



ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1619 SCOMM 61: SEN. SPEC. COMM. ON BANKING AND ECONOMIC DEV. 1989-90

7/87



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Jim Butler

Signature of Camera Operator

12/14/85

Date

SCOMM 61: SENATE SPECIAL COMMITTEE ON BANKING AND ECONOMIC
DEVELOPMENT, 1989-1990

MEMBERSHIP:

SENATOR PAT RODEY
SENATOR JIM DUNCAN
SENATOR JAN FAIKS
SENATOR STEVE FRANK
SENATOR DRUG PEARCE

Established by SR 3, 1989.

Contents: 1 file (1"). 5 tapes are also available.

LIST OF FILES (PAGE 1)

MICROFICHE #

1. SB 427: AHFC PHASE DOWN

SCOMM

61:1

SN: 910

ALASKA SENATE
CSSB 427 RULS AM RES AM2

2ND SESSION 16 LEG

4/ 4/90 11:59 AM

9 YEAS 11 NAYS 0 EXC 0 ABS

N	ADAMS	N	FISCHER	Y	POURCHOT
N	BINKLEY	Y	FRANK	Y	RODEY
N	COGHILL	N	HALFORD	Y	STURGULEWSKI
N	DUNCAN	Y	JONES	N	SZYMANSKI
N	ELIASON	N	KELLY	Y	UEHLING
Y	FAHRENKAMP	N	KERTTULA	N	ZHAROFF
Y	FAIKS	Y	PEARCE		

+ VOTED FOR
* CHANGED VOTE

Patrick M. Rodey
Senator

Alaska State Legislature



3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

Tuesday, April 3, 1990

Senate

MEMORANDUM

To: Senator Pat Rodey

From: Max

Subject: CSSB 427 (RIs)/ AHFC

SECTIONAL ANALYSIS. The Chenoweth memo to Sen. Uehling of March 30th, does a good job at detailing the bill.

Note the first two pages are specific to AHFC. On page two under subsection (4), however, there is a reference to Sec. 10 in which Chenoweth states, "the amendment would permit AHFC to draw upon unappropriated corporation receipts with providing the opportunity for prior review of the proposed additional expenditure by LB&A."

This statement may cause some confusion because it does not take into account the **appropriation of AHFC program receipts** in the front section of the annual budget bill. The intent and purpose of this bill is do what the Legislature's housing finance task force set out to do which was to find ways to stabilize Alaska's housing market, reduce the state's fiduciary involvement, and hopefully let the housing market system develop into a viable business in state without considerable state involvement. To do that AHFC needs the tools to accomplish these goals...and that means giving them the ability to function in the housing market without being hamstrung by bureaucracy. As AHFC has indicated the potential for losing money grows in proportion to their inability to respond to the ups and downs of the housing market.

To further buttress the point, I asked for a short memo (Dierdorff to Rodey, April 2nd) noting that for several years the legislature has provided for appropriation of AHFC program receipts in the front section of the budget. The finance committee did that in 1985 to assist AHFC in responding to market needs. During those years, 1988 was the only year reference was made to requesting AHFC comply with the LB&A procedure.

Further protecting state interests is the requirement in Sec. 10 that AHFC submit program revisions (expending program receipts) to the governor and LB&A, and once submitted, then permitting the agency to proceed with the program revision.

The argument may be made that AHFC should not be allowed to expend money without first gaining approval from LB&A, however, some believe (LAA Legai) that the legislative appropriation/authorization in the front section of the budget is all that is needed for AHFC to expend program receipts. Besides, the LB&A requirement may take as long as 45 days and sometimes longer and that is the real problem; the inability of the bureaucracy to act promptly to protect state fiduciary interests in the housing market.

SUBSIDY PHASE DOWN. The remaining three pages of the March 30th Chenoweth to Uehling memo is a good overview of the subsidy phase down program proposed in SB 427.

RAILROAD. Also attached is the Railroad procurement amendment Sen. Faiks will offer. It essentially opts them out from the confines of the procurement code but says the RR shall adopt procedures that reflect competitive bidding, reasonable opportunities for vendors, and establish an Alaska bidder preference, except for "purchase, operation, expansion, reduction, or maintenance or track structure or equipment moving upon track structure of the railroad." (i.e. tracks, ties, and rail cars)

Memos attached

March 30th, Chenoweth to Uehling, 2 page sectional analysis, followed by a three page analysis of the subsidy adjustment.

April 2nd, Dierdorff to Rodey, 1 page, re: AHFC Program Receipts

Amendments.....Sen. Faiks, Railroad procurement, bidder preference.

STATE OF ALASKA THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99801
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 2, 1990

SUBJECT: AHFC Program Receipts (CSSB 427(Rules))

TO: Senator Pat Rodey
Attn: Max Gifford

FROM: David R. Dierdorff 
Revisor of Statutes

You have asked for a brief explanation of the treatment of AHFC program receipts in the budget bill.

For the last five fiscal years, the Act providing for the general operating and loan program budget of state government has included "front pages" language appropriating all unrestricted receipts that the corporation receives during the fiscal year to the Alaska housing finance revolving fund. See, sec. 15, ch. 98, SLA 1985; sec. 14, ch. 129, SLA 1986; sec. 14, ch. 95, SLA 1987; sec. 14, ch. 154, SLA 1988; and sec. 14, ch. 116, SLA 1989. I note that the language each year has been identical, except that in 1988 a subsection (b) was added requiring the corporation to comply with AS 37.07.080(h) prior to expending any of the program receipts for a purpose not described in the corporation's operating plan under AS 37.07.080(b). I note also that the language appears in the governor's operating and loan program bill for FY 91. See sec. 15, HB 500.

There is no question but that the boiler plate language found in these budget Acts appropriates everything AHFC receives during the year.

DRD:pl
WKP4/011

This memo "balances"
the subsection (4) sec. analysis
Comments by Chenoweth —
N: "unappropriated corporation
receipts"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 427 (Rules)

Page 7, line 3:

Delete "the Alaska Railroad Corporation,"

Insert "[THE ALASKA RAILROAD CORPORATION]"

Page 7, line 4, after "Corporation":

Delete ","

Page 7, following line 14:

Insert a new bill section to read:

"* Sec. 9. AS 36.30.015 is amended by adding a new subsection to read:

(f) The board of directors of the Alaska Railroad Corporation shall adopt procedures to govern the procurement of supplies, services, professional services, and construction. The procedures must

(1) reflect competitive principles and provide vendors reasonable and equitable opportunities to participate in the procurement process;

(2) include procurement methods to meet emergency and extraordinary circumstances; and

(3) for a contract awarded for supplies, services, and construction, comply with the provisions of AS 36.30.170(b) and 36.-30.250(b) that establish a preference for an Alaska bidder, except

that the Alaska bidder preference provisions of AS 36.30.170(b) and 36.30.250(b) do not apply to a contract that actually and directly relates to the purchase, operation, expansion, reduction, or maintenance of track structure or equipment moving upon track structure of the railroad."

Renumber the following bill sections accordingly.

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

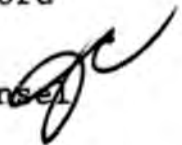
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 2, 1990

SUBJECT: CSSB 427 (Rules): use of "immediately" in
bill title

TO: Senator Pat Rodey
ATTN: Max Gifford

FROM: Jack Chenoweth
Legislative Counsel 

Alaska's constitution requires (article II, section 13) that
"[t]he subject of each bill shall be expressed in its title."

The reference to "immediately" appearing in the bill title (page 1, line 12) as descriptive of the authority of the Alaska Housing Finance Corporation is intentional. It reflects, as you know, the substance of section 10 of CSSB 427 (Rules). That section makes an exception for AHFC and its use of its "program receipts" or "corporation receipts." Under the Executive Budget Act, agencies generally may alter or revise their programs after submitting a revised program request to the governor, securing the governor's approval, submitting the revision to the Legislative Budget and Audit Committee, and waiting 45 days. See AS 37.07.080(h). The language of bill section 10 would except AHFC from the 45 day wait. In other words, AHFC could expend its increased, unappropriated program receipts immediately--in the sense of "directly," "instantly," or "without further ado"--after submitting the revised program to the legislative budget and audit committee. I submit that, as no wait would be required, use of "immediately" accurately describes the temporal element of this provision.

Please understand that, as to this reference in the title to the material set out in bill section 10, I was directed by the Finance Committee to "tighten the title" so that it would be tamper-proof when it went to the other body for consideration. Reference to "immediately" in the title is necessary, it seems to me, to protect the Finance Committee's conclusions and expectations and to reasonably assure that

Senator Pat Rodey

Page 2

April 2, 1990

the other body did not restore a waiting period that was less than (1 to 44 days), equal to (45 days), or greater than (more than 45 days) the period that, under AS 37.07.-080(h), all other agencies are required to wait before acting on a revised program approved by the governor. In line with the Senate Finance Committee's decision, "immediately" would prevent the other body from interposing a waiting period.

JBC:lmb

L10/044

CC: Senator John Binkley
ATTN: Janice Adair

*This memo discusses very
directly the "tight title."
its reasons why - and
I don't think we should
put it out with last
paragraph.*

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. KERTTULA

TO: CSSB 427 (Rules)

Page 1, line 10, after "Code":

Delete "and allowing the corporation to expend additional corporation receipts immediately after submission of a revised program to the Legislative Budget and Audit Committee"

Page 7, line 29, through page 8, line 16:

Delete all material.

