Ch. 4, § 28, eff. March 12, 1986; Laws 1987, Ch. 217, § 1.

<sup>1</sup> Section 33-1101 et seq.

For effective date and application of Laws 1976, Ch. 170, see note following § 12-2401.

### Reviser's Notes.

1983 Note. Pursuant to authority of section 41-1304.02, in paragraph 8, "months" was substituted for "month's" as a correction of a manifest clerical error.

1987 Note. Pursuant to authority of § 41-1304.02, subsection A, paragraph 8 was relettered as subsection B, subsection A, paragraph 8, subdivisions (a), (b) and (c) were renumbered as paragraphs 1, 2 and 3 and subsection B was relettered as subsection C.

### Cross References

Garnishment, monies in financial institution accounts, withholding from judgment debtor, see § 12-1578.

### Law Review Commentaries

Arizona's new exemption statute. 19 Ariz.Bar J. No. 3, p. 32 (1983).

Unconscionability as limitation on commercial sales arrangements. William E. Boyd, 18 Ariz. L.Rev. 48 (1976).

### Notes of Decisions

#### 1. In general

Proceeds from voluntary sale of real property declared as homestead were not exempt from garnishment even if vendor intended at time of sale to reinvest them in another homestead. McLaws v. Kruger (1981) 130 Ariz. 317, 636 P.2d 95.

## § 33-1130. Tools and equipment used in a commercial activity, trade, business or profession

The following tools and equipment of a debtor used in a commercial activity, trade, business or profession shall be exempt from process:

1. The tools, equipment, instruments and books of a debtor or the spouse of a debtor primarily used in, and necessary to carry on, the commercial activity, trade, business or profession of the debtor or the debtor's spouse, not in excess of an aggregate fair market value of two thousand five hundred dollars. For the purpose of this paragraph, "tools" do not include a motor vehicle primarily used by a debtor for personal, family or household purposes such as transportation to and from the debtor's place of employment.

2. Farm machinery, utensils, implements of husbandry, feed, seed, grain and animals not in excess of an aggregate value of two thousand five hundred dollars belonging to a debtor whose primary income is derived from farming.

3. All arms, uniforms and accoutrements required by law to be kept by a debtor.

Added by Laws 1976, Ch. 170, § 24. Amended by Laws 1983, Ch. 237, § 12.

For effective date and application of Laws 1976, Ch. 170, see note following § 12-2401.

### Law Review Commentaries

Arizona's new exemption statute. 19 Ariz.Bar J. No. 3, p. 32 (1983).

Unconscionability as limitation on commercial sales arrangements. William E. Boyd, 18 Ariz. L.Rev. 48 (1976).

BY HALFORD, FAIKS, JOSEPHSON,  
COGHILL, KELLY, FAHRENKAMP,  
KERTTULA AND SZYMANSKI

1 IN THE SENATE

2

SENATE BILL NO. 476

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act creating the supplemental assistance fund for  
Railbelt communities; and providing for an effective  
date."

8

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

10 \* Section 1. AS 29.60 is amended by adding a new section to read:

11 ARTICLE. 4A. SUPPLEMENTAL MUNICIPAL ASSISTANCE TO RAILBELT COMMUNITIES.

12 Sec. 29.60.380. SUPPLEMENTAL MUNICIPAL ASSISTANCE TO RAILBELT  
13 COMMUNITIES. (a) There is established in the department the supple-  
14 mental municipal assistance fund for Railbelt communities as an ac-  
15 count in the general fund. The fund consists of money appropriated to  
16 it. Money in the fund shall be used to make payments to Railbelt  
17 communities.

18 (b) The department shall adopt regulations for the determination  
19 of entitlement to payments from the supplemental municipal assistance  
20 fund, application and approval of payments, and administration of  
21 payments.

22 (c) In this section "Railbelt community" means a municipality  
23 located within 25 miles of the right-of-way of the Alaska Railroad.

