

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
1598 SCOMM 60: HOUSING FINANCE TASK FORCE, 1989

DRAFT

DATE: _____

BOOKPROOFED: _____

APPROVED: _____

1 * Sec. 17. Sections 1, 2, and 12 of this Act take effect January 1,
2 1991.

3 * Sec. 18. Sections 3, 4, and 13 of this Act take effect January 1,
4 1992.

5 * Sec. 19. Sections 5, 6, and 14 of this Act take effect January 1,
6 1993.

7 * Sec. 20. Sections 7 and 16 of this Act take effect January 1, 1994.

8 * Sec. 21. Sections 8, 9, 10, 11, and 15 of this Act take effect
9 immediately under AS 01.10.070(c).

* Sec. 6 AS 18.56.098 (g) is amended to read:

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

(1) The interest rate on the first \$90,000 until July 1, 1990, the first \$70,000 until June 30, 1991, the first \$50,000 until June 30, 1992, the first \$30,000 until June 30, 1993 and none thereafter of a mortgage loan purchased with the proceeds of an issue of taxable bonds of the corporation is three percent less than the cost of funds of that issue, except that

(A) if the cost of funds of that issue is less than 10 percent, the interest rate is equal to the cost of funds; and

(B) if the cost of funds of that issue is more than 10 percent, the interest rate may not be less than 10 percent.

* Sec 5. AS 18.56.098 (a) is amended to read:

(a) The corporation shall establish a special mortgage loan purchase program. Under the special mortgage loan purchase program, the corporation may purchase first or second mortgage loans. A first or second mortgage loan purchased under this subsection must be made for the purchase, improvement, or rehabilitation of a residence or must be a refinancing loan. First or second mortgage loans purchased under this subsection may include graduated payment mortgage loans and adjustable rate mortgage loans. A low and moderate income program is established to begin on July 1, 1991. The corporation shall establish by regulation under AS 18.56.088 criteria for purchase of mortgage loans under the program based on median family income and shall be applicable to the first \$50,000 of the mortgage loan.

* Sec 5. AS 18.56.098 (a) is amended to read:

(a) The corporation shall establish a special mortgage loan purchase program. Under the special mortgage loan purchase program, the corporation may purchase first or second mortgage loans. A first or second mortgage loan purchased under this subsection must be made for the purchase, improvement, or rehabilitation of a residence or must be a refinancing loan. First or second mortgage loans purchased under this subsection may include graduated payment mortgage loans and adjustable rate mortgage loans. A low and moderate income program is established to begin on July 1, 1991. The corporation shall establish by regulation under AS 18.56.088 criteria for purchase of mortgage loans under the program based on median family income.

1/22/90

Draft Proposed AHFC Legislation
(being put in bill form)

1/22/90

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

(1) the commissioner of revenue and the commissioner of commerce and economic development;

(2) one other member who is the head of the principal department of the executive branch of state government appointed by the governor; and

(3) [two] four public members appointed by the governor.

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

(c) The board member[s] described in (a) (2) [and (a) (3)] of this section serves a two-year term. Two of the board members described in A(3) of this section serve three-year terms and two serve four-year terms as fixed by the governor.

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

(e) The members of the board described in (a) (3) of this section receive[d] [\$100] compensation commensurate with service on boards of private corporations of similar asset size, as determined by the governor, for each day spent on official business of the corporation and may be reimbursed by the corporation for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180 (§ 1 ch 107 SLA 1971; am § 5 ch 151 SLA 1975; am § 79 ch 218 SLA 1976; am § 1 ch 167 SLA 1978; am § 13 ch 106 SLA 1980; am § 32 ch 37 SLA 1986)

1/22/90

Section 18.56.055 Legal Advisor. [The attorney general is the legal counsel for the corporation. The attorney general shall advise the corporation in legal matters and represent it in suits.] The corporation may employ staff legal counsel and retain outside legal counsel to perform all necessary legal services, including representation in litigation.

1/22/90

Section 18.56.089. Executive Budget Act. From and after July 1, 1990, the [The] operating budget of the corporation is no longer subject to the Executive Budget Act (AS 37.07).] To further ensure effective budgetary decision making by the legislature, the corporation shall present a complete accounting of all assets of the corporation, including assets of the Alaska housing finance revolving fund, to the legislature by January 10 of each year. The accounting shall be audited by an independent outside auditor and shall include a full description of all mortgage loan interest and principal repayments and program receipts, including mortgage loan commitment fees, received by or accrued to the corporation during the preceding fiscal year, and all income earned on assets of the corporation during that period, including earnings on assets of the state assisted mortgage fund. (§ 20 ch 106 SLA 1980; am § 3 ch 102 SLA 1983)

1/22/90

Separate New Housing Assistance Fund Section

The corporation shall annually calculate whether or not its net income for the previous fiscal year has increased. If and to the extent the corporation determines that (i) its net income for the previous fiscal year has increased, (ii) the corporation is in compliance with all covenants and agreements with respect to its borrowings and (iii) a transfer will not impair the operation of any of its existing programs, the corporation shall set aside one-half of the net income in a separate fund to be called the housing assistance fund.

Earnings on the fund may be spent or pledged for low income or other special housing purposes. The principal of the fund shall not be spent except (i) to replenish any deficiency in funds pledged or covenanted to be maintained in connection with borrowings of the corporation and (ii) as necessary to pay general obligation debt of the corporation.

1/22/90

Section 36.30.990. Definitions. In this chapter*, unless the context in which a term is used clearly requires a different meaning or a different definition is prescribed for a particular provision,

(1) "agency" means a department, institution, board, commission, division, authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of the executive branch of state government, except for the University of Alaska, Alaska Housing Finance Corporation, the Alaska State Building Authority and the Alaska Railroad Corporation; it does not include a regional Native housing authority created under AS 18.55.996, or a regional electrical authority created under AS 18.57.020;

* Chapter refers to the State Procurement Code

1/22/90

Subsidy Reduction
and New Program

Legislation will be prepared to reduce the amount of mortgage loan subsidized from \$90,000 to \$70,000 in 1991, \$50,000 in 1992, \$30,000 in 1993 and to zero in 1994. When the subsidy level for the program goes to \$50,000, a new permanent program will start at that level for lower and moderate income housing. The lower and moderate income housing program at this level will be based on the existing federal program limitation of median income.

Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

September 13, 1989

Rep. C. E. Swackhammer
312 Tyee Street
Soldotna, Alaska 99669

Dear Representative Swackhammer:

I would like to request that the Housing Policy Task Force review HB 218, relating to AHFC loans for senior congregate housing, at its next meeting on September 21. I introduced this bill last session as an encouragement to the private sector to provide congregate housing for senior citizens in Alaska. It received strong support from senior advocacy groups in the state as well as from the Older Alaskans Commission. I believe that this bill may provide part of the solution to the problem of alternative housing for seniors who wish to remain independent as long as possible.

As a result of legislative action taken last session and further consideration of this bill, I have decided to introduce a sponsor substitute for HB 218. The substitute will broaden the definition of borrower to include non-profit groups and governmental entities; in addition, congregate housing projects will not be limited to senior citizen occupancy only. It has become apparent that there are other population groups in the state who would benefit from construction of congregate housing and that they should be included in this bill. The passage of HB 160, the Neighborhood Revitalization Act, opens the door to public-private partnerships for the very purpose that HB 218 originally addressed. For that reason, the definition of borrower should be expanded to include a variety of public purpose groups who may wish to provide congregate housing.

I offer this bill for consideration by the Housing Policy Task Force because I believe there are substantial rewards for Alaska, both financially and socially, in pursuing a policy which seeks to maximize the independence of Alaskans. Women and children at risk, the developmentally disabled, as well as senior citizens, should be

District 4B — Juneau

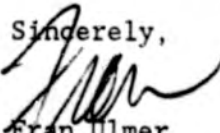
P.O. Box V • Juneau, Alaska 99811-3100 • (907) 465-4947

Rep. C. E. Swackhammer
September 13, 1989
Page 2

assisted to retain their financial and social independence to the greatest extent possible. That independence will free the state from the costly services currently required by citizens unable to live on their own.

Thank you for your consideration of this request. I look forward to the comments of the Task Force on HB 218.

Sincerely,



Fran Ulmer

enclosure
FU/dl

1 IN THE HOUSE

BY ULMER AND HUDSON

2 HOUSE BILL NO. 218

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act extending the authority of the Alaska Housing
7 Finance Corporation to assist in the development of
8 senior citizens' housing; and providing for an effective date."
9

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

11 * Section 1. AS 18.56.100(b) is amended to read:

12 (b) Consistent with AS 18.56.090, the corporation may make
13 temporary and permanent loans from the housing development fund, at an
14 interest rate or rates determined by the corporation, and with the
15 security for repayment that is necessary and practicable, to purchase,
16 make, or participate in the making of mortgage loans

17 (1) to borrowers for loans to develop, build, repair,
18 remodel, or rehabilitate residential housing for senior citizens and
19 their spouses that is used and occupied as congregate housing; or

20 (2) that are not federally insured or guaranteed for residential housing,
21 if the corporation determines that the loans are not
22 otherwise available, wholly or in part, from private lenders upon
23 reasonably equivalent terms and conditions.

24 * Sec. 2. AS 18.56.100 is amended by adding new subsections to read:

25 (1) The corporation shall use money in the housing development
26 fund to reduce the interest payable by borrowers who develop housing
27 for senior citizens and their spouses under (b)(1) of this section.
28 The corporation may reduce the interest rate on a loan entered into
29 under (b)(1) of this section and this subsection to one percent less

The primary sponsors of congregate housing have traditionally been nonprofit organizations, especially churches which have targeted the low-to-moderate-income elderly. With the growth in the size and wealth of the nation's elderly population, private developers have entered the market in the 1980's. However, market conditions appear to work against project feasibility in Alaska without some form of public support and without available financing. The relatively small pool of potential senior residents, higher labor and material costs, the absence of affordable financing, and the lack of economies of scale in smaller-sized housing projects make it difficult to create congregate housing which will fall within the financial constraints of even middle income seniors.

It is appropriate for the state to participate in these types of housing projects through a reduced interest rate from the Alaska Housing Finance Corporation. At this time, AHFC is uncertain whether it has the statutory authority in its market stabilization program [AS 18.56.210(a)(5); 2 ch 147 SLA 1988] to provide developer financing for these projects. HB 218 clearly establishes that authority. It is possible that some of the vacated condominium projects in the state would be appropriate for conversion into senior congregate housing by a private developer. This bill provides an incentive for the private developer to take primary responsibility for the creation of this type of housing.

Alaska State Legislature

Representative Fran Ulmer



P.O. Box V
Juneau, Alaska 99811
(907) 465-4947

HOUSE OF REPRESENTATIVES

MEMORANDUM

May 1, 1989

TO: Rep. Red Boucher, Chair
House State Affairs Committee

FROM: Rep. Fran Ulmer

RE: HB 218, relating to senior citizens' housing

HB 218 extends the authority of the Alaska Housing Finance Corporation to make mortgage loans to borrowers for the construction, repair, remodel or rehabilitation of residential housing for use as congregate housing for senior citizens. The purpose of this legislation is to address a growing problem within Alaska: the need for housing which combines both privacy and independence with the provision of some services for the elderly. This is a problem for all seniors, regardless of income; the solution must be available to all seniors.

Senior congregate housing is apartment-style living with various services, including one to three meals per day, weekly housekeeping and laundry, transportation, and social/recreational activities. It is intermediate between the fully independent lifestyle of a single family home or apartment and the dependent or skilled-care attention provided in a nursing home. Congregate housing allows ambulatory persons to live independently of their families. Seniors typically emphasize their desire for the degree of privacy which congregate housing provides, as opposed to other types of housing for seniors.