Renumber the following bill sections accordingly.

April 3, 1990

To: Tom Behan
AHFC

The votes on SB-427

Kerttula Amendment: attached

The vote: **YEAS** Adams, Binkley, Coghill, Eliason, Fishcer,
Halford, Jones, Kerttula, Pourchot, Sturgulewski,
Szymanski, Zharoff

NAYS Duncan, Faiks, Frank, Kelly, Pearce, Rodey, Uehling

The vote on the bill:

YEAS: Binkley, Duncan, Eliason, Faiks, Frank, Jones,
Kelly, Pearce, Pourchot, Rodey, Sturgulewski,
Uehling, Zharoff

NAYS: Adams, Coghill, Fischer, Halford, Kerttula,
Szymanski

#2
A M E N D M E N T

↓ w/memo

OFFERED IN THE SENATE

BY SEN. KERTTULA

TO: CSSB 427 (Rules)

Page 1, line 10, after "Code":

Delete "and allowing the corporation to expend additional corporation receipts immediately after submission of a revised program to the Legislative Budget and Audit Committee"

Page 7, line 29, through page 8, line 16:

Delete all material.

Renumber the following bill sections accordingly.

SN: 903

ALASKA SENATE

CSSB 427 RULES AM AM 2

2ND SESSION 16 LEG

4/ 3/90 12:10 PM

		12 YEAS	7 NAYS	1 EXC	0 ABS		
Y	ADAMS X		Y	FISCHER X		Y	POURCHOT
Y	BINKLEY		N	FRANK		N	RODEY
Y	COGHILL X		Y	HALFORD X		Y	STURGULEWSKI
N	DUNCAN		Y	JONES		Y	SZYMANSKI X
Y	ELIASON		N	KELLY		N	UEHLING
E	FAHRENKAMP		Y	KERTTULA X		Y	ZHAROFF
N	FAIKS		N	PEARCE			

+ VOTED FOR
* CHANGED VOTE

561-7860

0-2074G

563-8292

Original sponsor(s): Rules/Housing Finance Task Force

1 IN THE SENATE

BY THE RULES COMMITTEE

2 CS FOR SENATE BILL NO. 427 (Rules)

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 program and administration re-
7 quirements of certain state corporations; expanding
8 the number of directors of the Alaska Housing Finance
9 Corporation; exempting the Alaska Housing Finance
10 Corporation from the State Procurement Code and
11 allowing the corporation to expend additional corpo-
12 ration receipts immediately after submission of a
13 revised program to the Legislative Budget and Audit
14 Committee; amending the corporation's special mort-
15 gage loan purchase program and progressively reducing
16 the maximum level of loan amounts eligible for a re-
17 duction under a mortgage loan subsidy; amending the
18 corporation's mortgage loan subsidy program for
19 persons of lower and moderate income; and relating to
20 procurement practices of certain state corporations;
21 and providing for an effective date."

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

23 * Section 1. AS 18.56.030(a) is amended to read:

24 (a) The corporation shall be governed by a board of directors
25 consisting of

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

28 (2) one other member who is the head of a [THE] principal
29 department of the executive branch of state government appointed by

1. Adds 2 seats on Bd of D
1/2 lic. R.E. Broker
- 2) Rep. of fin. Comm

the governor; and

(3) four [TWO] public members appointed by the governor, one of whom shall be a representative of the financial community and one of whom shall be a person licensed as a real estate broker under AS 08.88.171(a).

* Sec. 2. AS 18.56.091 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, the loan amount eligible for assistance under the subsidy authorized by (a) of this section is the amount determined under AS 18.56.098(f).

* Sec. 3. AS 18.56.098(f) is amended to read:

(f) In this section and in AS 18.56.099

(1) "graduated payment mortgage loan" means a mortgage loan the terms of which provide for monthly principal and interest payments that

(A) during the first year of the mortgage loan are lower than the monthly principal and interest payments that would be required under the terms of a level payment mortgage loan made at the same interest rate; and

(B) during subsequent years of the mortgage loan are graduated to provide for the same return over the term of the loan that would have been provided by a level payment mortgage loan made at the same interest rate;

(2) "loan amount eligible for assistance" means the amount of a mortgage loan that does not exceed the amount of the loan established by law; if an amount has not been established by law, the amount is zero;

(3) "mortgage loan" includes a beneficial interest or participation in a mortgage loan; [(3) REPEALED]

(4) "residence" means

1 (A) an owner-occupied, single-family residence, in-
2 cluding a mobile home; [,] or

3 (B) an owner-occupied duplex, triplex, or fourplex.

4 * Sec. 4. AS 18.56.098(f) is repealed and reenacted to read:

5 (f) In this section and in AS 18.56.091 and 18.56.099

6 (1) "graduated payment mortgage loan" means a mortgage loan
7 the terms of which provide for monthly principal and interest payments
8 that

9 (A) during the first year of the mortgage loan are
10 lower than the monthly principal and interest payments that would
11 be required under the terms of a level payment mortgage loan made
12 at the same interest rate; and

13 (B) during subsequent years of the mortgage loan are
14 graduated to provide for the same return over the term of the
15 loan that would have been provided by a level payment mortgage
16 loan made at the same interest rate;

17 (2) "loan amount eligible for assistance" means

18 (A) the first \$50,000 of a mortgage loan for persons
19 of lower or moderate income whose purchase of a home is assisted
20 under AS 18.56.091; or

21 (B) except as to persons whose purchase of a home is
22 assisted under AS 18.56.091, the amount of a mortgage loan that
23 does not exceed the amount of the loan established by law; if an
24 amount has not been established by law, the amount is zero;

25 (3) "mortgage loan" includes a beneficial interest or
26 participation in a mortgage loan;

27 (4) "residence" means

28 (A) an owner-occupied, single-family residence, in-
29 cluding a mobile home; or

(B) an owner-occupied duplex, triplex, or fourplex.

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

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

(1) The interest rate on the loan amount eligible for assistance [FIRST \$90,000] 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.

(2) An interest rate determined under this subsection on the loan amount eligible for assistance [FIRST \$90,000] of a mortgage loan that is not purchased from the proceeds of bonds that are qualified veterans' mortgage bonds under the applicable provisions of 26 U.S.C. (Internal Revenue Code) [26 U.S.C. 103A (MORTGAGE SUBSIDY BOND TAX ACT OF 1980), AS AMENDED,] shall be reduced by one percentage point if the loan is made to an eligible veteran under AS 18.56.101.

(3) The interest rate for the amount of a mortgage loan purchased under (a) of this section that exceeds the loan amount eligible for assistance [\$90,000] is equal to the cost of funds to the corporation attributable to that part of the loan.

(4) The interest rate on the loan amount eligible for assistance [FIRST \$90,000] of a mortgage loan purchased with money that is not the proceeds of either taxable or tax-exempt bonds is the rate the corporation determines is appropriate by application of the provision of (1) of this subsection.

1 (5) The interest rate on the loan amount eligible for
2 assistance [FIRST \$90,000] of a mortgage loan purchased from the
3 proceeds of bonds that are exempt from taxation other than bonds that
4 constitute qualified veterans' bonds under (1) of this section, is
5 equal to the interest rate determined under (1) and (2) of this sub-
6 section on a loan purchased under (a) of this section from the pro-
7 ceeds of the most recent applicable issue of taxable bonds sold by the
8 corporation. A higher or lower interest rate shall be established on
9 the entire loan amount if required to ensure the tax-exempt status of
10 the bonds.

11 (6) The corporation shall determine the interest rate on a
12 mortgage loan that is an adjustable rate mortgage loan as provided in
13 this subsection. The corporation shall recalculate the interest rate
14 from time to time based on changes in the cost to the corporation of
15 the funds used to purchase the adjustable rate mortgage loan. How-
16 ever, the corporation may establish a minimum interest rate applicable
17 to an adjustable rate mortgage loan, and the interest rate on the
18 adjustable rate mortgage loan may not be less than the minimum inter-
19 est rate so established regardless of the cost of funds to the corpo-
20 ration.

21 (7) For loans made under this section, the corporation
22 shall give effect to interest rate changes applicable to the loans
23 based on time of loan application, time of issuance of the corpora-
24 tion's bonds issued to purchase loans, or other factors as the corpora-
25 tion determines.

26 (8) [(7)] In this subsection

27 (A) "cost of funds" means the true interest cost
28 expressed as a rate on bonds of the corporation plus an addi-
29 tional percentage as determined by the corporation to represent

1 the allocable expenses of operation, costs of issuance, and
2 mortgage servicing;

3 (B) "taxable bonds" means bonds bearing interest that
4 is taxable under applicable provisions of 26 U.S.C. (Internal
5 Revenue Code) and which were [26 U.S.C. 103A (MORTGAGE SUBSIDY
6 BOND TAX ACT OF 1980)] issued to finance the purchase of first
7 mortgage loans.