24 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c)

25

Funding Information  
General Fund \$31,752,215  
Other Funds -0-  
\$31,752,215

BY HALFORD, FAIKS, JOSEPHSON,  
COGHILL, KELLY, FAHRENKAMP,  
KERTTULA AND SZYMANSKI

1 IN THE SENATE

2 SENATE BILL NO. 477

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 Depart-  
7 ment of Community and Regional Affairs for supple-  
8 mental municipal assistance to Railbelt communities;  
9 and providing for an effective date."

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

11 \* Section 1. The sum of \$31,752.215 is appropriated from the interest  
12 earned on the principal of the Railbelt Energy Fund (AS 37.05.153) and  
13 deposited into the general fund to the Department of Community and Regional  
14 Affairs for supplemental municipal assistance to Railbelt communities under  
15 AS 29.60.380 for the fiscal year ending June 30, 1988.

16 \* Sec. 2. This Act takes effect on the effective date of an Act passed  
17 by the Fifteenth Alaska State Legislature that establishes the supplemental  
18 municipal assistance fund for Railbelt communities.

BY FISCHER, HALFORD, FAIKS, JONES,  
STURGULEWSKI, UEHLING, KERTTULA,  
KELLY

1 IN THE SENATE

2

SENATE CONCURRENT RESOLUTION NO. 32

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

Urging the state's financial insti-  
tutions to adopt more flexible lending  
and collection policies.

6

7

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

9

WHEREAS the state is experiencing a difficult economic period, and  
many persons are finding it difficult to meet their financial obligations  
and to improve their economic conditions; and

12

WHEREAS it would greatly help the state's economy if the state's  
financial institutions would adjust their lending and collection policies  
to the present abilities and needs of their customers by using more flexi-  
ble approaches, such as collection moratoriums and flexible payment sched-  
ules;

16

17

BE IT RESOLVED that the Alaska State Legislature urges the financial  
institutions of the state to adopt more flexible lending and collection  
policies in order to help improve the economy of the state.

18

19

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 402

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 Industrial Development  
and Export Authority; and providing for an effective  
date."

8

9

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

10

\* Section 1. AS 44.88.155(d) is amended to read:

11

(d) A loan purchased in whole or in part by the authority with

12

assets of the enterprise development account or with proceeds of bonds

13

secured by assets of the enterprise development account, other than a

14

loan that [WHICH] is financed with the proceeds of bonds of the au-

15

thority and secured only by a project applicant or a project,

16

(1) may not exceed

17

(A) \$25,000,000 [\$10,000,000]; or

18

(B) \$1,000,000 [\$500,000] if the loan is purchased

19

under AS 44.88.158;

20

(2) may not exceed the cost of the project or 75 percent of

21

the appraised value of the project, whichever is less, unless the

22

amount of the loan in excess of this limit is federally insured or

23

guaranteed or is insured by a qualified mortgage insurance company;

24

(3) may not be for a term longer than three-quarters of the

25

authority's estimate of the life of the project or 25 years from the

26

date the loan is made, whichever is earlier;

27

(4) shall contain complete amortization provisions satis-

28

factory to the authority requiring periodic payments by the borrower;

29

(5) shall be in the form and contain the terms and

1 provisions with respect to insurance, repairs, alterations, payment of  
2 taxes and assessments, default reserves, delinquency charges, default  
3 remedies, acceleration of maturity, secondary liens, and other matters  
4 the authority prescribes;

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

9 (7) may not be made unless

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

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

15 (8) must be

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

19 (B) financed from the proceeds of bonds; or

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

22 \* Sec. 2. AS 44.88.159(c) is amended to read:

23 (c) The interest rate to be received by the authority on a  
24 federally guaranteed loan purchased under AS 44.88.158 [BY THE AUTHOR-  
25 ITY WITH MONEY IN THE SMALL ENTERPRISE LOAN ACCOUNT] that is not from  
26 the proceeds of the sale of a series of bonds is the lesser of (1) the  
27 prevailing prime rate adopted by the United States Small Business  
28 Administration; (2) Moody's Investors Service Aa corporate bond yield  
29 index; or (3) such other index as established by regulation of the

1        authority. The interest rate to be received by the authority on a  
2        federally guaranteed loan purchased by the authority may be either  
3        floating or fixed [EQUAL TO THE MOST RECENT INDEX OF Aa CORPORATE BOND  
4        YIELD AVERAGES AS PUBLISHED BY MOODY'S INVESTORS SERVICE].