Residents are typically 75 to 85 years old, between the "young retirees" (65 - 74 years old) and the "frail elderly" (85+ years old). Based on detailed 1985 Department of Labor population figures, this age group represents about 24 percent of Alaska seniors statewide. The potential market today in various census areas may be as follows:

<u>Census Area</u>	<u>Est. Seniors 75-85 yrs old</u>
Anchorage	1,630 seniors
Fairbanks	530
Kenai Peninsula	400
Matanuska-Susitna	360
Juneau	300
Ketchikan	190

INDIVIDUAL TIMESPAN:

PRIMARY MORTGAGE INSURANCE CLAIM FILING
UNTIL PRIMARY MORTGAGE INSURANCE PAYMENT

AHFC requires primary mortgage insurers to pay claims within 60 days after claims are received. Table 4 shows the average elapsed time from the primary mortgage insurance claim filing date until the date the claim was paid. As shown, the average insurance claim was not paid within the 60 day timeframe.

Timeliness for this portion of the foreclosure process is mainly the responsibility of the primary mortgage insurer. It is included in our analysis because the servicer can influence payment timeliness by preparing adequately documented claims and following up in cases where payment is not timely.

TABLE 4

SUMMARY OF AVERAGE TIMESPANS
BETWEEN PRIMARY INSURANCE CLAIM
AND RECEIPT OF INSURANCE PAYMENT

<u>Period</u>	<u># Loans Analyzed</u>	<u>Average Number of Days Before Insurance Claim Payment</u>
FY 1986	3	81
FY 1987	17	115
FY 1988	995	80
FY 1989	<u>627</u>	<u>72</u>
TOTAL LOANS	<u>1,642</u>	AVERAGE <u>78</u> DAYS

There are few loans in this timespan for 1986 and 1987 because the mortgage insurance filing date is a relatively new date field in the mortgage loan system.

FY 1989 loans include those for which both dates were available and for which the insurance claim was paid in FY 1989 by November 9, 1988. The foreclosure process may have begun in prior years.

Table 4 summarizes the data in Appendix D, which shows average timespans ranging from 48 days to 609 days, and noncompliance for most loans.

COMBINED TIMESPANS:
LOAN DELINQUENCY
UNTIL LOAN FORECLOSURE

AHFC has not defined a maximum standard timeframe from loan delinquency until loan foreclosure in written policy. Allowable maximum time can be inferred to be approximately 260 days. This consists of 110 days between the delinquency date and the date AHFC gives permission to foreclose, and 150 days between the permission to foreclose date and foreclosure.

Table 5 shows that the period to foreclose loans has increased steadily between FY 1986 and FY 1989. The FY 1989 foreclosed loan took more than 100 days longer than the inferred 260 maximum. Although there is no absolute standard for evaluating servicer timeliness between delinquency and foreclosure, the derived 260 benchmark is useful for comparative purposes.

TABLE 5

SUMMARY OF AVERAGE TIMESPANS
BETWEEN LOAN DELINQUENCY AND LOAN FORECLOSURE

<u>Period</u>	<u># Loans Analyzed</u>	<u>Average Number of Days Before Foreclosure</u>
FY 1986	554	283
FY 1987	1,817	312
FY 1988	2,813	348
FY 1989	<u>1,167</u>	<u>377</u>
TOTAL LOANS	<u>6,351</u>	AVERAGE <u>337</u> DAYS

For this timespan, 1989 loans include those for which both dates were available and for which foreclosure was completed in FY 1989 by November 9, 1988.

Average processing time from loan delinquency until loan foreclosure for FY 1986-1989 is shown by servicer in Appendix E. This table, as have others, shows that average processing time has increased steadily for some servicers and that most servicers did not complete their foreclosures within 260 days of delinquency.

COMBINED TIMESPANS:
LOAN FORECLOSURE
UNTIL PRIMARY INSURANCE PAYMENT

Combined timespans that cover servicer responsibility to file primary mortgage insurance claims (60 days) and the insurer's responsibility to pay claims (60 days) are shown in Appendix F, and summarized in Table 6, below. This shows improvement in

FY 1989, and overall performance that has not deviated significantly from AHFC's 120 standard for this timespan.

TABLE 6

SUMMARY OF AVERAGE TIMESPANS
BETWEEN LOAN FORECLOSURE AND PRIMARY INSURANCE PAYMENT

<u>Period</u>	<u># Loans Analyzed</u>	<u>Average Number of Days Before Payment Receipt</u>
FY 1986	249	142
FY 1987	1,103	148
FY 1988	2,828	162
FY 1989	<u>789</u>	<u>125</u>
TOTAL LOANS	<u>4.969</u>	AVERAGE <u>152</u> DAYS

This includes foreclosed loans for which both dates were available and for which primary mortgage insurance payment was received in FY 1989 by November 9, 1988.

COMBINED TIMESPANS:

LOAN DELINQUENCY

UNTIL PRIMARY INSURANCE PAYMENT

Finally we present a view of the entire period from loan delinquency to primary mortgage insurance claim recovery.

Table 7 shows a steady and substantial increase in the length of time it takes to move an uncollectible loan through the foreclosure process and ultimately to collect primary mortgage insurance payments.

TABLE 7

SUMMARY OF AVERAGE TIMESPANS
BETWEEN LOAN DELINQUENCY AND PRIMARY INSURANCE PAYMENT

<u>Period</u>	<u># Loans Analyzed</u>	<u>Average Number of Days Before Payment Receipt</u>
FY 1986	225	333
FY 1987	1,061	385
FY 1988	2,837	460
FY 1989	<u>789</u>	<u>482</u>
TOTAL LOANS	<u>4.912</u>	AVERAGE <u>441</u> DAYS

FY 1989 loans include foreclosed loans for which both dates were available and for which primary mortgage insurance payment was received in FY 1989 by November 9, 1988.

AHFC has not formally defined its maximum requirements for this overall timeframe. Allowable maximum time can be inferred as 380 days (approximately 13 months). This consists of 110 days between delinquency and permission to foreclose, 150 days between the permission date and foreclosure, and 120 days from foreclosure to receipt of primary mortgage insurance claim payment.

Appendix G illustrates the average processing time for this combined timespan by servicer. This table shows that processing time increased steadily for some servicers more than others.

CONCLUSIONS AND RECOMMENDATIONS

The downturn of Alaska's economy and subsequent increase in foreclosures played a major role in increasing servicer processing times for foreclosures. Regardless of the causes, AHFC must increase its own efficiencies and servicer monitoring efforts to help offset the effect of external events.

Considering the large number of loans in its portfolio, AHFC needs the efficiency of additional automated reports that bring attention to loans which are delinquent or remain in key phases of foreclosure for lengthy periods. For example, aging reports are needed to disclose elapsed days for:

- loans more than 95 days delinquent (or 75 days if time requirements change) for which no form #SER-71 has been received; and
- loans where more than 150 days have passed since AHFC gave permission to foreclose but foreclosure has not yet occurred.

Automated date arithmetic performed on each loan can highlight loans most needing AHFC and servicer attention. Aging reports should go beyond simply categorizing loans in the usual ranges of delinquency (30, 60, 90, and more than 120 days). Actual time lags should be computed and displayed.

AHFC already captures data on magnetic media which can be used to produce monthly aging reports with summary and detail information.

Our analysis shows that some loans are not foreclosed for a long time after permission is given to foreclose. Quick foreclosures are not always the best course of action, however. An aging report designed specifically to monitor loans after permission to foreclose is given will help AHFC by highlighting cases where foreclosure time appears unreasonably long. This information will facilitate timely follow-up by AHFC staff and also provide overview information for management.

ALASKA HOUSING FINANCE CORPORATION
ANALYSIS OF AVERAGE TIMESPANS
BETWEEN DATE OF DELINQUENCY
AND PERMISSION TO FORECLOSE

SERVICER *	FY 86		FY 87		FY 88		FY 89		SUMMARY	
	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS
ALASKA FEDERAL SAVINGS AND LOAN	148	7	108	22	127	26			122	55
FIRST NATIONAL BANK OF ANCHORAGE	126	125	134	376	137	341	216	2	134	844
FRONTIER ALASKA STATE CREDIT UNION	105	5	128	14	160	10			135	29
SPOKANE MORTGAGE COMPANY	128	14	189	3					135	17
MT. MCKINLEY MUTUAL SAVINGS			128	8	141	17	188	1	139	26
WESTERN MORTGAGE LOAN CORPORATION	138	2	172	19	119	24			142	45
ALASKA USA FEDERAL CREDIT UNION	201	20	130	71	141	112	72	1	143	204
G.M.A.C. MORTGAGE CORPORATION	120	21	112	26	188	33			145	80
NATIONAL BANK OF ALASKA	142	85	146	293	148	362	13	1	146	741
DENALI FEDERAL CREDIT UNION	128	6	115	15	203	11			148	32
ALLIANCE BANK	125	277	135	611	168	670	618	1	148	1559
COMMONWEALTH WESTERN MORTGAGE CORPORATION	134	19	141	40	177	38			154	97
GOLDOME REALTY CREDIT CORPORATION	195	63	179	64	142	209			159	335
SEAFIRST MORTGAGE COMPANY	143	12	173	32	169	30			167	74
B.M. BEHREND'S BANK	205	2	199	31	122	24			167	57
RAINIER BANK ALASKA	167	83	175	219	162	67	305	3	172	372
FIREMAN'S FUND MORTGAGE COMPANY	165	64	177	321	197	346	247	1	186	732
FIRST GUARANTY MORTGAGE COMPANY OF ALASKA	176	41	158	26	262	19	249	1	190	87
HOME SAVINGS & LOAN	164	37	190	56	199	117			190	210
FIRST FEDERAL BANK OF ALASKA	193	7	154	6	202	19			191	32
ALASKA STATEBANK	143	30	211	24	274	17			197	71
FIRST NATIONAL BANK OF FAIRBANKS	240	33	233	84	259	87	540	1	247	205
KEY PACIFIC MORTGAGE COMPANY	202	18	221	58	279	70	280	1	247	147
TOTAL LOANS		971		2,419		2,648		13		6,051
AVERAGE DAYS - ALL SERVICERS	150		155		170		273		161	

* Servicers are listed in ascending order based on the overall average number of days.

ALASKA HOUSING FINANCE CORPORATION
ANALYSIS OF AVERAGE TIMESPANS
BETWEEN PERMISSION TO FORECLOSE
AND LOAN FORECLOSURE

SERVICE *	FY 86		FY 87		FY 88		FY 89		SUMMARY	
	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS
SPOKANE MORTGAGE COMPANY	106	13	142	10					122	23
MT. MCKINLEY MUTUAL SAVINGS	114	1	109	10	150	17	146	4	136	32
ALASKA FEDERAL SAVINGS AND LOAN	163	7	140	20	130	33	170	6	140	66
FIRST NATIONAL BANK OF ANCHORAGE	119	103	135	345	154	381	171	138	146	967
RAINIER BANK ALASKA	124	45	170	193	138	158	163	26	153	422
ALASKA STATEBANK	127	58	158	27	218	30	138	5	157	120
NATIONAL BANK OF ALASKA	127	70	144	245	161	373	185	158	158	846
FIRST FEDERAL BANK OF ALASKA	153	10	141	12	164	15	198	9	162	46
HOME SAVINGS & LOAN	115	29	173	67	176	94	170	53	167	243
GOLDOME REALTY CREDIT CORPORATION	104	37	174	80	165	157	208	90	171	364
ALLIANCE BANK	129	197	162	540	193	833	226	244	181	1814
WESTERN MORTGAGE LOAN CORPORATION			183	11	209	32	171	16	194	59
ALASKA USA FEDERAL CREDIT UNION	98	10	179	47	199	92	214	68	195	217
FIRST NATIONAL BANK OF FAIRBANKS	146	25	167	56	212	97	242	53	201	231
SEAFIRST MORTGAGE COMPANY	204	7	259	27	176	44	150	8	202	86
KEY PACIFIC MORTGAGE COMPANY	137	5	189	39	199	73	230	44	203	161
FIRST GUARANTY MORTGAGE COMPANY OF ALASKA	182	16	207	53	201	29	249	13	207	111
DENALI FEDERAL CREDIT UNION	131	4	178	8	235	14	230	7	208	33
G.M.A.C. MORTGAGE CORPORATION	168	12	219	26	228	33	188	23	208	94
B.M. BEHREND'S BANK	164	3	174	9	218	50	337	5	219	67
FIREMAN'S FUND MORTGAGE COMPANY	191	25	200	187	229	401	229	169	221	782
FRONTIER ALASKA STATE CREDIT UNION	188	3	176	10	234	17	347	3	223	33
COMMONWEALTH WESTERN MORTGAGE CORPORATION	235	19	231	30	244	46	226	24	236	119
TOTAL LOANS		699		2052		3019		1166		6,936
AVERAGE DAYS - ALL SERVICERS	134		165		186		207		178	

* Servicers are listed in ascending order based on the overall average number of days.