8 * Sec. 6. AS 18.56.093(h) is amended to read:

9 (h) The corporation shall establish the interest rate on a
10 second mortgage loan purchased under (a) of this section in the manner
11 established for computing the interest rates on a first mortgage loan
12 under (g) of this section except that, in the case of a second mort-
13 gage loan, if the first mortgage loan made to the same borrower is
14 held by the corporation and was purchased under the special mortgage
15 loan purchase program, the outstanding principal balance of the exist-
16 ing first mortgage loan is subtracted from the loan amount eligible
17 for assistance [\$90,000] to determine the amount of the loan that is
18 eligible for an interest rate on a second mortgage loan determined by
19 reference to (g) of this section.

20 * Sec. 7. AS 18.56.093(i) is amended to read:

21 (i) The interest rate on the loan amount eligible for assistance
22 [FIRST \$90,000] of a mortgage loan purchased from the proceeds of
23 bonds that constitute qualified veterans' mortgage bonds under appli-
24 cable provisions of 26 U.S.C. (Internal Revenue Code) is [26 U.S.C.
25 103A (MORTGAGE SUBSIDY BOND TAX ACT OF 1980) AS AMENDED, IS THE GREAT-
26 ER OF (1) FOUR PERCENT LESS THAN THE COST OF FUNDS OR (2)] the rate
27 for other loans to veterans under (g)(2) of this section [AS 18.56.-
28 098(g)(3)]. A higher or lower interest rate shall be established on
29 the entire loan amount if required by applicable provisions of 26

§ 1 to 7 eliminate the subsid¹
program 90 70 50 30 0^{2 3 4}

Lowincome (HOF no.) will still be
subsidized up to 50,000

§ 8 Changes procurement code to
1. require ~~per~~ to
2. Add AHFC TO LIST OF AGENCIES WITH
U.S.C. (Internal Revenue Code) [UNDER 26 U.S.C. 103A].

* Sec. 8. AS 36.30.015(e) is amended to read:

(e) The boards of directors of the Alaska Railroad Corporation,
the Alaska Housing Finance Corporation, and the Alaska State Housing
Authority shall adopt procedures to govern the procurement of sup-
plies, services, professional services, and construction for [BY] the
respective public corporations [CORPORATION]. The procedures must

(1) reflect competitive bidding principles and provide
vendors reasonable and equitable opportunities to participate in the
procurement process; and

(2) include procurement methods to meet emergency and
extraordinary circumstances [BE SUBSTANTIALLY EQUIVALENT TO THE PROCE-
DURES PRESCRIBED IN THIS CHAPTER AND IN REGULATIONS ADOPTED UNDER THIS
CHAPTER].

* Sec. 9. AS 36.30.990(1) is amended to read:

(1) "agency"

(A) means a department, institution, board, commis-
sion, division, authority, public corporation, the Alaska Pio-
neers' Home, or other administrative unit of the executive branch
of state government;

(B) does not include

(i) [, EXCEPT FOR] the University of Alaska;

(ii) [,] the Alaska State Housing Authority;

(iii) the [AND] Alaska Railroad Corporation;

(iv) the Alaska Housing Finance Corporation;

(v) [IT DOES NOT INCLUDE] a regional Native
housing authority created under AS 13.55.996, or a regional
electrical authority created under AS 18.57.020;

* Sec. 10. AS 37.07 is amended by adding a new section to read:

& allows AHFC to use available money

1 Sec. 37.07.085. ALASKA HOUSING FINANCE CORPORATION BUDGET. (a)
2 Notwithstanding the provisions of AS 37.07.080(b), the Alaska Housing
3 Finance Corporation may, by resolution adopted by the board of direc-
4 tors, increase an item appropriated from corporation receipts if

5 (1) the board of directors determines that circumstances
6 require an increase in expenditures in excess of an existing appro-
7 priation made under the authority conferred by this chapter; and

8 (2) additional corporation receipts are available.

9 (b) Before the resolution required by (a) of this section takes
10 effect, the board of directors shall submit a revised program to the
11 governor for approval as provided in AS 37.07.080(d). A copy of the
12 revised program shall be submitted to the legislative budget and audit
13 committee.

14 (c) The increase authorized by (a) of this section may not
15 extend beyond the end of the fiscal year in which the resolution is
16 adopted.

17 * Sec. 11. LOAN AMOUNTS ELIGIBLE FOR ASSISTANCE FOR LOANS ISSUED UNDER
18 AS 18.56.098 DURING STATE FISCAL YEARS 1991 - 1993. For first and second
19 mortgage loans purchased by the Alaska Housing Finance Corporation from the
20 special mortgage loan purchase program and from qualified veterans' mort-
21 gage bonds

22 (1) after June 30, 1990, and before July 1, 1991, the loan
23 amount eligible for assistance under AS 18.56.098 is \$70,000;

24 (2) after June 30, 1991, and before July 1, 1992, the loan
25 amount eligible for assistance under AS 18.56.098 is \$50,000;

26 (3) after June 30, 1992, and before July 1, 1993, the loan
27 amount eligible for assistance under AS 18.56.098 is \$30,000.

28 * Sec. 12. Of the two additional public members appointed by the gover-
29 nor under AS 18.56.030(a), amended by sec. 1 of this Act, one member shall
30 CSSB 427(Rls)

1 serve a term of two years and one shall serve a term of one year. When
2 making the appointments, the governor shall specify the length of the term
3 of each person appointed.

4 * Sec. 13. Sections 2 and 4 of this Act take effect July 1, 1992.

5 * Sec. 14. Except for secs. 2 and 4 of this Act, this Act takes effect
6 July 1, 1990.
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MEMORANDUM

State of Alaska
Office of the Governor
Division of Policy

TO: Representative Swackhammer
House Finance Committee

DATE: March 20, 1990

FROM: *MARY* Mary Halloran
Director, Policy

PHONE: 465-3568

SUBJECT: AHFC: DIVIDEND POLICY
Comments from Bond Counsel

FILE NO:

In addition to the earlier comments already forwarded to you, here are comments on the proposed dividend policy from bond counsel Eric Wohlforth. Mr. Wohlforth makes several points:

(1) Dividend policy language needs to contain a provision that the dividend will not be paid unless AHFC is in compliance with all covenants and agreements with respect to its borrowings and after payment of the dividend will remain in compliance. This language was in an earlier version, but was dropped in the latest proposal by the subcommittee.

(2) Dividend policy language also needs to explicitly recognize that AHFC will not issue dividend income if it had no unrestricted net income for the prior fiscal year.

Mr. Wohlforth also endorses the proposed delayed effective date of a dividend policy.

Attachment

cc: Members, House Finance w/ attachment
Bob Mintz, AHFC

WOHLFORTH, ARGETSINGER, JOHNSON & BRECHT

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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JAMES A. SARAFIN
JAMES R. SZENDER
KENNETH E. VASSAR
ERIC E. WOHLFORTH

OF COUNSEL
ROGER G. CONNOR

OF COUNSEL

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SEATTLE, WASHINGTON 98104
TELEPHONE (206) 621-1818

M E M O R A N D U M

MAR 19 1990

**CARR-GOTTSLIEB
PROPERTIES**

TO: Representative Steve Rieger
Chairman, House Finance Sub-Committee
CSHB 462 (C&RA)

FROM: Wohlforth, Argetsinger, Johnson & Brecht

DATE: March 16, 1990

EEW

This memorandum is written responsive to Chairman Robert Mintz's request of March 14, 1990 for our comments on the proposed committee substitute dividend language. I attach a copy of Mr. Mintz's request and the proposed substitute. The previous draft contained a provision that the dividend would not be paid unless the Corporation was in compliance with all covenants and agreements with respect to its borrowings and after the dividend payment would remain in compliance. Addition of this language to the proposed substitute is important because, for example, the Corporation may have unrestricted net income in a particular year but may not be meeting equity maintenance requirements of bond covenants. It may be argued that the board would in such event establish, by resolution, that payment of no dividend is required to maintain the financial soundness of the Corporation. It is my view, however, that bondholders who did not expect this legislative change (whether rightly or wrongly) when they purchased bonds need objective assurances that income will not be diverted away from the Corporation at times when bond covenants and agreements may not be met. The other provisions of the prior draft stated that the Corporation could not dividend income if it had no unrestricted net income for the prior fiscal year. Again, although it might be assumed that the Corporation's Board of Directors would, in such event, determine that a lessor dividend or no dividend would be required to maintain the financial soundness of the Corporation, it is important that the objective criteria be maintained to assure bondholders and the rating services in public offering material of the exact circumstances when dividends will be paid.

Objective criteria will tend to give assurances that the Board would not in a given year be swayed by state

budgetary considerations to the detriment of the Corporation's bond programs.

I feel as well that a delay of the effective date of the Dividend statute would be a prudent and wise step. The Corporation is in the midst of very substantial financing programs as it attempts to deal with its REO inventory, maintain housing values and assist homeowners through its Homeowners' Assistance Program. An Official Statement just completed today required mention of the pendency of the legislative proposal to dividend income to the general fund. At the same time that the Corporation is proceeding with its financing plans, it has initiated litigation against MGIC. Credit enhancers and others are properly concerned about the affairs of the Corporation. These factors argue for a postponed effective date of this very significant change in State policy toward the Corporation.

EEW/jf

cc: Robert Mintz
Mark Cameron
Thomas Behan
Larry Pederson

March 14, 1990

^F1^

^F2^

^F3^

^F4^

^F5^

Re: Proposed AHFC Dividend Statute

Dear ^F6^:

Thank you for your analysis of the original proposed AHFC Dividend Statute. Your insights and observations helped focus the House Finance Committee's deliberations.