5        \* Sec. 3. AS 44.88.165 is repealed and reenacted to read:

6                Sec. 44.88.165. DELINQUENT LCANS. The authority shall adopt  
7        regulations to describe the circumstances under which it will discon-  
8        tinue purchasing loans from a financial institution because of exces-  
9        sive delinquencies among the loans previously purchased from the  
10       financial institution. In adopting the regulations, the authority  
11       shall take into consideration its delinquency experience with loans it  
12       has purchased from all financial institutions. The authority may  
13       include in the regulations other remedies it considers appropriate as  
14       alternatives to the discontinuance of purchasing loans from the finan-  
15       cial institution.

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

Introduced: 2/3/88  
Referred: Community & Regional  
Affairs and Finance

5-1668A

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

HOUSE BILL NO. 429

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 an optional exemption from munic-  
7 ipal property taxation."

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

9 \* Section 1. AS 29.45.050 is amended by adding a new subsection to  
10 read:

11 (1) A municipality may by ordinance exempt or partially exempt  
12 from taxation real property from which an improvement that is more  
13 than 30 years old has been removed if the removal occurs after  
14 June 1, 1988. An exemption under this subsection may remain in effect  
15 for no more than 10 years and only until a new improvement is  
16 constructed on the property.

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

HOUSE BILL NO. 430

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 neighborhood business devel-  
7 opment program; and providing for an effective date."

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

9 \* Section 1. PURPOSE. The purpose of AS 44.33.431 - 44.33.433, added  
10 by sec. 2 of this Act, is to promote the economic development of commercial  
11 neighborhoods in the state's principal cities by financial institutions,  
12 relying on local initiative for the specific design of local programs.

13 \* Sec. 2. AS 44.33 is amended by adding new sections to read:

14 ARTICLE 6A. NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM.

15 Sec. 44.33.431. NEIGHBORHOOD BUSINESS DEVELOPMENT FUND. There  
16 is created the neighborhood business development fund, to be adminis-  
17 tered by the commissioner. The commissioner shall deposit to the  
18 credit of the fund

19 (1) grants and contributions to the fund; and

20 (2) appropriations to the fund.

21 Sec. 44.33.432. POWERS OF THE DEPARTMENT. (a) The commissioner  
22 may use money in the fund to make grants to nonprofit development  
23 corporations that qualify for assistance from the Neighborhood Rein-  
24 vestment Corporation organized under 42 U.S.C. 8101-8107 (Neighborhood  
25 Reinvestment Corporation Act), for purposes of neighborhood housing  
26 services, community revitalization, and economic development projects  
27 in a city that has more than 20,000 persons.

28 (b) The commissioner may adopt regulations necessary to carry  
29 out the department's functions under AS 44.33.431 - 44.33.433.

1           Sec. 44.33.433. DEFINITIONS. In AS 44.33.431 - 44.33.433  
2           (1) "commissioner" means the commissioner of commerce and  
3           economic development;  
4           (2) "department" means the Department of Commerce and  
5           Economic Development;  
6           (3) "fund" means the neighborhood business development fund  
7           established in AS 44.33.431.  
8       \* Sec. 3. AS 44.33.020 is amended by adding a new paragraph to read:  
9           (30) administer the neighborhood business development  
10          program under AS 44.33.431 - 44.33.433.  
11       \* Sec. 4. This Act takes effect July 1, 1988.

Funding Information  
General Fund \$3,000,000  
Other Funds -0-  
\$3,000,000

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2

HOUSE BILL NO. 431

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 an appropriation to the neighborhood  
7 business development 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 \$3,000,000 is appropriated from the general  
11 fund to the Department of Commerce and Economic Development for the neigh-  
12 borhood business development fund (AS 44.33.431).