ALASKA HOUSING FINANCE CORPORATION
ANALYSIS OF AVERAGE TIMESPANS
BETWEEN LOAN FORECLOSURE AND
PRIMARY MORTGAGE INSURANCE CLAIM FILING

SERVICER *	FY 86		FY 87		FY 88		FY 89		SUMMARY	
	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS
FRONTIER ALASKA STATE CREDIT UNION					9	5	9	1	9	6
GOLDOME REALTY CREDIT CORPORATION			15	6	8	96	14	64	11	166
MT. MCKINLEY MUTUAL SAVINGS					12	7			12	7
ALASKA USA FEDERAL CREDIT UNION					12	50	16	37	14	87
SPOKANE MORTGAGE COMPANY			18	1					16	1
DENALI FEDERAL CREDIT UNION					14	7	18	8	16	15
RAINIER BANK ALASKA	19	1	11	11	21	70	21	12	20	94
ALASKA STATEBANK					20	11			20	11
FIRST NATIONAL BANK OF ANCHORAGE			18	8	21	199	20	93	21	300
FIRST GUARANTY MORTGAGE COMPANY OF ALASKA			64	1	26	11	16	3	27	15
G.M.A.C. MORTGAGE CORPORATION					25	14	44	4	29	18
HOME SAVINGS & LOAN			27	3	31	32	22	3	30	38
FIRST FEDERAL BANK OF ALASKA					24	4	40	3	31	7
ALASKA FEDERAL SAVINGS AND LOAN					35	21	6	3	31	24
WESTERN MORTGAGE LOAN CORPORATION			14	2	8	10	100	4	32	16
FIREMAN'S FUND MORTGAGE COMPANY	42	1	74	14	34	232	25	42	35	289
NATIONAL BANK OF ALASKA			29	4	33	147	52	98	40	249
B.M. BEHREND'S BANK					39	19	54	9	44	28
ALLIANCE BANK	8	1	42	15	47	451	37	174	44	641
FIRST NATIONAL BANK OF FAIRBANKS	50	3	62	7	55	39	56	47	56	96
KEY PACIFIC MORTGAGE COMPANY			89	3	84	43	61	19	78	65
SEAFIRST MORTGAGE COMPANY	28	1	153	1	89	13	54	6	79	21
COMMONWEALTH WESTERN MORTGAGE CORPORATION			16	1	99	25	39	9	81	35
TOTAL LOANS		7		77		1506		639		2,229
AVERAGE DAYS - ALL SERVICERS	35		42		36		35		36	

* Servicers are listed in ascending order based on the overall average number of days.

ALASKA HOUSING FINANCE CORPORATION
ANALYSIS OF AVERAGE TIMESPANS
BETWEEN PRIMARY MORTGAGE INSURANCE CLAIM
AND RECEIPT OF INSURANCE PAYMENT

SERVICER *	FY 86		FY 87		FY 88		FY 89		SUMMARY	
	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS
B.M. BEHREND'S BANK					52	16	39	8	48	24
FIRST FEDERAL BANK OF ALASKA					46	3	59	2	51	5
DENALI FEDERAL CREDIT UNION					44	6	64	4	52	10
MT. MCKINLEY MUTUAL SAVINGS					66	5	42	1	62	6
NATIONAL BANK OF ALASKA			94	1	71	89	66	60	69	150
ALLIANCE BANK			126	3	70	252	69	215	70	470
FIRST NATIONAL BANK OF ANCHORAGE			60	1	73	136	67	94	71	231
ALASKA USA FEDERAL CREDIT UNION					71	35	74	34	72	69
FRONTIER ALASKA STATE CREDIT UNION					74	3	70	1	73	4
GOLDOME REALTY CREDIT CORPORATION					90	66	62	56	77	122
FIREMAN'S FUND MORTGAGE COMPANY	126	1	101	2	84	162	88	74	86	239
FIRST GUARANTY MORTGAGE COMPANY OF ALASKA					91	9	72	3	86	12
HOME SAVINGS & LOAN			35	1	89	28	106	4	89	33
ALASKA FEDERAL SAVINGS AND LOAN					72	11	110	10	90	21
RAINIER BANK ALASKA	56	1	127	3	93	71	62	10	90	85
COMMONWEALTH WESTERN MORTGAGE CORPORATION					87	15	116	4	93	19
ALASKA STATEBANK					109	6	62	2	97	8
WESTERN MORTGAGE LOAN CORPORATION					110	4	79	2	100	6
FIRST NATIONAL BANK OF FAIRBANKS	62	1	154	5	113	32	69	20	100	58
SEAFIRST MORTGAGE COMPANY					162	7	50	8	102	15
KEY PACIFIC MORTGAGE COMPANY			29	1	114	34	76	11	103	46
G.M.A.C. MORTGAGE CORPORATION					127	5	91	3	114	8
SPOKANE MORTGAGE COMPANY							609	1	609	1
TOTAL LOANS		3		17		995		627		1,642
AVERAGE DAYS - ALL SERVICERS	81		115		80		72		78	

* Servicers are listed in ascending order based on the overall average number of days.

ALASKA HOUSING FINANCE CORPORATION
ANALYSIS OF AVERAGE TIMESPANS
BETWEEN DATE OF DELINQUENCY
AND LOAN FORECLOSURE

SERVICER *	FY 86		FY 87		FY 88		FY 89		SUMMARY	
	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS
ALASKA FEDERAL SAVINGS AND LOAN	327	6	239	17	250	32	286	6	258	61
SPOKANE MORTGAGE COMPANY	257	10	261	7					259	17
MT. MCKINLEY MUTUAL SAVINGS			218	8	291	15	294	4	269	27
FIRST NATIONAL BANK OF ANCHORAGE	223	67	264	304	288	360	316	138	279	869
NATIONAL BANK OF ALASKA	252	49	261	210	312	347	330	158	303	764
RAINIER BANK ALASKA	294	39	335	173	312	144	327	26	322	382
ALLIANCE BANK	264	165	289	467	348	772	375	244	327	1648
GOLDOME REALTY CREDIT CORPORATION	321	30	355	75	308	146	351	90	331	341
WESTERN MORTGAGE LOAN CORPORATION			328	6	372	24	283	16	335	46
ALASKA USA FEDERAL CREDIT UNION	300	10	336	39	327	90	352	68	336	207
ALASKA STATEBANK	268	41	311	22	452	26	447	5	338	94
SEAFIRST MORTGAGE COMPANY	361	7	369	27	348	37	299	8	351	79
G.M.A.C. MORTGAGE CORPORATION	272	9	337	19	375	32	371	23	354	83
HOME SAVINGS & LOAN	284	22	348	58	375	89	359	53	355	222
DENALI FEDERAL CREDIT UNION	241	4	294	7	371	14	451	7	355	32
FRONTIER ALASKA STATE CREDIT UNION	288	2	276	9	403	15	485	3	364	29
FIRST GUARANTY MORTGAGE COMPANY OF ALASKA	367	16	353	50	367	22	457	13	372	101
FIRST FEDERAL BANK OF ALASKA	358	8	404	3	364	14	397	9	375	34
B.M. BEHREND'S BANK	282	3	363	6	377	49	434	5	376	63
COMMONWEALTH WESTERN MORTGAGE CORPORATION	368	16	351	28	395	45	409	24	383	113
FIREMAN'S FUND MORTGAGE COMPANY	356	24	375	193	406	387	425	170	401	774
FIRST NATIONAL BANK OF FAIRBANKS	379	22	381	50	460	88	509	53	445	213
KEY PACIFIC MORTGAGE COMPANY	314	4	378	39	435	65	540	44	447	152
TOTAL LOANS		54		1817		2813		1167		6,351
AVERAGE DAYS - ALL SERVICERS	283		312		348		377		337	

* Servicers are listed in ascending order based on the overall average number of days.

ALASKA HOUSING FINANCE CORPORATION
ANALYSIS OF AVERAGE TIMESPANS
BETWEEN LOAN FORECLOSURE
AND PRIMARY MORTGAGE INSURANCE PAYMENT

SERVICER *	FY 86		FY 87		FY 88		FY 89		SUMMARY	
	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS
DENALI FEDERAL CREDIT UNION	85	2	58	7	80	11	80	4	72	24
MT. MCKINLEY MUTUAL SAVINGS			79	7	83	11	65	2	80	20
B.M. BEHREND'S BANK	228	1	127	7	105	30	154	10	121	48
FRONTIER ALASKA STATE CREDIT UNION	108	1	162	4	127	8	82	2	126	15
RAINIER BANK ALASKA	103	14	111	102	143	234	128	18	132	368
ALASKA FEDERAL SAVINGS AND LOAN	185	2	173	16	98	26	147	11	133	55
FIRST NATIONAL BANK OF ANCHORAGE	146	39	144	193	142	415	110	104	138	751
ALASKA USA FEDERAL CREDIT UNION	117	6	135	17	163	88	91	41	139	152
NATIONAL BANK OF ALASKA	154	25	135	146	145	319	127	74	140	564
WESTERN MORTGAGE LOAN CORPORATION			173	1	162	20	98	6	148	27
ALLIANCE BANK	124	72	140	313	162	736	131	231	150	1352
GOLDOME REALTY CREDIT CORPORATION	160	15	165	40	166	149	98	62	150	266
FIREMAN'S FUND MORTGAGE COMPANY	227	5	144	62	166	349	128	120	156	536
FIRST GUARANTY MORTGAGE COMPANY OF ALASKA	178	7	150	37	164	44	86	4	156	92
SEAFIRST MORTGAGE COMPANY			184	14	187	43	117	17	179	74
HOME SAVINGS & LOAN	126	8	204	26	186	75	124	24	175	133
FIRST FEDERAL BANK OF ALASKA	170	5	204	7	177	11	107	2	178	25
KEY PACIFIC MORTGAGE COMPANY	131	3	135	8	213	71	190	18	200	100
ALASKA STATEBANK	147	25	219	26	237	32	148	3	202	86
COMMONWEALTH WESTERN MORTGAGE CORPORATION	155	8	218	19	224	42	162	6	210	75
FIRST NATIONAL BANK OF FAIRBANKS	193	5	217	26	233	83	166	25	217	139
G.M.A.C. MORTGAGE CORPORATION	266	2	233	11	232	28	163	4	228	45
SPOKANE MORTGAGE COMPANY	114	4	212	14	375	3	625	1	235	22
TOTAL LOANS		249		1103		2828		789		4,969
AVERAGE DAYS - ALL SERVICERS	142		148		162		125		152	

* Servicers are listed in ascending order based on the overall average number of days.