Enclosed find a copy of a revised Dividend Statute. This current proposal represents an apparent consensus reached at a recent House Finance Sub-Committee meeting. The Committee would greatly appreciate your taking the time to review this new proposal and, in light of your knowledge of AHFC and the capital markets, provide your comments at your earliest possible convenience. The committee would like to know your views on whether, and to what extent, the current proposal is better, worse, or no different than the previous dividend policy which you reviewed.

Also, there is talk of postponing the effective date of the Dividend Statute until 1994. How would such a delay affect your analysis?

Thank you in advance for your assistance.

Very truly yours,

/s/
Robert A. Mintz
Chairman
Board of Directors
Alaska Housing Finance Corporation
RAM/ms

3/14/90

The attached 2 pages were sent individually to:

John C. Moore/Shearson Lehman Hutton

JoAnne Kennedy/First Boston

Alfred B. Thatcher Jr./Bear Stearns

Maria DeRosa/Paine Webber, cc: Dennis Waldock

Eric Wohlforth/Wohlforth, Argetsinger, Johnson & Brecht

Mark Cameron/Alaska Housing Finance Corporation

bcc:

Senator Pat Rodey

Amendment
to: CSHB 462 (C & RA)

Page 2, line 12, insert a new section to read:

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

Sec 18.56.051 Dividend Policy. The corporation shall pay an annual dividend to the state general fund equal to at least fifty percent of the unrestricted net income, if any, of the corporation as determined under AS 18.56.089.

The dividend shall be paid within six months of the close of the fiscal year, unless the Board of Directors establishes by resolution that payment of a lesser dividend or no dividend is required to maintain the financial soundness of the corporation."

(renumber following sections accordingly)

R.R. 3-30-90

*Sec. 8. AS 36.30.015(e) is amended to read:

(e) The boards of directors of the Alaska Railroad Corporation, the Alaska Housing Finance Corporation, and the Alaska State Housing Authority shall adopt procedures to govern the procurement of supplies, services, professional services, and construction for [BY] the respective public corporations [CORPORATION]. The procedures must

(1) reflect competitive principles and provide vendors reasonable and equitable opportunities to participate in the procurement process;

(2) include procurement methods to meet emergency and extraordinary circumstances [BE SUBSTANTIALLY EQUIVALENT TO THE PROCEDURES PRESCRIBED IN THIS CHAPTER AND IN REGULATIONS ADOPTED UNDER THIS CHAPTER]; and

(3) for the Alaska Railroad Corporation also contain preferences for Alaska bidders and products which are substantially equivalent to the preferences prescribed in A.S. 36.30.170(b)^{36.50.250(b)} and 36.30.322 - .338, except that the preferences will not apply to procurements of railroad equipment, parts, supplies, and services.

9664L

*Sec. 8. AS 36.30.015(e) is amended to read:

(e) The boards of directors of the Alaska Railroad Corporation, the Alaska Housing Finance Corporation, and the Alaska State Housing Authority shall adopt procedures to govern the procurement of supplies, services, professional services, and construction for [BY] the respective public corporations [CORPORATION]. The procedures must

(1) reflect competitive principles and provide vendors reasonable and equitable opportunities to participate in the procurement process;

(2) include procurement methods to meet emergency and extraordinary circumstances [BE SUBSTANTIALLY EQUIVALENT TO THE PROCEDURES PRESCRIBED IN THIS CHAPTER AND IN REGULATIONS ADOPTED UNDER THIS CHAPTER; and

(3) include preferences for Alaska bidders and products which are substantially equivalent to the preferences prescribed in A.S. 36.30.170(b), 36.30.250(b), and 36.30.322 - .338, except that the preferences will not apply to procurements of railroad equipment, parts, and supplies, that are produced or manufactured outside the state and are not Alaska products as defined in A.S. 36.30.338.(1).

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. SZYMANSKI

TO: CSSB 427 (Finance)

Page 7, after line 4:

Insert

"(1) comply with requirements of AS 36.30.170;"

Renumber the following paragraphs accordingly.

Original sponsor(s): Rules/Housing Finance Task Force

IN THE SENATE

BY THE RULES COMMITTEE

CS FOR SENATE BILL NO. 427 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to program and administration requirements of certain state corporations; expanding the number of directors of the Alaska Housing Finance Corporation; exempting the Alaska Housing Finance Corporation from the State Procurement Code and allowing the corporation to expend additional corporation receipts immediately after submission of a revised program to the Legislative Budget and Audit Committee; amending the corporation's special mortgage loan purchase program and progressively reducing the maximum level of loan amounts eligible for a reduction under a mortgage loan subsidy; amending the corporation's mortgage loan subsidy program for persons of lower and moderate income; and relating to procurement practices of certain state corporations; and providing for an effective date."

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

* Section 1. AS 18.56.030(a) is amended to read:

(a) The corporation shall be governed by a board of directors consisting of

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

(2) one other member who is the head of a [THE] principal department of the executive branch of state government appointed by

1 the governor; and

2 (3) four [TWO] public members appointed by the governor,
3 one of whom shall be a representative of the financial community and
4 one of whom shall be a person licensed as a real estate broker under
5 AS 08.88.171(a).

6 * Sec. 2. AS 18.56.091 is amended by adding a new subsection to read:

7 (b) Notwithstanding (a) of this section, the loan amount eligi-
8 ble for assistance under the subsidy authorized by (a) of this section
9 is the amount determined under AS 18.56.098(f).

10 * Sec. 3. AS 18.56.098(f) is amended to read:

11 (f) In this section and in AS 18.56.099

12 (1) "graduated payment mortgage loan" means a mortgage loan
13 the terms of which provide for monthly principal and interest payments
14 that

15 (A) during the first year of the mortgage loan are
16 lower than the monthly principal and interest payments that would
17 be required under the terms of a level payment mortgage loan made
18 at the same interest rate; and

19 (B) during subsequent years of the mortgage loan are
20 graduated to provide for the same return over the term of the
21 loan that would have been provided by a level payment mortgage
22 loan made at the same interest rate;

23 (2) "loan amount eligible for assistance" means the amount
24 of a mortgage loan that does not exceed the amount of the loan estab-
25 lished by law; if an amount has not been established by law, the
26 amount is zero;

27 (3) "mortgage loan" includes a beneficial interest or
28 participation in a mortgage loan; [(3) REPEALED]

29 (4) "residence" means

1 (A) an owner-occupied, single-family residence, in-
2 cluding a mobile home; [,] or

3 (B) an owner-occupied duplex, triplex, or fourplex.

4 * Sec. 4. AS 18.56.098(f) is repealed and reenacted to read:

5 (f) In this section and in AS 18.56.091 and 18.56.099

6 (1) "graduated payment mortgage loan" means a mortgage loan
7 the terms of which provide for monthly principal and interest payments
8 that

9 (A) during the first year of the mortgage loan are
10 lower than the monthly principal and interest payments that would
11 be required under the terms of a level payment mortgage loan made
12 at the same interest rate; and

13 (B) during subsequent years of the mortgage loan are
14 graduated to provide for the same return over the term of the
15 loan that would have been provided by a level payment mortgage
16 loan made at the same interest rate;

17 (2) "loan amount eligible for assistance" means

18 (A) the first \$50,000 of a mortgage loan for persons
19 of lower or moderate income whose purchase of a home is assisted
20 under AS 18.56.091; or

21 (B) except as to persons whose purchase of a home is
22 assisted under AS 18.56.091, the amount of a mortgage loan that
23 does not exceed the amount of the loan established by law; if an
24 amount has not been established by law, the amount is zero;

25 (3) "mortgage loan" includes a beneficial interest or
26 participation in a mortgage loan;

27 (4) "residence" means

28 (A) an owner-occupied, single-family residence, in-
29 cluding a mobile home; or

(B) an owner-occupied duplex, triplex, or fourplex.

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

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

(1) The interest rate on the loan amount eligible for assistance [FIRST \$90,000] 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.

(2) An interest rate determined under this subsection on the loan amount eligible for assistance [FIRST \$90,000] of a mortgage loan that is not purchased from the proceeds of bonds that are qualified veterans' mortgage bonds under the applicable provisions of 26 U.S.C. (Internal Revenue Code) [26 U.S.C. 103A (MORTGAGE SUBSIDY BOND TAX ACT OF 1980), AS AMENDED,] shall be reduced by one percentage point if the loan is made to an eligible veteran under AS 18.56.101.

(3) The interest rate for the amount of a mortgage loan purchased under (a) of this section that exceeds the loan amount eligible for assistance [\$90,000] is equal to the cost of funds to the corporation attributable to that part of the loan.

(4) The interest rate on the loan amount eligible for assistance [FIRST \$90,000] of a mortgage loan purchased with money that is not the proceeds of either taxable or tax-exempt bonds is the rate the corporation determines is appropriate by application of the provision of (1) of this subsection.

1 (5) The interest rate on the loan amount eligible for
2 assistance [FIRST \$90,000] of a mortgage loan purchased from the
3 proceeds of bonds that are exempt from taxation other than bonds that
4 constitute qualified veterans' bonds under (1) of this section, is
5 equal to the interest rate determined under (1) and (2) of this sub-
6 section on a loan purchased under (a) of this section from the pro-
7 ceeds of the most recent applicable issue of taxable bonds sold by the
8 corporation. A higher or lower interest rate shall be established on
9 the entire loan amount if required to ensure the tax-exempt status of
10 the bonds.