13 \* Sec. 2. This Act takes effect on the effective date of an Act estab-  
14 lishing the neighborhood business development fund that is enacted by the  
15 Fifteenth Alaska State Legislature.

BY DONLEY, ELLIS, BOUCHER, KOPONEN,  
FURNACE, MENARD, BROWN, GRUENBERG,  
BOYER, COLLINS, ULMER, HUDSON AND  
ZAWACKI

1 IN THE HOUSE

2

HOUSE BILL NO 432

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 trades 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 encourage 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

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

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

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

HOUSE BILL NO. 433

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 moratorium on judicial and  
7 nonjudicial foreclosures; and providing for an effective date."  
8

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

10 \* Section 1. LEGISLATIVE DETERMINATION AND FINDINGS. (a) The legisla-  
11 ture determines the present emergency in the state requires that it enact  
12 legislation granting the courts of the state emergency authority to deal  
13 with the economic emergency facing the state. The legislature further  
14 determines that the following legislation does not impair the obligation of  
15 contract guaranteed under the Constitution of the United States or of the  
16 State of Alaska when it enacts legislation within its police power and  
17 within its reserved power to protect its sovereignty, its government, its  
18 people, and their welfare against exigencies that may arise in the present  
19 great emergency.

20 (b) The legislature finds that the state is experiencing a great  
21 economic crisis and that it is in the public interest to declare a mora-  
22 torium on the foreclosure of certain liens on property in the state. The  
23 legislature finds that among the reasons for the declaration of the mora-  
24 torium as provided in this Act are the following purposes:

25 (1) to give the owner of mortgaged property protection during  
26 the emergency;

27 (2) to afford relief to mortgagors finding themselves in oppres-  
28 sed and straitened circumstances due to the economic conditions in the  
29 state;

1           (3) to prevent valuable property from being sold at distressed  
2 prices;

3           (4) to prevent a sale or foreclosure of property at a time when  
4 there is no market for the property and limited opportunities for refinanc-  
5 ing;

6           (5) to prevent double recoveries by mortgagees; and

7           (6) to prevent creditors, as well as debtors, from suffering  
8 unnecessary losses resulting from the economic conditions in the state.

9       \* Sec. 2. NONJUDICIAL FORECLOSURES. (a) In a nonjudicial foreclosure  
10 of a mortgage or deed of trust where the period for the redemption by the  
11 mortgagor or trustor has not expired, the owner of the property may apply  
12 to the superior court for an order delaying the expiration of the period  
13 for redemption or other proceedings related to the foreclosure until one  
14 year after the effective date of this Act. Until one year after the effec-  
15 tive date of this Act, the owner of the property has the exclusive right to  
16 redeem the property and is entitled to possession of the property.

17       (b) The superior court, on an application for an extension of the  
18 period of redemption or of other proceedings related to the foreclosure  
19 under (a) of this section, shall issue an order delaying the expiration of  
20 the period for redemption on its determination, after notice and an oppor-  
21 tunity for a hearing, that the owner of the property has agreed to and has  
22 made the payment of a reasonable rental for the property for the period.  
23 The reasonable rental shall be determined by the court based on the reason-  
24 able economic value of the property on the date of the request, the past-  
25 due or anticipated expenses of taxes, insurance, and other amounts required  
26 to preserve the property, and the payment by the owner of the amounts due  
27 as principal under the mortgage.

28       (c) If the owner of the property subject to an order issued under (b)  
29 of this section fails to comply with the order, the order extending the

1 period of redemption may be set aside after notice and an opportunity for a  
2 hearing.

3 (d) The provisions of (a) - (c) of this section supersede, for one  
4 year after the effective date of this Act, the provisions of any other law  
5 inconsistent with this section.