ALASKA HOUSING FINANCE CORPORATION
ANALYSIS OF AVERAGE TIMESPANS
BETWEEN DATE OF DELINQUENCY
AND PRIMARY MORTGAGE INSURANCE PAYMENT

SERVICER *	FY 86		FY 87		FY 88		FY 89		SUMMARY	
	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS	AVERAGE DAYS	# OF LOANS
MT. MCKINLEY MUTUAL SAVINGS			215	6	300	11	332	2	277	19
ALASKA FEDERAL SAVINGS AND LOAN	455	2	430	15	308	26	399	11	366	54
FIRST NATIONAL BANK OF ANCHORAGE	259	33	353	185	392	417	429	104	382	739
DENALI FEDERAL CREDIT UNION	264	2	309	7	397	11	555	4	387	24
NATIONAL BANK OF ALASKA	246	23	356	143	407	319	447	74	393	559
RAINIER BANK ALASKA	371	14	362	100	446	235	456	18	421	367
ALLIANCE BANK	333	67	348	299	447	743	486	231	426	1340
FIRST FEDERAL BANK OF ALASKA	500	5	349	6	446	11	486	2	436	24
FRONTIER ALASKA STATE CREDIT UNION	324	1	442	4	462	9	400	2	441	16
ALASKA USA FEDERAL CREDIT UNION	406	6	381	17	463	88	432	41	443	152
GOLDOME REALTY CREDIT CORPORATION	257	13	493	36	465	150	405	62	444	261
WESTERN MORTGAGE LOAN CORPORATION			516	1	437	19	489	6	452	26
SPOKANE MORTGAGE COMPANY	247	2	433	13	626	3	588	1	452	19
B.M. BEHREND'S BANK	570	1	291	7	488	30	475	10	458	48
FIRST GUARANTY MORTGAGE COMPANY OF ALASKA	346	7	501	37	448	43	553	4	466	91
ALASKA STATEBANK	341	19	417	25	560	32	758	3	470	79
SEAFIRST MORTGAGE COMPANY			486	14	502	42	451	17	487	73
HOME SAVINGS & LOAN	405	8	412	23	528	75	477	24	490	130
G.M.A.C. MORTGAGE CORPORATION	690	2	402	8	540	28	552	4	522	42
FIREMAN'S FUND MORTGAGE COMPANY	468	5	491	62	536	350	547	120	533	537
COMMONWEALTH WESTERN MORTGAGE CORPORATION	465	7	524	19	549	42	605	6	539	74
FIRST NATIONAL BANK OF FAIRBANKS	468	5	509	26	591	82	625	25	577	138
KEY PACIFIC MORTGAGE COMPANY	238	3	479	8	589	71	644	18	580	100
TOTAL LOANS		225		1061		2837		789		4,912
AVERAGE DAYS - ALL SERVICERS	333		385		460		482		441	

* Servicers are listed in ascending order based on the overall average number of days.



520 East 34th St.
Anchorage, AK 99503
(907) 561-1900

P.O. Box 101020
Anchorage, AK 99510

**OFFICE OF
MANAGEMENT & BUDGET**

April 28, 1989

MAY 3 1989

**AUDIT AND MANAGEMENT
SERVICES**

Mr. John Lucas
State of Alaska
Office of the Governor
Office of Management & Budget
Division of Audit & Management Services
P. O. Box AM
Juneau, AK 99811

Dear Mr. Lucas:

First let me apologize on behalf of the Corporation for not responding earlier with respect to the audit in question outlined in your April 26, 1989 letter. Somewhere in the process of the management change of our Corporation, the responsibility for responding to the above mentioned audit was overlooked. Both Tom And myself, as well as pertinent staff members, have found the contents to be extremely accurate as well as extremely helpful. Currently we are in the middle of negotiations with one of our pool insurers that addresses the very issues brought out in the audit of February, 1989.

It is my understanding that in the past AHFC had recognized the need to monitor seller/servicers. In late 1987, as part of a continuing monitoring effort, an audit department was established. It was established to coordinate and direct the seller/servicer monitoring function. At the beginning it was intended to staff the department with two auditors. Their primary function was to plan, execute and follow-up on off-site audits. Evaluations of the seller/servicers' performance would result from audit findings as well as management reports. One position was filled and the department began to function as planned. Several audits were performed and management reports were developed.

The audit and monitoring functions began to deteriorate as other organizational priorities arose and decisions had to be made concerning the deployment of limited personnel resources. The department also spent considerable time auditing seller/servicers concerning whether they had primary mortgage insurance in force on all required loans. The nature of this was critical to the Corporation, in that, if primary was lost AHFC may have significant loss exposure in the event the servicer did not have the ability or desire to repurchase the loan.

*Transfered House - Gov. Allee
Private Sec. -*

1 IN THE HOUSE

BY ULMER AND HUDSON

2

HOUSE BILL NO. 218

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act extending the authority of the Alaska Housing
7 Finance Corporation to assist in the development of
8 senior citizens' housing; and providing for an effective date."
9

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

11 * Section 1. AS 18.56.100(b) is amended to read:

12 (b) Consistent with AS 18.56.090, the corporation may make
13 temporary and permanent loans from the housing development fund, at an
14 interest rate or rates determined by the corporation, and with the
15 security for repayment that is necessary and practicable, to purchase,
16 make, or participate in the making of mortgage loans

17 (1) to borrowers for loans to develop, build, repair,
18 remodel, or rehabilitate residential housing for senior citizens and
19 their spouses that is used and occupied as congregate housing; or

20 (2) that are not federally insured or guaranteed for residential housing,
21 if the corporation determines that the loans are not
22 otherwise available, wholly or in part, from private lenders upon
23 reasonably equivalent terms and conditions.

24 * Sec. 2. AS 18.56.100 is amended by adding new subsections to read:

25 (1) The corporation shall use money in the housing development
26 fund to reduce the interest payable by borrowers who develop housing
27 for senior citizens and their spouses under (b)(1) of this section.
28 The corporation may reduce the interest rate on a loan entered into
29 under (b)(1) of this section and this subsection to one percent less

1 than the interest rate payable on the corporation's bonds issued under
2 AS 18.56.110 - 18.56.170 for development of the project. If a project
3 developed by a borrower with a reduced interest subsidy made under
4 this subsection ceases to be used for senior citizen congregate hous-
5 ing, the corporation shall adjust the interest rate payable on the
6 unpaid balance of the loan to the prevailing rate of interest charged
7 by the corporation on loans made for other residential purposes; but
8 may not reduce the interest rate payable below the subsidized rate

9 (m) The corporation shall adopt regulations to implement (b)(1)
10 and (1) of this section that

11 (1) determine borrower eligibility;

12 (2) define procedures for the application, review, and
13 approval of authorized loans;

14 (3) establish loan guidelines, loan terms, and acceptable
15 security for loans; and

16 (4) identify characteristics of housing projects eligible
17 for loans.

18 (n) In (b)(1), (1), and (m) of this section

19 (1) "congregate housing" means a multi-family group-living
20 building that contains individual residence areas and common facil-
21 ities for congregate living;

22 (2) "senior citizen" means a resident of the state who is
23 65 years of age or older.

24 * Sec. 3. This Act takes effect July 1, 1989.

March 15, 1989

C. E. "Swack" Swackhammer

Box V

Juneau, Ak 99811

ref. Letter dated 2/28/89 - re congregate housing

Dear Swack,

I'm somewhere between Seattle + Wash., D.C., hence - no type writer, etc. for traditional response. Will be attending American Assoc of Aging convention. Hope to pick up materials on housing there.

March 30-31 I'll be in Juneau because I'm on AHMC Housing Policy Development Commission as senior housing advocate. My sub-committee has come up with some very specific recommendation for submitting to the Governor next year. I'll be happy to share with you or your staff. I'll be staying at the Westmark and our meetings should last till about 4⁰⁰ PM or I could probably "speak out" if I had to do so. But you might be interested in sending a staff person to some sessions of our meetings.

I'm not surprised that Kenai suspects as Mary Conrad found out, to build on the medical model is extremely costly. (p13 - p.14³ your attachment) We had an engineer (the committee I'm on) give us a cost comparison of:

\$300 sq. ft = medical model cost.

\$90 " " = conventional cost cost

What we're looking (Committee) at are some regulations that need to be changed ~~on~~ in order to make the construction of congruente housing affordable and profitable for developers + non-profits. A specific example is the "Bed + Board Regs" which apply to everyone except seniors and are what is needed by seniors. Also take a look at Residential Level I + II reg's. They're based on a ~~medical~~ ^{medical} model.

There's a fine line between medical and social models:

social ← ————— → medical
 "Isn't it time to take your medicine?" ← ————— → "Take this medicine."

The same problem is found in all of Alaska's programs dealing with seniors and that's what's making costs of Day Care programs, housing, Pioneer homes so expensive. Everything is based on a medical model.

Home Senior Citizens has applied ^{for a} direct grant from the Admin. on Aging in D.C. for a grant \$² for a "field initiated research and demonstration model" to prove that even in a rural community, an adult day care can be cost effect. Keep your fingers crossed for us.

But back to the whole concept of social versus medical — research shows that only 6% of the population ever needs a medical model type of care.

Medical models say — "Let's build a building that has services and lots of specialized personnel, then fill it with people." Social models say — "Here are the people. Let's ~~bring~~ ^{take} the people to where the only once a week service is that they may need if the service is

not mobile, otherwise, let's take the services to the people. "

Maybe part of the reason ~~Alaskans~~ ^{some} are unwilling to pay high prices is because Alaska builds such ~~"Iahj Ma Hals"~~ "Iahj Ma Hals" (I'd look that up if planes had dictionaries) that cost so much to operate! I've never had trouble placing a low income senior in Homer who ~~has~~ ^{has} realized ~~the~~ ^{they} can no longer live ~~of~~ ^{on} ~~the~~ ^{at} Olson Mt. ~~after~~ ^{they} built. There's plenty of low-income space + even the voucher system. The problem lies elsewhere.

I'll be on the east coast until the 28th fly to Juneau the 29th. If you're interested in continuing what could turn into a book in Juneau, leave word at Homer Senior Center 1-235-7655 before the 29th or at the West Mark 29-31 in Juneau.

Pioneer homes have become nursing homes charging congregate living on low prices. Why? because of cases like the senior I sent to Palmer last week who needed someone

to remind her to take her medicine, be
aware if she walked out at night because
she hadn't, etc. What Alaska needs
is the "assisted" living congregative
housing — not the medical models.

Velma Elllyson
P.O. Box 1964
Homer, Ak 99603

1 IN THE SENATE

BY THE SPECIAL COMMITTEE ON
BANKING AND ECONOMIC DEVELOPMENT

2

SENATE CONCURRENT RESOLUTION NO. 27

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

Urging the Alaska Housing Market Council

6

to develop a statewide housing policy

7

for the decade of the 1990's.

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

9

WHEREAS, since the first initiatives of Alaska's territorial legisla-
ture in 1945 to improve housing, state housing policy has developed ran-
domly, in response to real and perceived needs and to the demands made by
groups within the state; and

13

WHEREAS, while principal responsibility for development and implemen-
tation of a comprehensive housing policy was first assigned to the Alaska
State Housing Authority, subsequent legislation has since extended elements
of that policy to the Alaska Housing Finance Corporation and regional
housing authorities (ch. 107, SLA 1971), the housing assistance division of
the Department of Community and Regional Affairs (ch. 106, SLA 1980), the
Alaska Industrial Development and Export Authority (ch. 113, SLA 1982),
and, most recently, the Alaska Housing Market Council; and

21

WHEREAS the Alaska Housing Market Council, created by Administrative
Order No. 94, is composed of members of the Alaska State Building Author-
ity, Alaska Housing Finance Corporation, rural development division of the
Department of Community and Regional Affairs, the Alaska Industrial Devel-
opment and Export Authority, the Alaska Permanent Fund Corporation, and
other public members for the purpose of coordinating interagency housing
policy; and

28

WHEREAS development and implementation of housing policy must take
into account the roles and responsibilities of various federal agencies and

1 consider significant groups who contribute to the development of a housing
2 market, including particularly building contractors and lending institu-
3 tions; and

4 WHEREAS recent changes in the state economy and federal budgets have
5 affected the need and demand for housing, leaving surplus housing available
6 in some urban areas but unfulfilled demand in rural parts of the state; and

7 WHEREAS a review of current state housing programs in light of housing
8 demand and supply and the changing state economy, and development of the
9 draft of a coordinated statewide housing policy would be timely;

10 BE IT RESOLVED by the Alaska State Legislature that the Governor is
11 respectfully requested to direct the Alaska Housing Market Council to
12 develop the draft of a coordinated statewide housing policy for the State
13 of Alaska as a guideline for the state's housing activities during the
14 1990's; and be it

15 FURTHER RESOLVED that the draft of a statewide housing policy should
16 recommend objectives of a statewide housing policy, consider the changing
17 role of each of these state agencies and of the federal government in the
18 planning, development, and financing of essential housing units and ser-
19 vices, and recommend whether any one state agency should be assigned prin-
20 cipal responsibility for housing policy implementation; and be it

21 FURTHER RESOLVED that the draft of a statewide housing policy should
22 give attention to changes and modifications of the principal components of
23 the state's current housing programs, including mortgage assistance, the
24 housing needs of low-income families, senior citizens, and residents of
25 rural areas, and the demand for and supply of multi-family housing and
26 rental housing; and be it

27 FURTHER RESOLVED that the Governor shall submit the draft of the
28 statewide housing policy, together with recommended legislation to make
29 changes recommended and appropriations necessary to implement the draft

1 policy to the Second Session of the Sixteenth Alaska Legislature not later
2 than January 31, 1990.