11 (6) The corporation shall determine the interest rate on a
12 mortgage loan that is an adjustable rate mortgage loan as provided in
13 this subsection. The corporation shall recalculate the interest rate
14 from time to time based on changes in the cost to the corporation of
15 the funds used to purchase the adjustable rate mortgage loan. How-
16 ever, the corporation may establish a minimum interest rate applicable
17 to an adjustable rate mortgage loan, and the interest rate on the
18 adjustable rate mortgage loan may not be less than the minimum inter-
19 est rate so established regardless of the cost of funds to the corpo-
20 ration.

21 (7) For loans made under this section, the corporation
22 shall give effect to interest rate changes applicable to the loans
23 based on time of loan application, time of issuance of the corpora-
24 tion's bonds issued to purchase loans, or other factors as the corpora-
25 tion determines.

26 (8) [(7)] In this subsection

27 (A) "cost of funds" means the true interest cost
28 expressed as a rate on bonds of the corporation plus an addi-
29 tional percentage as determined by the corporation to represent

1 the allocable expenses of operation, costs of issuance, and
2 mortgage servicing;

3 (B) "taxable bonds" means bonds bearing interest that
4 is taxable under applicable provisions of 26 U.S.C. (Internal
5 Revenue Code) and which were [26 U.S.C. 103A (MORTGAGE SUBSIDY
6 BOND TAX ACT OF 1980)] issued to finance the purchase of first
7 mortgage loans.

8 * Sec. 6. AS 13.56.098(h) is amended to read:

9 (h) The corporation shall establish the interest rate on a
10 second mortgage loan purchased under (a) of this section in the manner
11 established for computing the interest rates on a first mortgage loan
12 under (g) of this section except that, in the case of a second mort-
13 gage loan, if the first mortgage loan made to the same borrower is
14 held by the corporation and was purchased under the special mortgage
15 loan purchase program, the outstanding principal balance of the exist-
16 ing first mortgage loan is subtracted from the loan amount eligible
17 for assistance [\$90,000] to determine the amount of the loan that is
18 eligible for an interest rate on a second mortgage loan determined by
19 reference to (g) of this section.

20 * Sec. 7. AS 13.56.098(i) is amended to read:

21 (i) The interest rate on the loan amount eligible for assistance
22 [FIRST \$90,000] of a mortgage loan purchased from the proceeds of
23 bonds that constitute qualified veterans' mortgage bonds under appli-
24 cable provisions of 26 U.S.C. (Internal Revenue Code) is [26 U.S.C.
25 103A (MORTGAGE SUBSIDY BOND TAX ACT OF 1980) AS AMENDED, IS THE GREAT-
26 ER OF (1) FOUR PERCENT LESS THAN THE COST OF FUNDS OR (2) the rate
27 for other loans to veterans under (g)(2) of this section [AS 13.56.-
28 098(g)(3)]. A higher or lower interest rate shall be established on
29 the entire loan amount if required by applicable provisions of 26

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1 U.S.C. (Internal Revenue Code) [UNDER 26 U.S.C. 103A].

2 * Sec. 8. AS 36.30.015(e) is amended to read:

3 (e) The boards of directors of the Alaska Railroad Corporation,
4 the Alaska Housing Finance Corporation, and the Alaska State Housing
5 Authority shall adopt procedures to govern the procurement of sup-
6 plies, services, professional services, and construction for [BY] the
7 respective public corporations [CORPORATION]. The procedures must

8 (1) reflect competitive bidding principles and provide
9 vendors reasonable and equitable opportunities to participate in the
10 procurement process; and

11 (2) include procurement methods to meet emergency and
12 extraordinary circumstances [BE SUBSTANTIALLY EQUIVALENT TO THE PROCE-
13 DURES PRESCRIBED IN THIS CHAPTER AND IN REGULATIONS ADOPTED UNDER THIS
14 CHAPTER].

15 * Sec. 9. AS 36.30.990(1) is amended to read:

16 (1) "agency"

17 (A) means a department, institution, board, commis-
18 sion, division, authority, public corporation, the Alaska Pio-
19 neers' Home, or other administrative unit of the executive branch
20 of state government;

21 (B) does not include

22 (i) [, EXCEPT FOR] the University of Alaska;

23 (ii) [,] the Alaska State Housing Authority;

24 (iii) the [AND] Alaska Railroad Corporation;

25 (iv) the Alaska Housing Finance Corporation;

26 (v) [IT DOES NOT INCLUDE] a regional Native
27 housing authority created under AS 13.55.996, or a regional
28 electrical authority created under AS 13.57.020;

29 * Sec. 10. AS 37.07 is amended by adding a new section to read:

1 Sec. 37.07.085. ALASKA HOUSING FINANCE CORPORATION BUDGET. (a)
2 Notwithstanding the provisions of AS 37.07.030(h), the Alaska Housing
3 Finance Corporation may, by resolution adopted by the board of direc-
4 tors, increase an item appropriated from corporation receipts if

5 (1) the board of directors determines that circumstances
6 require an increase in expenditures in excess of an existing appro-
7 priation made under the authority conferred by this chapter; and

8 (2) additional corporation receipts are available.

9 (b) Before the resolution required by (a) of this section takes
10 effect, the board of directors shall submit a revised program to the
11 governor for approval as provided in AS 37.07.080(d). A copy of the
12 revised program shall be submitted to the legislative budget and audit
13 committee.

14 (c) The increase authorized by (a) of this section may not
15 extend beyond the end of the fiscal year in which the resolution is
16 adopted.

17 * Sec. 11. LOAN AMOUNTS ELIGIBLE FOR ASSISTANCE FOR LOANS ISSUED UNDER
18 AS 18.56.098 DURING STATE FISCAL YEARS 1991 - 1993. For first and second
19 mortgage loans purchased by the Alaska Housing Finance Corporation from the
20 special mortgage loan purchase program and from qualified veterans' mort-
21 gage bonds

22 (1) after June 30, 1990, and before July 1, 1991, the loan
23 amount eligible for assistance under AS 18.56.098 is \$70,000;

24 (2) after June 30, 1991, and before July 1, 1992, the loan
25 amount eligible for assistance under AS 18.56.098 is \$50,000;

26 (3) after June 30, 1992, and before July 1, 1993, the loan
27 amount eligible for assistance under AS 18.56.098 is \$30,000.

28 * Sec. 12. Of the two additional public members appointed by the gover-
29 nor under AS 18.56.030(a), amended by sec. 1 of this Act, one member shall

1 serve a term of two years and one shall serve a term of one year. When
2 making the appointments, the governor shall specify the length of the term
3 of each person appointed.

4 * Sec. 13. Sections 2 and 4 of this Act take effect July 1, 1992.

5 * Sec. 14. Except for secs. 2 and 4 of this Act, this Act takes effect
6 July 1, 1990.
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A M E N D M E N T *2*

OFFERED IN THE SENATE

BY SEN. SZYMANSKI
SEN. PEARCE

TO: CSSB 427 (Rules)

Page 7, after line 4:

Insert

"(1) comply with requirements of AS 36.30.170:"

Renumber the following paragraphs accordingly.

NOTE: The purpose of this amendment is to insure that the Alaska Bidder Preference of 5% and the Alaska Products Preference be applicable to the Alaska Railroad and AHFC.

*Please do
Sectional
Analysis
on
S.B. 427*

#1
A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. FAIKS

TO: CSSB 427(Rules)

Page 7, line 10, after "process;":

Delete "and"

Page 7, line 12, after "circumstances":

Insert "; and

(3) include preferences for Alaska bidders and products that are substantially equivalent to the preferences prescribed in AS 36.30.170(b), 36.30.250(b), and 36.30.322 - 36.30.338, except that the preferences are not applicable to procurements of railroad equipment, parts, and supplies that are produced or manufactured outside the state and are not Alaska products as defined in AS 36.30.338(1)"

FAIKS

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. FAIKS

TO: CSSB 427(Rules)

Page 7, line 10, after "process,":

Delete "and"

Page 7, line 12, after "circumstances":

Insert "; and

(3) include preferences for Alaska bidders and products that are substantially equivalent to the preferences prescribed in AS 36.30.170 b), 36.30.250(b), and 36.30.322 - 36.30.338, except that the preferences are not applicable to procurements of railroad equipment, parts, and supplies that are produced or manufactured outside the state and are not Alaska products as defined in AS 36.30.338(1)"

Baldwin language, to be
Offered by Faiks —
if necessary —
Sen. Faiks would rather
leave bill as it is —
ATFC + P.R. "OK" 14.

R.R. 3-30-90

*Sec. 8. AS 36.30.015(e) is amended to read:

(e) The boards of directors of the Alaska Railroad Corporation, the Alaska Housing Finance Corporation, and the Alaska State Housing Authority shall adopt procedures to govern the procurement of supplies, services, professional services, and construction for [BY] the respective public corporations [CORPORATION]. The procedures must

(1) reflect competitive principles and provide vendors reasonable and equitable opportunities to participate in the procurement process;

(2) include procurement methods to meet emergency and extraordinary circumstances [BE SUBSTANTIALLY EQUIVALENT TO THE PROCEDURES PRESCRIBED IN THIS CHAPTER AND IN REGULATIONS ADOPTED UNDER THIS CHAPTER]; and

(3) for the Alaska Railroad Corporation also contain preferences for Alaska bidders and products which are substantially equivalent to the preferences prescribed in A.S. 36.30.170(b)^{36.30.250(b)} and 36.30.322 - .338, except that the preferences will not apply to procurements of railroad equipment, parts, supplies, and services.