6 \* Sec. 3. JUDICIAL FORECLOSURES. (a) In a judicial foreclosure of a  
7 mortgage or deed of trust where the period for the redemption by the mort-  
8 gagee or trustor has not expired under AS 09.35.250, other law, or under  
9 the mortgage or deed of trust, the owner of the property may apply to the  
10 superior court for an order delaying the expiration of the period for  
11 redemption or other proceedings related to the foreclosure until two years  
12 after the effective date of this Act. Until two years after the effective  
13 date of this Act, the owner of the property has the exclusive right to  
14 redeem the property and is entitled to possession of the property.

15 (b) The superior court, on an application for an extension of the  
16 period of redemption under (a) of this section, shall issue an order delay-  
17 ing the expiration of the period for redemption on its determination, after  
18 notice and an opportunity for a hearing, that the owner of the property has  
19 agreed to and has made the payment of a reasonable rental for the property  
20 for the period. The reasonable rental shall be determined by the court  
21 based on the reasonable economic value of the property on the date of the  
22 request, the past-due or anticipated expenses of taxes, insurance, and  
23 other amounts required to preserve the property, and the payment by the  
24 owner of the amounts due as principal under the mortgage.

25 (c) If the owner of the property subject to an order issued under (b)  
26 of this section fails to comply with the order, the order extending the  
27 period of redemption may be set aside after notice and an opportunity for a  
28 hearing.

29 (d) The provisions of (a) - (c) of this section supersede, for two

1 years following the effective date of this Act, the provisions of any other  
2 law inconsistent with this section.

3 \* Sec. 4. If the period for the redemption by the mortgagor or trustor  
4 expires within 30 days after the effective date of this Act, the period for  
5 the redemption is extended to 30 days after the effective date of this Act.

6 \* Sec. 5. In this Act, "property" means real property and vessels.

7 \* Sec. 6. This Act is repealed two years after the effective date of  
8 this Act.

9 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

BY MENARD, LARSON AND  
ZAWACKI

1 IN THE HOUSE

2

HOUSE BILL NO. 434

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 municipal development and redevelopment."

7

8

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

9

\* Section 1. AS 29.10.200 is amended by adding a new paragraph to read:

10

(49) AS 29.35.035 (development and redevelopment proj-

11

ects).

12

\* Sec. 2. AS 29.35 is amended by adding a new section to read:

13

Sec. 29.35.035. DEVELOPMENT AND REDEVELOPMENT PROJECTS. (a) A

14

municipality may undertake development and redevelopment projects in the municipality and issue bonds for development or redevelopment purposes in blighted areas.

17

(b) A municipality may by ordinance create a public corporation to exercise all or some of the powers authorized under (a) of this section. The corporation so established

20

(1) is an instrumentality of the municipality, but has a

21

legal existence independent of and separate from the municipality; and

22

(2) has continuing succession by its corporate name until

23

terminated by ordinance.

24

(c) A municipality may provide by ordinance that the tax increment from the taxes levied each year by or on behalf of the municipality on the property in a development or redevelopment project shall be used to repay the principal and interest on bonds, notes, and other indebtedness that is incurred for the project. To enable and assist a public corporation to repay bonds, notes, and other indebtedness for a

29

1 development or redevelopment project, the municipality may irrevocably  
2 pledge the tax increment from the project for the payment of debt  
3 service on the bonds, notes, or other indebtedness issued to finance  
4 the project. In this subsection "tax increment" means the portion of  
5 the tax that is attributable to the difference between the value of  
6 the property shown on the taxing agency's assessment roll for the year  
7 when the taxes are levied and the value of the property shown on the  
8 taxing agency's last assessment roll that was equalized before the  
9 project was authorized.

10 (d) This section applies to home rule and general law municipal-  
11 ities.

1 IN THE HOUSE

BY PETTYJOHN

2

HOUSE BILL NO. 457

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 carry out the purposes of this section.  
15 An appropriation to the Alaska stabilization assistance fund lapses to the  
16 fund from which it was appropriated July 1, 1992, unless specified other-  
17 wise in the appropriation act. Other receipts shall be separately account-  
18 ed for and deposited into the general fund. Each year the authority shall  
19 notify the legislature of the amount of these receipts and the legislature  
20 may appropriate that amount into the Railbelt energy fund established under  
21 AS 37.05.153.