1 IN THE SENATE

BY RODEY, HALFORD, FAIKS,
FISCHER AND KELLY

2

SENATE JOINT RESOLUTION NO. 47

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

Urging the Federal Deposit Insurance

6

Corporation to reconsider its liquida-

7

tion policies for the real property that

8

it controls in the state.

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

10 WHEREAS the state continues to experience a severe economic crisis and
11 the real estate market continues to be severely depressed; and

12 WHEREAS the crisis has caused the failure or instability of many
13 financial institutions in the state, and the Federal Deposit Insurance
14 Corporation has found it necessary to close or restructure several of these
15 financial institutions; and

16 WHEREAS as a result of closing and restructuring these financial
17 institutions, the Federal Deposit Insurance Corporation presently controls
18 many pieces of real estate in the state that are in danger of foreclosure
19 or that have already been foreclosed; and

20 WHEREAS due to the amount of real property that the Federal Deposit
21 Insurance Corporation controls in the state, the FDIC plays a significant
22 role in the establishment of real property values in the state; and

23 WHEREAS because of the important role played by the FDIC in the real
24 property market of the state, the wholesale disposal of the real estate
25 controlled by the FDIC in the state would severely lower property values;
26 and

27 WHEREAS the FDIC has a policy of expeditious liquidation of real
28 properties that are securing overdue obligations owed to the financial
29 institutions of which it has taken control; and

1 WHEREAS the marketing of large numbers of these properties at one time
2 would further the economic slowdown in the state, while a more cautious
3 marketing of these properties would help the market to recover and the FDIC
4 to recover more money from their sales;

5 BE IT RESOLVED that the Alaska State Legislature encourages the
6 Federal Deposit Insurance Corporation to reconsider its present real prop-
7 erty liquidation policies and to consider staggering the sale of the prop-
8 erties that it controls in the state in a manner that will help to prevent
9 the real property market in the state from suffering a further decline in
10 property values.

11 COPIES of this resolution shall be sent to the Honorable Dan Quayle,
12 Vice-President of the United States and President of the U.S. Senate; the
13 Honorable Jim Wright, Speaker of the U.S. House of Representatives; to the
14 Honorable L. William Seidman, Chair of the Board of Directors of the
15 Federal Deposit Insurance Corporation; and to the Honorable Ted Stevens and
16 the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young,
17 U.S. Representative, members of the Alaska delegation in Congress.

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 162

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act reviving the simplified refinancing mortgage
7 loan purchase program of the Alaska Housing Finance
8 Corporation; and providing for an effective date."

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

10 * Section 1. Section 9, ch. 41, SLA 1987 is repealed.

11 * Sec. 2. AS 18.56.102, repealed on December 10, 1988 by authority of
12 sec. 9, ch. 41, SLA 1987, is revived. As of the effective date of this
13 Act, AS 18.56.102 will read as follows:

14 Sec. 18.56.102. SIMPLIFIED REFINANCING MORTGAGE LOAN PURCHASE
15 PROGRAM. (a) The corporation shall establish a simplified refinanc-
16 ing mortgage loan purchase program. Under the simplified refinancing
17 mortgage loan purchase program, the corporation may purchase refinanc-
18 ing mortgage loans to provide relief to borrowers under circumstances
19 described by regulations adopted by the corporation.

20 (b) AS 18.56.098(c), (e), and (k) apply to refinancing mortgage
21 loans purchased under (a) of this section.

22 (c) Subject to (d) of this section, the interest rate on a re-
23 financing mortgage loan purchased under (a) of this section is three
24 percent less than the cost to the corporation of the money used to
25 purchase the refinancing mortgage loan, except that if the cost of
26 money

27 (1) is 10 percent or less, the interest rate is equal to
28 the cost of money; and

29 (2) is more than 10 percent, the interest rate may not be

1 less than 10 percent.

2 (d) If the refinancing mortgage loan is an adjustable rate mort-
3 gage loan, the corporation shall establish the initial interest rate
4 as provided in (c) of this section and shall recalculate the interest
5 rate from time to time in accordance with (c) of this section. How-
6 ever, notwithstanding (c)(1) of this section, the corporation may
7 establish a minimum interest rate applicable to an adjustable rate
8 refinancing mortgage loan; the interest rate on the adjustable rate
9 refinancing mortgage loan may not be less than the minimum interest
10 rate so established, regardless of the cost of money to the corpora-
11 tion. The corporation may adopt regulations to implement this sec-
12 tion, including regulations to define "cost of money" for purposes of
13 this section. The regulations may provide for recalculation of the
14 cost of money under this subsection at the times and frequencies the
15 corporation considers appropriate. The time and frequency for a
16 recalculation under this subsection is not required to match the time
17 or frequency of a change in the cost of money to the corporation.

18 (e) Equity extraction may not be allowed under this program.

19 (f) In this section, "refinancing mortgage loan" means a loan
20 refinancing another mortgage loan owned by the corporation.

21 * Sec. 3. Regulations adopted to implement AS 18.56.102, revived by
22 sec. 2 of this Act, are also revived and need not be readopted to remain in
23 effect.

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

Amended: 4/22/89
Offered: 4/20/89
Referred: Rules

6-1099E

Original sponsors: Uehling and
Sturgulewski

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE CONCURRENT RESOLUTION NO. 28 (Finance) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Establishing a Housing Finance Task
6 Force to review and recommend changes to
7 publicly-assisted residential finance
8 programs.

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

10 WHEREAS the State of Alaska has created a substantial public financing
11 system designed to assist Alaska homebuyers and has provided more than
12 \$1,000,000,000 of capital as well as bonding authority to initiate and
13 sustain these loan programs; and

14 WHEREAS the management of these loan programs has been assigned to
15 several agencies, including executive departments and public corporations;
16 and

17 WHEREAS the Alaska residential housing market has evolved tremendously
18 since most of these loan programs were established; and

19 WHEREAS, due to recent economic hardship, these agencies have taken
20 possession of hundreds of residential properties throughout the state; and

21 WHEREAS scrutiny of the state's initial capital investment, outstand-
22 ing bonded indebtedness incurred by these agencies, authorities, and public
23 corporations, and the reinvestment of income earned from residential loans
24 requires the expertise of the agencies, authorities, and public corpora-
25 tions currently involved;

26 BE IT RESOLVED by the Alaska State Legislature that a Housing Finance
27 Task Force is established to review and analyze the publicly-assisted
28 residential finance programs, including but not limited to housing loan
29 programs managed by the Alaska Housing Finance Corporation and the

1 Department of Community and Regional Affairs; and be it

2 FURTHER RESOLVED that the task force shall report to the legislature
3 by the 15th day of the Second Session of the Sixteenth Alaska State Legis-
4 lature summarizing the financial condition of all state-assisted residen-
5 tial loan programs, guidelines governing each of the loan programs, and the
6 status and condition of any bonds sold to capitalize these loans; and be it

7 FURTHER RESOLVED that the task force shall review the current sub-
8 sidies of the loan programs and make recommendations as to the gradual
9 phasing down or elimination of these subsidies, returning to the state its
10 initial investment in the loan programs, the options available to the
11 legislature regarding efficiency changes in the management structure of
12 those programs, and the possibility of privatizing the state's involvement
13 in the residential loan market; and be it

14 FURTHER RESOLVED that the task force shall review the proposal which
15 would require the Alaska Housing Finance Corporation to purchase mortgage
16 loans from the housing assistance loan fund, the effects of this policy on
17 each of the loan programs, whether the purchases should be at par value or
18 at market value and, if at market value, an appropriate method for
19 determining that value, and the long-term anticipated demand for residen-
20 tial loans through the housing assistance loan fund; and be it

21 FURTHER RESOLVED that the task force shall consist of 10 members,
22 including three members of the Senate to be appointed by the president of
23 the Senate; three members of the House of Representatives to be appointed
24 by the speaker of the House; the director of the rural development division
25 of the Department of Community and Regional Affairs; the executive director
26 of the Alaska Housing Finance Corporation; the executive director of the
27 Alaska State Housing Authority; and the executive director of the Alaska
28 Housing Market Council; and be it

29 FURTHER RESOLVED that the Housing Finance Task Force terminates when

1 the task force submits its report.

1 IN THE SENATE

BY THE SPECIAL COMMITTEE ON
BANKING AND ECONOMIC DEVELOPMENT

2

SENATE CONCURRENT RESOLUTION NO. 27

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

Urging the Alaska Housing Market Council

6

to develop a statewide housing policy

7

for the decade of the 1990's.

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

9

WHEREAS, since the first initiatives of Alaska's territorial legisla-
10 ture in 1945 to improve housing, state housing policy has developed ran-
11 domly, in response to real and perceived needs and to the demands made by
12 groups within the state; and

13

WHEREAS, while principal responsibility for development and implemen-
14 tation of a comprehensive housing policy was first assigned to the Alaska
15 State Housing Authority, subsequent legislation has since extended elements
16 of that policy to the Alaska Housing Finance Corporation and regional
17 housing authorities (ch. 107, SLA 1971), the housing assistance division of
18 the Department of Community and Regional Affairs (ch. 106, SLA 1980), the
19 Alaska Industrial Development and Export Authority (ch. 113, SLA 1982),
20 and, most recently, the Alaska Housing Market Council; and

21

WHEREAS the Alaska Housing Market Council, created by Administrative
22 Order No. 94, is composed of members of the Alaska State Building Author-
23 ity, Alaska Housing Finance Corporation, rural development division of the
24 Department of Community and Regional Affairs, the Alaska Industrial Devel-
25 opment and Export Authority, the Alaska Permanent Fund Corporation, and
26 other public members for the purpose of coordinating interagency housing
27 policy; and

28

WHEREAS development and implementation of housing policy must take
29 into account the roles and responsibilities of various federal agencies and

1 consider significant groups who contribute to the development of a housing
2 market, including particularly building contractors and lending institu-
3 tions; and

4 WHEREAS recent changes in the state economy and federal budgets have
5 affected the need and demand for housing, leaving surplus housing available
6 in some urban areas but unfulfilled demand in rural parts of the state; and

7 WHEREAS a review of current state housing programs in light of housing
8 demand and supply and the changing state economy, and development of the
9 draft of a coordinated statewide housing policy would be timely;

10 BE IT RESOLVED by the Alaska State Legislature that the Governor is
11 respectfully requested to direct the Alaska Housing Market Council to
12 develop the draft of a coordinated statewide housing policy for the State
13 of Alaska as a guideline for the state's housing activities during the
14 1990's; and be it

15 FURTHER RESOLVED that the draft of a statewide housing policy should
16 recommend objectives of a statewide housing policy, consider the changing
17 role of each of these state agencies and of the federal government in the
18 planning, development, and financing of essential housing units and ser-
19 vices, and recommend whether any one state agency should be assigned prin-
20 cipal responsibility for housing policy implementation; and be it

21 FURTHER RESOLVED that the draft of a statewide housing policy should
22 give attention to changes and modifications of the principal components of
23 the state's current housing programs, including mortgage assistance, the
24 housing needs of low-income families, senior citizens, and residents of
25 rural areas, and the demand for and supply of multi-family housing and
26 rental housing; and be it

27 FURTHER RESOLVED that the Governor shall submit the draft of the
28 statewide housing policy, together with recommended legislation to make
29 changes recommended and appropriations necessary to implement the draft

1 policy to the Second Session of the Sixteenth Alaska Legislature not later
2 than January 31, 1990.