9664L

*Railroad
proposal*

~~PROPOSED LANGUAGE~~

*Sec. 8. AS 36.30.015(e) is amended to read:

(e) The boards of directors of the Alaska Railroad Corporation, the Alaska Housing Finance Corporation, and the Alaska State Housing Authority shall adopt procedures to govern the procurement of supplies, services, professional services, and construction for [BY] the respective public corporations [CORPORATION]. The procedures must

(1) reflect competitive principles and provide vendors reasonable and equitable opportunities to participate in the procurement process;

(2) include procurement methods to meet emergency and extraordinary circumstances [BE SUBSTANTIALLY EQUIVALENT TO THE PROCEDURES PRESCRIBED IN THIS CHAPTER AND IN REGULATIONS ADOPTED UNDER THIS CHAPTER; and

(3) include preferences for Alaska bidders and products which are substantially equivalent to the preferences prescribed in A.S. 36.30.170(b), 36.30.250(b), and 36.30.322 - .338, except that the preferences will not apply to procurements of railroad equipment, parts, and supplies, that are produced or manufactured outside the state and are not Alaska products as defined in A.S. 36.30.338.(1).

Baldwin - modification of Railroad proposal

THIS
LANGUAGE
IN Rules
Version

~~NOT~~
IN
Rules
Version

PEMCC

A M E N D M E N T

To: CSSB 427(fin)

Page 7, line 7: delete "and"

Page 7, between lines 11 and 12: insert the following new material to read:

"(3) grant preferences that are substantially similar to the resident and product preferences authorized by AS 36.30.170(b), AS 36.30.250(b) and AS 36.30.322 - 36.30.338. "

EFFECT OF AMENDMENT:

This amendment would require the ARRC, ASHA, and AHFC to adopt procurement procedures embodying the Alaska bidder's preference and the Alaska product preference set out in existing law and regulations.

Sen. Peace MAY offer this
AMENDMENT.

AHFC IS OPPOSED —

A.R. is opposed —

BY SEN. SZYMANSKI

TO: CSSB 427 (Finance)

Insert

"(1) comply with requirements of AS 36.30.170;"

Renumber the following paragraphs accordingly.

I don't know if Mike will offer this amendment or not, but Bob (AAFC) says "they can live with it."

Rail Road apposed

14.

Effect of amendments. — The 1989 amendment, effective September 10, 1989, rewrote the second sentence of subsection (b).

Sec. 36.30.170. Contract award after bids. (a) Except as provided in (b), (c), and (d) of this section, the procurement officer shall award a contract based on the solicited bids with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set out in the invitation to bid.

(b) The procurement officer shall award a contract based on solicited bids to the lowest responsive and responsible bidder after an Alaska bidder preference of five percent and an Alaska products preference as described in AS 36.30.322 — 36.30.338 have been applied. In this subsection, "Alaska bidder" means a person who

(1) holds a current Alaska business license;

(2) submits a bid for goods, services, or construction under the name as appearing on the person's current Alaska business license;

(3) has maintained a place of business within the state staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid;

(4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship, and the proprietor is a resident of the state or is a partnership, and all partners are residents of the state; and

(5) if a joint venture, is composed entirely of ventures that qualify under (1) — (4) of this subsection.

(c) If a bidder qualifies under (b) of this section as an Alaska bidder, is offering services through an employment program, and is the lowest responsible and responsive bidder with a bid that is not more than 10 percent higher than the lowest bid of a nonresident, the procurement officer shall award the contract to that bidder.

(d) The procurement officer shall award an insurance-related contract based on solicited bids to the lowest responsive and responsible bidder after an Alaska bidder preference of five percent. In this subsection, "Alaska bidder" means a person who meets the criteria set out in (b)(1) — (5) of this section and who is an Alaska domestic insurer. (§ 2 ch 106 SLA 1986; am §§ 7 — 9 ch 65 SLA 1987; am § 6 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, deleted "as defined under AS 36.30.100(c)" following "employment program" in subsection (c).

(e) The offeror must have a valid Alaska business license at the time designated, in the request for proposals, for opening of the proposals. (§ 2 ch 106 SLA 1986; am § 10 ch 65 SLA 1987; am §§ 7, 8 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, in subsection (a), rewrote the second sentence and, in the third sentence, substi-

tuted "must" for "shall" and inserted "the work to be subcontracted to each subcontractor"; and added subsection (e)."

Sec. 36.30.250. Award of contract. (a) The procurement officer shall award a contract under competitive sealed proposals to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the state taking into consideration price and the evaluation factors set out in the request for proposals. Other factors and criteria may not be used in the evaluation. The contract file must contain the basis on which the award is made.

(b) In determining whether a proposal is advantageous to the state, the procurement officer shall take into account, in accordance with regulations of the commissioner, whether the offeror qualifies as an Alaska bidder under AS 36.30.170(b) or is offering the service of an employment program. (§ 2 ch 106 SLA 1986; am § 9 ch 102-SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989,

deleted "as defined in AS 36.30.100(c)" at the end of subsection (b).

Sec. 36.30.265. Multi-step sealed proposals. When it is considered impractical to initially prepare a definitive purchase description to support an award based on listed selection criteria, the procurement officer may issue an expression of interest requesting the submission of unpriced technical offers, and then later issue a request for proposals limited to the offerors whose offers are determined to be technically qualified under the criteria set out in the expression of interest. (§ 10 ch 102 SLA 1989)

Effective dates. — Chapter 102, SLA 1989, which enacted this section, took effect on September 10, 1989.

Article 4. Other Procurement Methods.

Section

300. Sole source procurements

305. Limited competition procurements

Section

320. Small procurements

- (1) for a Class I designated Alaska product — four percent;
 - (2) for a Class II designated Alaska product — six percent;
 - (3) for a Class III designated Alaska product — eight percent;
- (b) A person is not a responsible bidder or offeror if, in the preceding three years, the person has twice designated the use of an Alaska product in a bid or proposal for a procurement for an agency and has each time failed to use the designated Alaska product for reasons within the control of the bidder or offeror.

(c) The procurement officer shall report to the commissioner of commerce and economic development each contractor penalized under (a) of this section. The commissioner of commerce and economic development shall maintain a list of contractors determined not to be responsible bidders under (b) of this section. (§ 2 ch 106 SLA 1986)

Sec. 36.30.332. Classification of Alaska products. (a) The commissioner of commerce and economic development shall adopt regulations establishing the value added in the state for materials and supplies produced or manufactured in the state that are used in a state procurement and shall publish a list of the products annually. A supplier may request inclusion of its product on the appropriate list.

(b) Materials and supplies with value added in the state that are

- (1) more than 25 percent and less than 50 percent produced or manufactured in the state are Class I products;

- (2) 50 percent or more and less than 75 percent produced or manufactured in the state are Class II products; and

- (3) 75 percent or more produced or manufactured in the state are Class III products.

(c) In a bid or proposal evaluation a

- (1) Class I product is given a three percent preference;

- (2) Class II product is given a five percent preference;

- (3) Class III product is given a seven percent preference. (§ 2 ch 106 SLA 1986; am § 15 ch 65 SLA 1987)

Effect of amendments. — The 1987 amendment, effective January 1, 1988, in subsection (b) in paragraphs (1) and (2) substituted "produced or manufactured in the state are" for "of the manufacturer's

quoted price is a" and "products" for "product" and in paragraph (3) substituted "producer or manufactured in the state are" for "of a manufacturer's quoted price is a" and "products" for "product."

Sec. 36.30.334. Identification of Alaska products. An agency may identify specific Alaska products for use in making a procurement. (§ 2 ch 106 SLA 1986)

Sec. 36.30.338. Definitions. In AS 36.30.322 -- 36.30.338

(1) "Alaska product" means a product of which not less than 25 percent of the value, as determined in accordance with regulations adopted under AS 36.30.332(a), has been added by manufacturing or production in the state;

(2) "produced or manufactured" means processing, developing, or making an item into a new item with a distinct character and use through the application within the state of materials, labor, skill, or other services;

(3) "product" means materials or supplies but does not include gravel and asphalt;

(4) "recycled Alaska product" means an Alaska product of which not less than 50 percent of the value of the product consists of a product that was previously used in another product, if the recycling process is done in the state. (§ 2 ch 106 SLA 1986; am § 17 ch 65 SLA 1987; am § 6 ch 63 SLA 1988)

Effect of amendments. — The 1988 amendment added paragraph (4).

Article 6. Contract Formation and Modification.

Section

360. Determination of responsibility

Section

362. Determination to award a contract to a nonresident

Sec. 36.30.360. Determination of responsibility. (a) A written determination of nonresponsibility of a bidder or offeror shall be made by the procurement officer in accordance with regulations adopted by the commissioner. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination of nonresponsibility with respect to the bidder or offeror.