22 (c) To encourage lenders not to attempt to dispose of real property  
23 in the state that has been foreclosed upon or otherwise acquired through  
24 actions taken on defaulted loans until the real estate market in the state  
25 becomes more stable, the authority may enter into contracts to provide for  
26 the management of the property. However, the authority may provide for the  
27 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).

Introduced: 2/11/88  
Referred: Labor & Commerce  
and Finance

5-1889A

|                            |                     |
|----------------------------|---------------------|
| <u>Funding Information</u> |                     |
| General Fund               | \$15,000,000        |
| Other Funds                | -0-                 |
|                            | <u>\$15,000,000</u> |

1 IN THE HOUSE

BY PETTYJOHN

2

HOUSE BILL NO. 458

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  
stabilization assistance fund; and providing for an  
effective date."

8

9

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

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\* Section 1. The sum of \$15,000,000 is appropriated from the Railbelt  
energy fund (AS 37.05.153) to the Alaska stabilization assistance fund.

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12

\* Sec. 2. The appropriation made by sec. 1 of this Act lapses into the  
Railbelt energy fund (AS 37.05.153) on July 1, 1992.

13

14

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

15

16

#22

There are two drafts of this  
one. Yours with criteria and the  
first without.

BY HALFORD

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing interim payment reductions of the monthly mortgage payments payable by certain mortgagors on mortgage loans purchased by the Alaska Housing Finance Corporation; and providing for an effective date."

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

\* Section 1. FINDINGS. The legislature finds that

(1) a sizeable proportion of the residents of the state have mortgages that exceed the present ability of the mortgagors of the property to make the payments agreed to in the past;

(2) a substantial number of the mortgagors most heavily burdened with mortgage loan payments have been delinquent in the payments, and some have contemplated abandonment of the residences and forfeiture of the title to the lending institution;

(3) direct interim relief to the mortgagors who are most heavily burdened should allow most of them to continue to meet mortgage loan payment obligations, thereby substantially reducing the rate of abandonment and forfeiture of residential properties;

(4) it is in the interests of the state to take extraordinary action to provide relief to the mortgagors who are most heavily burdened with mortgages supported in part by financial assistance from the principal state lending agency in a way that provides a measure of interim relief for payments without reducing the mortgagor's debt obligations.

\* Sec. 2. REDUCTION OF MONTHLY MORTGAGE PAYMENTS ON CERTAIN OUTSTANDING

1 MORTGAGE LOANS PURCHASED BY THE ALASKA HOUSING FINANCE CORPORATION. (a)  
2 Notwithstanding the terms and conditions of the mortgage agreement entered  
3 into between the mortgagor and lender, the monthly mortgage payment payable  
4 by a mortgagor qualifying under (b) of this section on a mortgage loan that  
5 qualifies under (c) of this section that is outstanding on July 1, 1988, is  
6 adjusted as follows:

7 (1) for a loan whose loan-to-value ratio is 90 percent or less,

8 (A) if the mortgagor's total payment ratio is greater than  
9 28 percent but does not exceed 30 percent, the mortgagor's total  
10 monthly mortgage payment is reduced by an amount that will reduce the  
11 total payment ratio to 28 percent;

12 (B) if the mortgagor's total payment ratio is greater than  
13 30 percent, the total monthly mortgage payment is reduced by an amount  
14 that will reduce the total payment ratio by two percentage points;

15 (2) for a loan whose loan-to-value ratio is greater than 90  
16 percent,

17 (A) if the total monthly mortgage payment exceeds the  
18 maximum total payment ratio for that loan by two percentage points or  
19 less, the total monthly mortgage payment is reduced by an amount that  
20 will reduce the monthly mortgage payment to the maximum total payment  
21 ratio;

22 (B) if the total monthly mortgage payment exceeds the maximum  
23 total payment ratio for that loan by more than two percentage points,  
24 the total monthly mortgage payment is reduced by an amount that will  
25 reduce the total payment ratio by two percentage points.