1 IN THE HOUSE

BY ULMER AND HUDSON

2

HOUSE BILL NO. 218

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act extending the authority of the Alaska Housing
Finance Corporation to assist in the development of
senior citizens' housing; and providing for an effective date."

7

8

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

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* Section 1. AS 18.56.100(b) is amended to read:

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(b) Consistent with AS 18.56.090, the corporation may make
temporary and permanent loans from the housing development fund, at an
interest rate or rates determined by the corporation, and with the
security for repayment that is necessary and practicable, to purchase,
make, or participate in the making of mortgage loans

17

18

19

(1) to borrowers for loans to develop, build, repair,
remodel, or rehabilitate residential housing for senior citizens and
their spouses that is used and occupied as congregate housing; or

20

21

22

23

(2) that are not federally insured or guaranteed for residential housing, if the corporation determines that the loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

24

* Sec. 2. AS 18.56.100 is amended by adding new subsections to read:

25

26

27

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29

(1) The corporation shall use money in the housing development fund to reduce the interest payable by borrowers who develop housing for senior citizens and their spouses under (b)(1) of this section. The corporation may reduce the interest rate on a loan entered into under (b)(1) of this section and this subsection to one percent less

1 than the interest rate payable on the corporation's bonds issued under
2 AS 18.56.110 - 18.56.170 for development of the project. If a project
3 developed by a borrower with a reduced interest subsidy made under
4 this subsection ceases to be used for senior citizen congregate hous-
5 ing, the corporation shall adjust the interest rate payable on the
6 unpaid balance of the loan to the prevailing rate of interest charged
7 by the corporation on loans made for other residential purposes; but
8 may not reduce the interest rate payable below the subsidized rate.

9 (m) The corporation shall adopt regulations to implement (b)(1)
10 and (1) of this section that

11 (1) determine borrower eligibility;

12 (2) define procedures for the application, review, and
13 approval of authorized loans;

14 (3) establish loan guidelines, loan terms, and acceptable
15 security for loans; and

16 (4) identify characteristics of housing projects eligible
17 for loans.

18 (n) In (b)(1), (1), and (m) of this section

19 (1) "congregate housing" means a multi-family group-living
20 building that contains individual residence areas and common facil-
21 ities for congregate living;

22 (2) "senior citizen" means a resident of the state who is
23 65 years of age or older.

24 * Sec. 3. This Act takes effect July 1, 1989.

BY HALFORD, UEHLING, FAIKS,
COGHILL, ELIASON, BINKLEY,
ADAMS AND PEARCE

1 IN THE SENATE

2 SENATE BILL NO. 200

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the interest rate on mortgage loans
7 purchased by the Alaska Housing Finance Corporation
8 under its special mortgage loan purchase program; and
9 providing for an effective date."

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

11 * Section 1. AS 18.56.098(g) is amended to read:

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

15 (1) The interest rate on the first \$90,000 of a mortgage
16 loan purchased with the proceeds of an issue of taxable bonds of the
17 corporation is one [THREE] percent less than the cost of funds of that
18 issue, except that

19 (A) if the cost of funds of that issue is less than 10
20 percent, the interest rate is equal to the cost of funds; and

21 (B) if the cost of funds of that issue is more than 10
22 percent, the interest rate may not be less than 10 percent.

23 (2) An interest rate determined under this subsection on
24 the first \$90,000 of a mortgage loan that is not purchased from the
25 proceeds of bonds that are qualified veterans' mortgage bonds under
26 26 U.S.C. 103A (Mortgage Subsidy Bond Tax Act of 1980), as amended,
27 shall be reduced by one percentage point if the loan is made to an
28 eligible veteran under AS 18.56.101.

29 (3) The interest rate for the amount of a mortgage loan

1 purchased under (a) of this section that exceeds \$90,000 is equal to
2 the cost of funds to the corporation attributable to that part of the
3 loan.

4 (4) The interest rate on the first \$90,000 of a mortgage
5 loan purchased with money that is not the proceeds of either taxable
6 or tax-exempt bonds is the rate the corporation determines is appro-
7 priate by application of the provision of (1) of this subsection.

8 (5) The interest rate on the first \$90,000 of a mortgage
9 loan purchased from the proceeds of bonds that are exempt from taxa-
10 tion other than bonds that constitute qualified veterans' bonds under
11 (i) of this section, is equal to the interest rate determined under
12 (1) and (2) of this subsection on a loan purchased under (a) of this
13 section from the proceeds of the most recent applicable issue of
14 taxable bonds sold by the corporation. A higher or lower interest rate
15 shall be established on the entire loan amount if required to ensure
16 the tax-exempt status of the bonds.

17 (6) The corporation shall determine the interest rate on a
18 mortgage loan that is an adjustable rate mortgage loan as provided in
19 this subsection. The corporation shall recalculate the interest rate
20 from time to time based on changes in the cost to the corporation of
21 the funds used to purchase the adjustable rate mortgage loan.
22 However, the corporation may establish a minimum interest rate appli-
23 cable to an adjustable rate mortgage loan, and the interest rate on
24 the adjustable rate mortgage loan may not be less than the minimum
25 interest rate so established regardless of the cost of funds to the
26 corporation.

27 (7) In this subsection

28 (A) "cost of funds" means the true interest cost
29 expressed as a rate on bonds of the corporation plus an

1 additional percentage as determined by the corporation to repre-
2 sent the allocable expenses of operation, costs of issuance, and
3 mortgage servicing;

4 (B) "taxable bonds" means bonds bearing interest that
5 is taxable under 26 U.S.C. 103A (Mortgage Subsidy Bond Tax Act of
6 1980) issued to finance the purchase of first mortgage loans.

7 * Sec. 2. AS 18.56.098(i) is amended to read:

8 (i) The interest rate on the first \$90,000 of a mortgage loan
9 purchased from the proceeds of bonds that constitute qualified veter-
10 ans' mortgage bonds under 26 U.S.C. 103A (Mortgage Subsidy Bond Tax
11 Act of 1980) as amended, is the greater of (1) two [FOUR] percent less
12 than the cost of funds or (2) the rate for other loans to veterans
13 under (g)(3) of this section [AS 18.56.098(g)(3)]. A higher or lower
14 interest rate shall be established on the entire loan amount if
15 required under 26 U.S.C. 103A.

16 * Sec. 3. This Act takes effect July 1, 1989.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

SENATE BILL NO. 245

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act requiring the Alaska Housing Finance Corpo-

7

ration to purchase certain home mortgage loans; and

8

providing for an effective date."

9

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

10

* Section 1. Notwithstanding any other provision of law, before

11

January 1, 1990, the Alaska Housing Finance Corporation shall purchase at

12

par value home mortgage loans from the housing assistance loan fund

13

(AS 44.47.380) in an amount of at least \$80,000,000.

14

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

6-1671A
Chenoweth
10/26/89

1 IN THE HOUSE

BY SWACKHAMMER

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to residential housing assistance
7 provided by the Alaska Housing Finance Corporation."

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

9 * Section 1. AS 18.56.088(c) is amended to read:

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

3 (1) determination of borrower eligibility including, but
4 not limited to, income limitations and the determination of remote,
5 underdeveloped or blighted areas of the state;

6 (2) loan guidelines and terms including but not limited to

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

1 IN THE HOUSE

BY SWACKHAMMER

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to residential housing assistance
7 provided by the Alaska Housing Finance Corporation."

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

9 * Section 1. AS 18.56.088(c) is amended to read:

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

3 (1) determination of borrower eligibility including, but
4 not limited to, income limitations and the determination of remote,
5 underdeveloped or blighted areas of the state;

6 (2) loan guidelines and terms including but not limited to
7 maximum loan amounts and required loan-to-value ratios, but excluding
8 mortgage loan interest rates;

9 (3) characteristics of housing eligible for loans or pur-
10 chase of loans, including compliance with the requirements of AS 18.-
11 56.300; [AND]

12 (4) the qualifications of loan originators and servicers and
13 the method of allocating amounts available for the purchase of loans;
14 and [.]

15 (5) establishment of a procedure, including a fee schedule,
16 for the commitment for one year or less of money for the purchase of
17 an individual mortgage loan at a specific interest rate.

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

19 Sec. 18.56.300. CONSTRUCTION STANDARDS FOR HOUSING ELIGIBLE FOR

1 LOANS OR PURCHASE OF LOANS. (a) The corporation may not make or
2 purchase a housing loan for residential housing constructed after the
3 effective date of this section unless the borrower complies with the
4 provisions of this section.

5 (b) The corporation may not make or approve purchase of a loan
6 for the construction of a new unit of residential housing or for the
7 purchase of an existing unit of residential housing constructed after
8 the effective date of this section unless

9 (1) the unit is in compliance with the construction codes
0 of the municipality, if the unit is located within a municipality that
1 has adopted and enforces construction codes and each of those codes
2 meets or exceeds the comparable standards for similar housing estab-
3 lished by the state building code; or

4 (2) the unit is in compliance with the comparable standards
5 for similar housing established by the state building code

6 (A) if the unit is located

7 (i) within a municipality whose construction
8 codes do not meet the standards for similar housing estab-
9 lished by the state building code;

0 (ii) within a municipality that does not enforce
1 construction codes; or

2 (iii) outside a municipality; or

3 (B) as to each specific code within the construction
4 codes of the municipality that has adopted and enforces con-
5 struction codes if the specific code does not meet or exceed the
6 comparable standard for similar housing established by the state
7 building code.

8 (c) As a condition of approval of a loan under this section, the
9 corporation shall require inspection of the unit of residential

1 housing that is the subject of the loan. The inspection must be
2 performed by a municipal building inspector or by a person who is
3 approved or certified to perform residential inspections by the Inter-
4 national Conference of Building Officials. The person who makes the
5 inspection shall determine whether the construction conforms to rele-
6 vant provisions of the construction codes of the municipality or of
7 the state building code, as applicable, at each of the following
8 stages of construction:

- 9 (1) plan approval;
- 0 (2) completion of footings and foundations;
- 1 (3) completion of electrical installation, plumbing, and
2 framing;
- 3 (4) completion of installation of insulation;
- 4 (5) final approval.

5 (d) An action for damages may not be maintained against a person
6 performing an inspection under (c) of this section if the claim is
7 based on the person's inspection or failure to inspect for a violation
8 of the construction codes of the municipality or the state building
9 code, as applicable, as a condition of approval of a housing loan
0 under this chapter.

1 (e) In this section,

2 (1) "construction codes" means, with reference to a munic-
3 ipality, the building, mechanical, plumbing, and electrical codes, or
4 any of them that have been adopted and are enforced by the municipal-
5 ity;

6 (2) "state building code" means

7 (A) for building and mechanical standards, the minimum
8 building and mechanical code provisions adopted by regulation by
9 the Department of Public Safety under AS 18.70.080;

1 (B) for plumbing standards, the minimum plumbing code
2 adopted by the Department of Labor under AS 18.60.705; and

3 (C) for electrical standards, the minimum electrical
4 standards prescribed by AS 18.60.580.
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House of Representatives

SECTIONAL ANALYSIS

Chenoweth draft, dated 10/26/89

"An Act relating to residential housing assistance provided by the Alaska Housing Finance Corporation."

SECTION ONE: Incorporates language that refers to new section (AS 18.56.300) that will be added to existing statutes.

SECTION TWO: New section added to AS 18.56.

(a) AHFC may not make or purchase a housing loan unless the borrower complies with the provisions of the new language (as defined under AS 18.56.300).

(b) Outlines the new conditions under which AHFC may make or approve purchase of a loan for the construction of a new unit of residential housing. These conditions include:

(1) Compliance with the construction codes of a municipality, if the building is within a municipality that has adopted and enforces a construction code that meets or exceeds the standards established by the state building code; or

(2) Compliance with the standards established by the state building code if the residential unit is located within a municipality whose construction code does not meet the standards of the state building code, within a municipality that does not enforce a building code, outside a municipality or if a municipal code does not meet the standards as described in state building codes, then the specific state code will take precedence over the code adopted by a municipality.