(b) Information furnished by a bidder or offeror under (a) of this section is confidential and may not be disclosed without prior written consent by the bidder or offeror. (§ 2 ch 106 SLA 1986; am § 14 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, substituted "nonresponsibility" for "responsibility" in the first sentence in subsection (a).

Sec. 36.30.362. Determination to award a contract to a non-resident. Except for awards made under AS 36.30.170, if the procurement officer awards a contract to a person who does not reside or maintain a place of business in the state and if the supplies, services, professional services, or construction that is the subject of the contract could have been obtained from sources in the state, the procurement officer shall issue a written statement explaining the basis of the award. The statement required under this section shall be kept in the contract file. (§ 2 ch 106 SLA 1986; am § 15 ch 102 SLA 1989)

To: BOB SULLIVAN
AHFC

From: MAX

BSN:1018

ALASKA SENATE
HCS CSSB 427 FIN AM H R

2ND SESSION 16 LEG

4/23/90 11:24 AM

	13 YEAS	7 NAYS	0 EXC	0 ABS	
N ADAMS		N FISCHER			Y POURCHOT
N BINKLEY		Y FRANK			Y RODEY
N COGHILL		N HALFORD			Y STURGULEWSKI
Y DUNCAN		Y JONES			Y SZYMANSKI
N ELIASON		Y KELLY			Y UEHLING
N FAHRENKAMP		Y KERTTULA			Y ZHAROFF
Y FAIKS		Y PEARCE			

+ VOTED FOR
* CHANGED VOTE

Finally!

BSN:1019

ALASKA SENATE
HCS CSSB 427 FIN AM H E

2ND SESSION 16 LEG

4/23/90 11:25 AM

		19 YEAS	1 NAYS	0 EXC	0 ABS		
Y	ADAMS		Y	FISCHER		Y	POURCHOT
Y	BINKLEY		Y	FRANK		Y	RODEY
N	COGHILL		Y	HALFORD		Y	STURGULEWSKI
Y	DUNCAN		Y	JONES		Y	SZYMANSKI
Y	ELIASON		Y	KELLY		Y	UEHLING
Y	FAHRENKAMP		Y	KERTTULA		Y	ZHAROFF
Y	FAIKS		Y	PEARCE			

+ VOTED FOR

* CHANGED VOTE

BSN:1017

ALASKA SENATE
HCS CSSB 427 FIN AM H C

2ND SESSION 16 LEG

4/23/90 11:16 AM

	10 YEAS	5 NAYS	0 EXC	5 ABS	
A ADAMS		N FISCHER			N POURCHOT
A BINKLEY		A FRANK			Y RODEY
N COGHILL		N HALFORD			Y STURGULEWSKI
A DUNCAN		Y JONES			Y SZYMANSKI
N ELIASON		Y KELLY			Y A UEHLING
Y FAHRENKAMP		Y KERTTULA			Y ZHAROFF
Y FAIKS		Y PEARCE			

+ VOTED FOR

* CHANGED VOTE

AHFC: Phase out subsidy

Director counters sudden-elimination recommendation

By JACQUES PICARD
Times Writer

The subsidy of home mortgages by the Alaska Housing Finance Corporation should be phased-out over the next five years, rather than eliminated immediately, said Thomas Behan, executive director of AHFC.

Behan's statement was a response to a report by Ernst & Young which recommended prompt elimination of the subsidies during a "unique window of opportunity" that presently exists.

When AHFC's cost of mortgage loan funds rise above 10 percent, AHFC currently subsidizes the interest rate to borrowers by up to three percentage points.

However, AHFC's cost of funds is generally below 10 percent at this time, and demand for mortgages is

low, noted the Ernst & Young report in its recommendation for elimination of the subsidy.

Behan said that the subsidy should be phased-out by lowering the amount of a loan eligible for a sub-



Thomas Behan

ably extract the subsidy from the marketplace and would best protect

sidy by \$20,000 each year from the current \$80,000 limit.

"We believe this approach would more reason-

both AHFC and Alaska's residential real estate market from a high interest rate cycle while providing the most benefit to low-to-moderate income homebuyers," Behan said.

AHFC fears the real estate buyers might get "cold feet" from the sudden elimination of the subsidy, resulting in lower prices and slower sales, said Margaret Nelson, AHFC spokeswoman.

"I think every Alaskan is concerned about buying (a home) knowing that one day they will be a seller," Behan said. Potential buyers will have greater confidence if they know that financing will be available when they want to sell, he said.

AHFC constitutes a large portion of the market, Nelson said, holding two-thirds of mortgage loans in the

See AHFC, page C-3

AHFC: Home mortgage subsidy phase-out

Continued from page C-1

state and 4,000 foreclosed properties for sale and issuing 60 percent of all mortgage loans.

"We want any changes to be gradual," said Nelson.

As the loan subsidy is phased out, Behan expects that demand for mortgage loans through AHFC also will drop. Borrowers will then turn to banks and federal loan programs.

However, Behan does not want to eliminate AHFC's ability to provide unsubsidized loans, in case other sources of loans are not readily available in the future.

Behan also wants to replace the Home Ownership Fund, or HOF program, which provides mortgage payment subsidies based on a borrower's income. "We don't think it's a very good program," he said.

Behan would like AHFC to be

able to subsidize mortgage loans up to \$50,000 by up to three percentage points, based on the borrower's income. Once such a program were in place, the HOF program would be eliminated.

Such a program would be consistent with the Ernst & Young report's recommendation that AHFC's role be refocused on supporting housing for low-and-moderate income Alaskans, Behan said.

A subsidy of smaller mort-

gages based on income also would help "shore up" the condominium market over the long-term, Behan said.

Although AHFC is an independent, state-owned agency, changes in AHFC programs must be made by the legislature.

The Alaska Legislature's Housing Finance Task Force intends to introduce legislation to change AHFC programs by Jan. 31, said Rep. C.E. Swackhammer, R-Soldotna.

POSITION PAPER

.....

2/26/90

RE: SB 427

**REGARDING AHFC EXEMPTION FROM EXECUTIVE BUDGET ACT
AND STATE PROCUREMENT CODE**

Alaska Housing Finance Corporation firmly embraces measures in the proposed legislation which will, if enacted, exempt the Corporation from the Executive Budget Act and the State Procurement Code.

In seeking these exemptions, it is not the intent of AHFC to dodge accountability to the state government. To the contrary, these measures will place accountability with the Corporation's Board of Directors, each of whom is appointed by and accountable to the Governor.

In their report to the Housing Finance Task Force, Ernst and Young stated that "exemption [from the Executive Budget Act] would allow AHFC to respond more quickly to its staffing needs, and operate more efficiently as a result."

In governmental accounting terminology, AHFC is an "enterprise fund" of the State of Alaska. Designation as an enterprise fund is appropriate where the operations of the governmental entity are expected to be supported primarily by those whom services (mortgage loans) are to be provided. Generally, it is recognized that an enterprise must adopt a "business budget" approach as opposed to strict dollar limit caps. The business budget approach takes a variety of internal and external (market) factors into consideration to develop a budget required to be approved by the AHFC board of directors. Under a business budget, the Corporation retains accountability while it gains the ability to respond quickly to changing market conditions and constituent needs.

Exemption from the Executive Budget Act (also recommended in the Ernst and Young report) would similarly afford the Corporation the ability to respond in a timely and cost-effective manner to changing market demands. Under this measure, the Corporation would develop and implement a separate procurement code, which, while upholding the letter of the law, would eliminate wasteful time lags which result from the logistics of distance from Juneau as well as the bureaucratic process inherent in state government.

The effect of these delays can be illustrated with the example of the Corporation's experience in procuring signage for its foreclosed properties. In August, 1989, AHFC requested authorization to purchase 5500 property signs locally. After a 30-day decision process, this request was denied. Ultimately, the contract was split between two suppliers (one of which was a non-profit organization) and awarded in October, 1989. Signs began arriving at AHFC in Anchorage in mid-November, but shipment was not complete until late January. Had the authorization been issued in August to purchase locally, the entire order could have been delivered and in the hands of

brokers within 45 days. This loss of time not only effects the marketability of AHFC's foreclosed properties, but also costs extra staff resources to negotiate and supervise the order.

In another recent procurement experience, a software order was so delayed that by the time it received final approval, the software specified was obsolete and no longer available from the vendor. Another entire process must be begun for the new software version. Productive time lost due to lack of proper software: 5 months.

Exemption from the procurement code will not absolve AHFC from accountability. Any proprietary AHFC procurement code will incorporate the same high standards for fair competition and equal opportunity as the state code. However, a proprietary code will afford the Corporation the ability to acquire needed resources quickly, therefore enhancing the level of service provided to the public and conserving public funds in the process.



Official Business

Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811

3-27-90

To: Bob Sullivan

From: MAX
B + E. D.

Your (AHFC) REACTION to
this "bidder preference"
language — A.S.A.P.
465.3793

MAX

A M E N D M E N T

To: CSSB 427(fin)

Page 7, line 7: delete "and"

Page 7, between lines 11 and 12: insert the following new material to read:

"(3) grant preferences that are substantially similar to the resident and product preferences authorized by AS 36.30.170(b), AS 36.30.250(b) and AS 36.30.322 - 36.30.338. "

EFFECT OF AMENDMENT:

This amendment would require the ARRC, ASHA, and AHFC to adopt procurement procedures embodying the Alaska bidder's preference and the Alaska product preference set out in existing law and regulations.