26 (b) The provisions of this section apply to a mortgagor who

27 (1) if employed, involuntarily lost employment after June 30,  
28 1987; and

29 (2) if self-employed, lost substantial income after June 30.

1 1987, because of the decline of the economy of the state or the community  
2 in which the person is self-employed.

3 (c) The provisions of this section apply to mortgage loans for resi-  
4 dential housing purchased by the Alaska Housing Finance Corporation through

5 (1) the special mortgage loan purchase program under AS 18.56.-  
6 098;

7 (2) the simplified refinancing mortgage loan purchase program  
8 under AS 18.56.102; or

9 (3) the nonconforming housing loan program under AS 18.56.106.

10 (d) The adjustment made under (a) of this section

11 (1) applies to mortgage loan payments payable by a qualifying  
12 mortgagor from July 1, 1988, through June 30, 1990;

13 (2) provides interim payment reduction and is not intended to  
14 affect the debt obligation of the mortgagor on the mortgage loan.

15 (e) The Alaska Housing Finance Corporation shall enter into agree-  
16 ments with lending institutions from which it has purchased mortgages and  
17 with persons who service mortgage loan payments to provide the adjustments  
18 required under (a) of this section.

19 (f) In this section

20 (1) "maximum total payment ratio" means the limit of the total  
21 payment ratio set by the Alaska Housing Finance Corporation as a condition  
22 for the corporation's acquisition of the loan;

23 (2) "total payment ratio" means the total monthly first mortgage  
24 payment and, when applicable, any secondary financing, homeowners' associa-  
25 tion charge, and space rent, expressed as a percentage of the mortgagor's  
26 allowable gross income.

27 \* Sec. 3. This Act takes effect July 1, 1988.  
28  
29

**DRAFT**

5-1794A  
Chenoweth  
2/3/88

1 IN THE SENATE

BY FAIKS

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 providing a temporary reduction of the rate  
7 of interest payable by mortgagors on mortgage loans  
8 purchased by the Alaska Housing Finance Corporation;  
9 and providing for an effective date."

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

11 \* Section 1. FINDINGS. The legislature finds that

12 (1) a sizeable proportion of the residents of the state have  
13 mortgages that exceed the present ability of the mortgagors of the property  
14 to make the payments agreed to in the past;

15 (2) a substantial number of mortgagors burdened with mortgage  
16 loan payments have been delinquent in the payments, and some have contem-  
17 plated abandonment of the residences and forfeiture of the title to the  
18 lending institution;

19 (3) direct interim relief to mortgagors should allow most mort-  
20 gagors to continue to meet mortgage loan payment obligations, thereby  
21 substantially reducing the rate of abandonment and forfeiture of residen-  
22 tial properties;

23 (4) it is in the interests of the state to take extraordinary  
24 action to provide relief to mortgagors with mortgages supported in part by  
25 financial assistance from the principal state lending agency.

26 \* Sec. 2. REDUCTION OF INTEREST PAYABLE ON OUTSTANDING MORTGAGE LOANS  
27 PURCHASED BY THE ALASKA HOUSING FINANCE CORPORATION. (a) Notwithstanding  
28 the terms and conditions of the mortgage agreement entered into between the  
29 mortgagor and lender, the rate of interest payable by a mortgagor on a

1 mortgage loan for residential housing purchased by the Alaska Housing  
2 Finance Corporation through the special mortgage loan purchase program  
3 under AS 18.56.098, the simplified refinancing mortgage loan purchase  
4 program under AS 18.56.102, or the nonconforming housing loan program under  
5 AS 18.56.106 that is outstanding on July 1, 1988, is reduced by two per-  
6 centage points for mortgage loan payments due from July 1, 1988, through  
7 June 30, 1990.

8 (b) The Alaska Housing Finance Corporation shall enter into agree-  
9 ments with lending institutions from which it has purchased mortgages and  
10 with persons who service mortgage loan payments to provide the mortgage  
11 loan interest rate adjustment required by (a) of this section.

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