(c) Requires that the inspection be performed by a municipal building inspector or by a person who is approved or certified by the International Conference of Building Officials. The person who is conducting the inspections will make a determination whether the construction conforms to municipal construction or state building codes at each of these stages of construction:

- (1) Plan approval;
- (2) Completion of footings and foundations;
- (3) Completion of electrical, plumbing and framing;
- (4) Completion of installation of insulation; and
- (5) Final approval.

(d) A hold harmless clause that protects the person conducting the inspection from claims for damages if the claim is based on the person's inspection or failure to inspect for a violation of the municipal code or the U.B.C. as a condition of approval of a housing loan.

(e) Definitions:

- (1) Construction code refers to a municipality, the building, mechanical, plumbing and electrical codes or any of them that have been adopted and enforced by the municipality.
- (2) State building code refers to the minimum building and mechanical code adopted by regulation by the Department of Public Safety under A.S. 18.70.080; minimum plumbing code adopted by the Department of Labor under A.S. 18.60.705; and the minimum electrical standards prescribed by A.S. 18.60.580.

BY HALFORD, UEHLING, FAIKS,
COGHILL, ELIASON, BINKLEY,
ADAMS AND PEARCE

1 IN THE SENATE

2 SENATE BILL NO. 200

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the interest rate on mortgage loans
7 purchased by the Alaska Housing Finance Corporation
8 under its special mortgage loan purchase program; and
9 providing for an effective date."

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

11 * Section 1. AS 18.56.098(g) is amended to read:

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

15 (1) The interest rate on the first \$90,000 of a mortgage
16 loan purchased with the proceeds of an issue of taxable bonds of the
17 corporation is one [THREE] percent less than the cost of funds of that
18 issue, except that

19 (A) if the cost of funds of that issue is less than 10
20 percent, the interest rate is equal to the cost of funds; and

21 (B) if the cost of funds of that issue is more than 10
22 percent, the interest rate may not be less than 10 percent.

23 (2) An interest rate determined under this subsection on
24 the first \$90,000 of a mortgage loan that is not purchased from the
25 proceeds of bonds that are qualified veterans' mortgage bonds under
26 U.S.C. 103A (Mortgage Subsidy Bond Tax Act of 1980), as amended,
27 shall be reduced by one percentage point if the loan is made to an
28 eligible veteran under AS 18.56.101.

29 (3) The interest rate for the amount of a mortgage loan

1 purchased under (a) of this section that exceeds \$90,000 is equal to
2 the cost of funds to the corporation attributable to that part of the
3 loan.

4 (4) The interest rate on the first \$90,000 of a mortgage
5 loan purchased with money that is not the proceeds of either taxable
6 or tax-exempt bonds is the rate the corporation determines is appro-
7 priate by application of the provision of (1) of this subsection.

8 (5) The interest rate on the first \$90,000 of a mortgage
9 loan purchased from the proceeds of bonds that are exempt from taxa-
10 tion other than bonds that constitute qualified veterans' bonds under
11 (i) of this section, is equal to the interest rate determined under
12 (1) and (2) of this subsection on a loan purchased under (a) of this
13 section from the proceeds of the most recent applicable issue of
14 taxable bonds sold by the corporation. A higher or lower interest rate
15 shall be established on the entire loan amount if required to ensure
16 the tax-exempt status of the bonds.

17 (6) The corporation shall determine the interest rate on a
18 mortgage loan that is an adjustable rate mortgage loan as provided in
19 this subsection. The corporation shall recalculate the interest rate
20 from time to time based on changes in the cost to the corporation of
21 the funds used to purchase the adjustable rate mortgage loan.
22 However, the corporation may establish a minimum interest rate appli-
23 cable to an adjustable rate mortgage loan, and the interest rate on
24 the adjustable rate mortgage loan may not be less than the minimum
25 interest rate so established regardless of the cost of funds to the
26 corporation.

27 (7) In this subsection

28 (A) "cost of funds" means the true interest cost
29 expressed as a rate on bonds of the corporation plus an

1 additional percentage as determined by the corporation to repre-
2 sent the allocable expenses of operation, costs of issuance, and
3 mortgage servicing;

4 (B) "taxable bonds" means bonds bearing interest that
5 is taxable under 26 U.S.C. 103A (Mortgage Subsidy Bond Tax Act of
6 1980) issued to finance the purchase of first mortgage loans.

7 * Sec. 2. AS 18.56.098(i) is amended to read:

8 (i) The interest rate on the first \$90,000 of a mortgage loan
9 purchased from the proceeds of bonds that constitute qualified veter-
10 ans' mortgage bonds under 26 U.S.C. 103A (Mortgage Subsidy Bond Tax
11 Act of 1980) as amended, is the greater of (1) two [FOUR] percent less
12 than the cost of funds or (2) the rate for other loans to veterans
13 under (g)(3) of this section [AS 18.56.098(g)(3)]. A higher or lower
14 interest rate shall be established on the entire loan amount if
15 required under 26 U.S.C. 103A.

16 * Sec. 3. This Act takes effect July 1, 1989.

BY HALFORD, UEHLING, FAIKS,
COGHILL, ELIASON, BINKLEY,
ADAMS AND PEARCE

1 IN THE SENATE

2

SENATE BILL NO. 200

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act amending the interest rate on mortgage loans
7 purchased by the Alaska Housing Finance Corporation
8 under its special mortgage loan purchase program; and
9 providing for an effective date."

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

11 * Section 1. AS 18.56.098(g) is amended to read:

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

15 (1) The interest rate on the first \$90,000 of a mortgage
16 loan purchased with the proceeds of an issue of taxable bonds of the
17 corporation is one [THREE] percent less than the cost of funds of that
18 issue, except that

19 (A) if the cost of funds of that issue is less than 10
20 percent, the interest rate is equal to the cost of funds; and

21 (B) if the cost of funds of that issue is more than 10
22 percent, the interest rate may not be less than 10 percent.

23 (2) An interest rate determined under this subsection on
24 the first \$90,000 of a mortgage loan that is not purchased from the
25 proceeds of bonds that are qualified veterans' mortgage bonds under
26 26 U.S.C. 103A (Mortgage Subsidy Bond Tax Act of 1980), as amended,
27 shall be reduced by one percentage point if the loan is made to an
28 eligible veteran under AS 18.56.101.

29 (3) The interest rate for the amount of a mortgage loan

1 purchased under (a) of this section that exceeds \$90,000 is equal to
2 the cost of funds to the corporation attributable to that part of the
3 loan.

4 (4) The interest rate on the first \$90,000 of a mortgage
5 loan purchased with money that is not the proceeds of either taxable
6 or tax-exempt bonds is the rate the corporation determines is appro-
7 priate by application of the provision of (1) of this subsection.

8 (5) The interest rate on the first \$90,000 of a mortgage
9 loan purchased from the proceeds of bonds that are exempt from taxa-
10 tion other than bonds that constitute qualified veterans' bonds under
11 (i) of this section, is equal to the interest rate determined under
12 (1) and (2) of this subsection on a loan purchased under (a) of this
13 section from the proceeds of the most recent applicable issue of
14 taxable bonds sold by the corporation. A higher or lower interest rate
15 shall be established on the entire loan amount if required to ensure
16 the tax-exempt status of the bonds.

17 (6) The corporation shall determine the interest rate on a
18 mortgage loan that is an adjustable rate mortgage loan as provided in
19 this subsection. The corporation shall recalculate the interest rate
20 from time to time based on changes in the cost to the corporation of
21 the funds used to purchase the adjustable rate mortgage loan.
22 However, the corporation may establish a minimum interest rate appli-
23 cable to an adjustable rate mortgage loan, and the interest rate on
24 the adjustable rate mortgage loan may not be less than the minimum
25 interest rate so established regardless of the cost of funds to the
26 corporation.

27 (7) In this subsection

28 (A) "cost of funds" means the true interest cost
29 expressed as a rate on bonds of the corporation plus an

1 additional percentage as determined by the corporation to repre-
2 sent the allocable expenses of operation, costs of issuance, and
3 mortgage servicing;

4 (B) "taxable bonds" means bonds bearing interest that
5 is taxable under 26 U.S.C. 103A (Mortgage Subsidy Bond Tax Act of
6 1980) issued to finance the purchase of first mortgage loans.

7 * Sec. 2. AS 18.56.098(i) is amended to read:

8 (i) The interest rate on the first \$90,000 of a mortgage loan
9 purchased from the proceeds of bonds that constitute qualified veter-
10 ans' mortgage bonds under 26 U.S.C. 103A (Mortgage Subsidy Bond Tax
11 Act of 1980) as amended, is the greater of (1) two [FOUR] percent less
12 than the cost of funds or (2) the rate for other loans to veterans
13 under (g)(3) of this section [AS 18.56.098(g)(3)]. A higher or lower
14 interest rate shall be established on the entire loan amount if
15 required under 26 U.S.C. 103A.

16 * Sec. 3. This Act takes effect July 1, 1989.

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the interest rate on state loan programs; and providing for an effective date."

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

* Section 1. AS 37.05.035 is amended by adding a new subsection to read:

(b) Notwithstanding any other provision of law, the interest rate for loan programs administered by the state or an instrumentality of the state shall increase by one-half percent October 1 of each year until the interest rate is equal to

- (1) the prevailing market rate for each type of loan; or
- (2) the cost of funds, if the loan program is financed by the sale of bonds or other indebtedness.

* Sec. 2. This Act takes effect October 1, 1985.

SCOMM

60:4

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

March 13, 1989

SUBJECT: AHFC reserves
TO: Representative Kay Brown
FROM: Jack Chenoweth
Legislative Counsel

Per your request, enclosed is a copy of an opinion from this office that I have permission to release. The opinion addresses legislative appropriation of AHFC.

The principal opinion, with which this office agrees in substance, is the Attorney General's opinion of April 24, 1985, concluding that "[a]bsent a specific prohibition . . . against appropriating [unencumbered] assets of an executive branch agency held outside the state treasury, we believe that the legislature may do so." Note, however, the concluding recommendations set out in that opinion, and the reasons for them.

JC:gc
WKG8/017

Enclosure

BILL SHEFFIELD, GOVERNOR

REPLY TO:

☐ 1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

☐ 1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

☒ POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3800

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 24, 1985

Hon. Al Adams, Chairman
House Finance Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: Legislative power of appropriation over funds of public corporations
Our file: 366-463-85

Dear Representative Adams:

You have requested our advice whether the legislature's power of appropriation includes the power to appropriate money administered by the Alaska Housing Finance Corporation (AHFC). AHFC was created to administer a state enterprise consisting almost entirely of making housing loans or providing a secondary mortgage market for housing loans originated by private lending institutions. AHFC is a state agency with the power to incur indebtedness if repayment is secured by pledging revenue earned from AHFC enterprises. See Alaska Const. art. IX, § 11. The pledge is secured by dedicating money, including revenues earned from the loan enterprise, to special accounts established for the benefit of bondholders. You desire to know whether the legislature may appropriate directly from AHFC's Alaska housing finance revolving loan fund (AS 18.52.082) for a purpose unrelated to AHFC. In addition, you ask if the unobligated balance of an appropriation from the general fund to the revolving fund may be reappropriated for another purpose.

First, we believe there is little doubt that the legislature may reappropriate the unencumbered and unobligated balance of an existing appropriation. See Inf. Op. Att'y Gen. (Sept. 26; 366-132-81). The legislature is merely reducing the authorization to spend money. The formal act of appropriating money does not invest a person or entity with the right to ultimately expend the money unless a valid, binding contract is made with that entity. It is very doubtful that a political subdivision of the state being entirely a creature of statute could claim a vested right to expend money under an appropriation absent the intervention of innocent third parties. Based on these principles, we

conclude that the unexpended and unobligated balance of an appropriation to the AHFC revolving fund may be appropriated for purposes unrelated to AHFC.

We next turn to the more difficult question of whether the balance of the AHFC revolving fund may be appropriated by the legislature for a purpose unrelated to AHFC. The AHFC revolving fund serves as a central pool of money consisting of the following:

- (1) appropriations from the legislature;
- (2) assets transferred there by AHFC; and
- (3) unrestricted repayments of principal on loans made or purchased by AHFC.

The assets of the revolving fund are transferred to separate funds when necessary to satisfy covenants made with bondholders. Amounts remaining in the fund do not secure specific bond issues of AHFC and remain unrestricted for use by AHFC "for the purposes of the corporation." Id.

The answer to your question turns on whether the revolving fund is within the state treasury or, failing that, if the fund is an asset of the state which may be appropriated by the legislature. Revolving funds administered by state agencies are generally included in the state treasury for financial reporting purposes. However, the AHFC revolving fund is not carried on the state's ledgers as an asset of the state treasury. Rather, the revolving fund is an asset of AHFC. In a recent appropriation Act, the legislature has specifically appropriated to the AHFC revolving fund interest earned on loans made or purchased by AHFC on deposit in the fund. See sec. 1, ch. 129, SLA 1984. This was done to remove any question that AHFC had improperly dedicated an unrestricted revenue source of the state for a special purpose in violation of the dedicated fund prohibition set out in section 7, article IX of the Alaska Constitution. This provides some evidence that the legislature considers unrestricted earnings of AHFC to be subject to appropriation. It is important to note that we have identified these earnings as "unrestricted." This means that the rights of innocent third parties to retain the fund balance as security for the payment of debt service on bonds have not intervened to restrict the ability of AHFC to spend them. We believe that the AHFC revolving fund is not in the state treasury. The effect of this conclusion is that AHFC may spend money in the fund without further appropriation. However, money earned from investments or assets of the

fund have customarily been considered a state asset which may be transferred and deposited into the general fund.

The question then becomes: if the AHFC revolving fund is not in the state treasury, but is an asset of a state agency, is the fund subject to appropriation? We believe that unrestricted money in the fund is probably available for appropriation. No specific authority was located to support this conclusion. We base our opinion on a belief that the legislative power of appropriation will be liberally construed by the courts. The appropriation power is often described as plenary. That is, the power to appropriate is limited only by express provisions set out in the Alaska Constitution. Judicial decisions reciting this principle are legion. See, e.g., San Francisco Labor Council v. Regents of University of California, 608 P.2d 277 (Cal. 1980); City of Sand Springs v. Department of Public Welfare, 608 P.2d 1139, 1148 (Okla. 1980). Absent a specific prohibition in the Alaska Constitution against appropriating assets of an executive branch agency held outside the state treasury, we believe that the legislature may do so. This opinion does not hold that the legislature must appropriate revenue of a public corporation before it can be spent, only that the legislature may exercise control over unrestricted assets of a public corporation. To deny this power would establish an entity capable of segregating unrestricted state revenue forever. At some point, this would do violence to the dedicated fund prohibition set out in article IX, section 7 of the Alaska Constitution.

We believe it is also our responsibility to inform you that there is a contrary view on this subject. The argument could be made on behalf of bondholders that AHFC has undertaken certain obligations to bondholders which are binding on AHFC and the legislature. AHFC bonds are issued as general obligations of the corporation. Typically, AHFC covenants in its indenture that it will "defend, preserve and protect the pledge of the program obligations, pledged revenues, and other assets." Bondholders could attack any direct appropriation of the AHFC revolving fund as a violation of the covenant to preserve assets. We believe this covenant will not restrict legislative appropriations of unrestricted assets of AHFC which are unnecessary to secure the repayment of debt service on bonds. See Opinion of the Justices, 213 N.E.2d 882 (Mass 1977); Opinion of the Justices, 136 N.E.2d 223 (Mass 1956). This means that the directors of AHFC must be certain that an appropriation of corporation assets will not jeopardize its ability to pay debt service on outstanding bonds.

To prepare for and meet any challenge to the appropriation of AHFC assets, we recommend that the legislature not only

appropriate the asset but also amend the enabling Act of AHFC to assure bondholders that an impairment of their security will not occur. Under this approach, a valid transfer of assets requires not only an appropriation from the AHFC revolving fund but also an amendment to AS 18.56.020 which provides authority for AHFC to transfer unrestricted surplus to the general fund. */ Authorization by general law for the transfer of assets of public corporations has been used in the past. In 1980, the legislature transferred the assets of the Alaska State Development Corporation (AS 44.59.010), the Small Business Development Corporation (AS 44.60.020), and the Alaska Toll Bridge Authority (AS 44.57.010) to the Alaska Industrial Development Authority. Sec. 42, ch. 106, SLA 1980. The transfer was made not in an appropriations bill, but in a bill proposing the enactment of general law. It is curious to note that no corresponding appropriation was made. This approach is consistent with another familiar adage of public finance law that appropriation bills may not be used to amend substantive law. Legislative Budget & Audit Committee v. Hammond, No. 1JU-80-1163 CIV (Alaska Super., May 25, 1983). It could be argued that AS 18.56.020 implies that the assets of AHFC will be transferred to the state treasury only upon termination. Because an appropriation cannot amend existing law, a transfer from the fund before dissolution of AHFC would be subject to question.

While we believe that a direct appropriation of surplus AHFC assets is legally defensible, to avoid any question as to the validity of a transfer appropriation, we recommend that the legislature

- (1) enact an amendment to AS 18.56.020 authorizing interim transfers of unrestricted surplus assets of AHFC to the general fund;
- (2) provide that the board of directors shall annually determine the amount of surplus available for transfer; and

*/ AS 18.56.020 provides:

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

Hon. Al Adams, Chairman
House Finance Committee
366-463-85

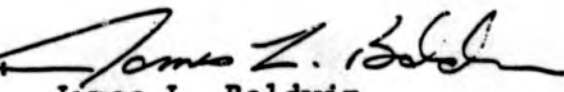
April 24, 1985
Page #5

(3) appropriate the assets from the fund to the general fund in accordance with the transfer authorization.

We hope this memorandum has answered your questions.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By 
James L. Baldwin
Assistant Attorney General

JLB/pjg

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M

April 11, 1985

SUBJECT: Appropriation from AHFC Revolving Fund
(CSHB 195)

TO: Representative Al Adams
Chairman, House Finance

FROM: David R. Dierdorff
Revisor of Statutes

Section 121 of draft CSHB 195 (Finance), dated April 11, 1985, repeals a 1984 appropriation of \$16,000,000 to the Alaska housing finance revolving fund. Section 122 of the draft appropriates \$34,000,000 to the general fund from the Alaska housing finance revolving fund. The fund is created by AS 18.56.082, which provides:

The Alaska housing finance revolving fund is established in the corporation. The revolving fund consists of appropriations made to the revolving fund by the legislature, money or other assets transferred to the revolving fund by the corporation and unrestricted repayments of principal on loans made or purchased by the corporation. Amounts deposited in the revolving fund shall be expended for the purposes of the corporation, set out in this chapter.

The purpose of this memo is to discuss whether the proposed repeal of the 1984 appropriation and the new \$34,000,000 appropriation are permissible.

The AHFC is a public corporation and government instrumentality within the Department of Revenue, yet has a legal existence independent of the state (AS 18.56.020). As a public corporation, AHFC is ". . . subject to governmental visitation and control, whereas the charter of a private corporation is a contract between the state and the corporation or incorporators, which, under the . . ." impairment of contracts clause of the U. S. Constitution, renders

private corporations ". . . not subject to visitation, control, or change by the state, except in the exercise of the police power." 18 C.J.S. Corporations sec. 18(a), citing Dartmouth College v. Woodward, 4 L.Ed. 629. A public corporation may receive grants, loans, or direct appropriations of public funds to carry out its purposes. It may also be required to repay grants or loans to the general fund once an independent funding source has been developed, e.g., through bond sales, repayment of principal and interest on the corporation's loans, etc. Cf. DeArmond v. Alaska State Development Corporation, 376 P.2d 717 (Alaska 1962); Walker v. Alaska State Mortgage Association, 416 P.2d 245 (Alaska 1966).

It is clear that the legislature has the power to alter, reduce, or transfer an appropriation, unless the appropriation has been pledged by some constitutional or statutory provision to the payment of an obligation under circumstances where the encumbrance becomes a vested right. 81A C.J.S. States sec. 241. A concern regarding the Alaska housing finance revolving fund is that moneys once appropriated or otherwise lawfully transferred into the fund are assets of AHFC that may be subject to a pledge to AHFC's bondholders. On the face of AS 18.56.082, it might appear that the revolving fund is an unencumbered fund, because its assets include "unrestricted repayments of principal" along with funds appropriated by the legislature and other assets. One would have to trace the history of appropriations to the fund to determine whether any of that money is restricted (for example, the 1984 appropriation of \$16,000,000 was not conditioned or restricted), but it may not be necessary to go that far.

The revolving fund is a fund of the corporation, and, under AS 18.56.110(b), the principal and interest on AHFC's bonds and bond anticipation notes ". . . is payable from corporation funds, excluding funds in the housing development fund." Reading this provision with AS 18.56.082, it is clear that AHFC may make payments on principal and interest from the revolving fund. AS 18.56.062 makes the fund a fund of the corporation and empowers AHFC to expend the money in the fund for corporate purposes as set out in AS 18.56.

The legislature could have excluded the revolving fund from the provisions of AS 18.56.110(b) when the fund was established in 1983, as it had excluded the housing development fund. The fact that the revolving fund was not excluded

would be interpreted by a court as a clear intent to include the fund as subject to AS 18.56.100(b). Whether the statutory obligation to pay principal and interest from corporate funds, including the revolving fund, is a sufficient encumbrance on the revolving fund to constitute a vested right that would defeat the legislature's power to reduce a prior appropriation to the fund or transfer money from the fund by way of appropriation to the general fund is a difficult question that would best be answered by AHFC's bond counsel. I assume that the answer depends on a number of facts, including the internal policies of AHFC, the actual practices of AHFC with respect to the various funds, the covenants made with bondholders, etc.

AHFC also has the statutory power to pledge its assets, which may include assets within the revolving fund. AS 18.56.110(f). If in fact AHFC has exercised its rights and included moneys in the revolving fund among those assets pledged for a particular transaction, it is probable that a court would hold that the encumbered funds may not be transferred or reappropriated by the legislature.

To our knowledge, all issues of revenue bonds contain language that pledge all "pledgable" assets of the issuer to secure repayment. Thus, unless AHFC departs from the normal customs of the bond market, the money in the revolving fund is encumbered and not available for reappropriation.

Even assuming that there are unencumbered funds in the revolving fund sufficient to meet the \$50,000,000 requirements of secs. 121, and 122, there remains the question of whether the legislature has the power to appropriate from the revolving fund at all, or whether the fund balance may only be transferred to the general fund upon the termination of the corporation as provided under AS 18.56.020. In the short time available to research this memo, I have not found any case law or other authority on either side of the question. The argument to support the legislature's power to reach into the fund would be based upon the public nature of AHFC, its coverage under AS 37.07 (the Executive Budget Act), and the general principle that has been discussed above that the legislature may alter a previous appropriation.

On the other hand, it can be argued that the statutes establishing the fund and the corporation would have to be amended to allow for legislatively mandated transfers from the

Representative Al Adams
April 11, 1985
Page 4

fund back to the general fund. It should be mentioned that this aspect of the question would also involve an analysis of the state constitution's provisions on the power of the legislature to appropriate, the ban on dedicated funds, and other constitutional issues.

I should mention that if the \$16,000,000 appropriated in 1984 is still in the general fund (if the transfer to the revolving fund has not been made), that appropriation can, in our opinion, be repealed, as the money is not yet subject to the restrictions and encumbrances discussed.

We will continue to look into this question, but would urge the committee to discuss the legal issues with bond counsel before final action is taken on secs. 121 and 122. To emphasize the importance of this issue, you should be aware that if secs. 121 and 122 become law, it is possible that that action could trigger a default on all of AHFC's bonds.

DRD:ojb
J13/086

BILL SHEFFIELD, GOVERNOR

REPLY TO:

☐ 1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

☐ 1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

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

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 24, 1985

Hon. Al Adams, Chairman
House Finance Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: Legislative power of appropri-
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corporations
Our file: 366-463-85

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