NO

Original sponsor(s): Rules/Housing Finance Task Force

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 427 (2d Finance)

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 program and administration re-
7 quirements of certain state corporations; expanding
8 the number of directors of the Alaska Housing Finance
9 Corporation; exempting the Alaska Housing Finance
10 Corporation from the State Procurement Code and
11 making an exception for the corporation under the
12 Executive Budget Act; amending the corporation's
13 special mortgage loan purchase program and progres-
14 sively reducing the maximum level of loan amounts
15 eligible for a reduction under a mortgage loan sub-
16 sidy; amending the corporation's mortgage loan sub-
17 sidy program for persons of lower and moderate in-
18 come; and relating to procurement practices of cer-
19 tain state corporations; and providing for an effec-
20 tive date."

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

22 * Section 1. AS 18.56.030(a) is amended to read:

23 (a) The corporation shall be governed by a board of directors
24 consisting of

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

27 (2) one other member who is the head of a [THE] principal
28 department of the executive branch of state government appointed by
29 the governor; and

1 (3) four [TWO] public members appointed by the governor,
2 one of whom shall be a representative of the financial community and
3 one of whom shall be a person licensed as a real estate broker under
4 AS 08.88.171(a).

5 * Sec. 2. AS 18.56.091 is amended by adding a new subsection to read:

6 (b) Notwithstanding (a) of this section, the loan amount eligi-
7 ble for assistance under the subsidy authorized by (a) of this section
8 is the amount determined under AS 18.56.098(f).

9 * Sec. 3. AS 18.56.098(f) is amended to read:

10 (f) In this section and in AS 18.56.099

11 (1) "graduated payment mortgage loan" means a mortgage loan
12 the terms of which provide for monthly principal and interest payments
13 that

14 (A) during the first year of the mortgage loan are
15 lower than the monthly principal and interest payments that would
16 be required under the terms of a level payment mortgage loan made
17 at the same interest rate; and

18 (B) during subsequent years of the mortgage loan are
19 graduated to provide for the same return over the term of the
20 loan that would have been provided by a level payment mortgage
21 loan made at the same interest rate;

22 (2) "loan amount eligible for assistance" means the amount
23 of a mortgage loan that does not exceed the amount of the loan estab-
24 lished by law; if an amount has not been established by law, the
25 amount is zero;

26 (3) "mortgage loan" includes a beneficial interest or
27 participation in a mortgage loan; [(3) REPEALED]

28 (4) "residence" means

29 (A) an owner-occupied, single-family residence,

1 including a mobile home; [,] or

2 (B) an owner-occupied duplex, triplex, or fourplex.

3 * Sec. 4. AS 18.56.098(f) is repealed and reenacted to read:

4 (f) In this section and in AS 18.56.091 and 18.56.099

5 (1) "graduated payment mortgage loan" means a mortgage loan
6 the terms of which provide for monthly principal and interest payments
7 that

8 (A) during the first year of the mortgage loan are
9 lower than the monthly principal and interest payments that would
10 be required under the terms of a level payment mortgage loan made
11 at the same interest rate; and

12 (B) during subsequent years of the mortgage loan are
13 graduated to provide for the same return over the term of the
14 loan that would have been provided by a level payment mortgage
15 loan made at the same interest rate;

16 (2) "loan amount eligible for assistance" means

17 (A) the first \$50,000 of a mortgage loan for persons
18 of lower or moderate income whose purchase of a home is assisted
19 under AS 18.56.091; or

20 (B) except as to persons whose purchase of a home is
21 assisted under AS 18.56.091, the amount of a mortgage loan that
22 does not exceed the amount of the loan established by law; if an
23 amount has not been established by law, the amount is zero;

24 (3) "mortgage loan" includes a beneficial interest or
25 participation in a mortgage loan;

26 (4) "residence" means

27 (A) an owner-occupied, single-family residence, in-
28 cluding a mobile home; or

29 (B) an owner-occupied duplex, triplex, or fourplex.

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

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

5 (1) The interest rate on the loan amount eligible for
6 assistance [FIRST \$90,000] of a mortgage loan purchased with the
7 proceeds of an issue of taxable bonds of the corporation is three
8 percent less than the cost of funds of that issue, except that

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

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

13 (2) An interest rate determined under this subsection on
14 the loan amount eligible for assistance [FIRST \$90,000] of a mortgage
15 loan that is not purchased from the proceeds of bonds that are qual-
16 ified veterans' mortgage bonds under the applicable provisions of 26
17 U.S.C. (Internal Revenue Code) [26 U.S.C. 103A (MORTGAGE SUBSIDY BOND
18 TAX ACT OF 1980), AS AMENDED,] shall be reduced by one percentage
19 point if the loan is made to an eligible veteran under AS 18.56.101.

20 (3) The interest rate for the amount of a mortgage loan
21 purchased under (a) of this section that exceeds the loan amount
22 eligible for assistance [\$90,000] is equal to the cost of funds to the
23 corporation attributable to that part of the loan.

24 (4) The interest rate on the loan amount eligible for
25 assistance [FIRST \$90,000] of a mortgage loan purchased with money
26 that is not the proceeds of either taxable or tax-exempt bonds is the
27 rate the corporation determines is appropriate by application of the
28 provision of (1) of this subsection.

29 (5) The interest rate on the loan amount eligible for

1 assistance [FIRST \$90,000] of a mortgage loan purchased from the
2 proceeds of bonds that are exempt from taxation other than bonds that
3 constitute qualified veterans' bonds under (i) of this section, is
4 equal to the interest rate determined under (1) and (2) of this sub-
5 section on a loan purchased under (a) of this section from the pro-
6 ceeds of the most recent applicable issue of taxable bonds sold by the
7 corporation. A higher or lower interest rate shall be established on
8 the entire loan amount if required to ensure the tax-exempt status of
9 the bonds.

10 (6) The corporation shall determine the interest rate on a
11 mortgage loan that is an adjustable rate mortgage loan as provided in
12 this subsection. The corporation shall recalculate the interest rate
13 from time to time based on changes in the cost to the corporation of
14 the funds used to purchase the adjustable rate mortgage loan. How-
15 ever, the corporation may establish a minimum interest rate applicable
16 to an adjustable rate mortgage loan, and the interest rate on the
17 adjustable rate mortgage loan may not be less than the minimum inter-
18 est rate so established regardless of the cost of funds to the corpo-
19 ration.

20 (7) For loans made under this section, the corporation
21 shall give effect to interest rate changes applicable to the loans
22 based on time of loan application, time of issuance of the corpora-
23 tion's bonds issued to purchase loans, or other factors as the corpora-
24 tion determines.

25 (8) [(7)] In this subsection

26 (A) "cost of funds" means the true interest cost
27 expressed as a rate on bonds of the corporation plus an addi-
28 tional percentage as determined by the corporation to represent
29 the allocable expenses of operation, costs of issuance, and

1 mortgage servicing;

2 (B) "taxable bonds" means bonds bearing interest that
3 is taxable under applicable provisions of 26 U.S.C. (Internal
4 Revenue Code) and which were [26 U.S.C. 103A (MORTGAGE SUBSIDY
5 BOND TAX ACT OF 1980)] issued to finance the purchase of first
6 mortgage loans.

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

8 (h) The corporation shall establish the interest rate on a
9 second mortgage loan purchased under (a) of this section in the manner
10 established for computing the interest rates on a first mortgage loan
11 under (g) of this section except that, in the case of a second mort-
12 gage loan, if the first mortgage loan made to the same borrower is
13 held by the corporation and was purchased under the special mortgage
14 loan purchase program, the outstanding principal balance of the exist-
15 ing first mortgage loan is subtracted from the loan amount eligible
16 for assistance [\$90,000] to determine the amount of the loan that is
17 eligible for an interest rate on a second mortgage loan determined by
18 reference to (g) of this section.

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

20 (i) The interest rate on the loan amount eligible for assistance
21 [FIRST \$90,000] of a mortgage loan purchased from the proceeds of
22 bonds that constitute qualified veterans' mortgage bonds under appli-
23 cable provisions of 26 U.S.C. (Internal Revenue Code) is [26 U.S.C.
24 103A (MORTGAGE SUBSIDY BOND TAX ACT OF 1980) AS AMENDED, IS THE GREAT-
25 ER OF (1) FOUR PERCENT LESS THAN THE COST OF FUNDS OR (2)] the rate
26 for other loans to veterans under (g)(2) of this section [AS 18.56.-
27 098(g)(3)]. A higher or lower interest rate shall be established on
28 the entire loan amount if required by applicable provisions of 26
29 U.S.C. (Internal Revenue Code) [UNDER 26 U.S.C. 103A].

1 Notwithstanding the provisions of AS 37.07.080(h), the Alaska Housing
2 Finance Corporation may, by resolution adopted by the board of direc-
3 tors, increase an item appropriated from corporation receipts if

4 (1) the board of directors determines that circumstances
5 require an increase in expenditures in excess of an existing appro-
6 priation made under the authority conferred by this chapter; and

7 (2) additional corporation receipts are available.

8 (b) Before the resolution required by (a) of this section takes
9 effect, the board of directors shall submit a revised program to the
10 governor for approval as provided in AS 37.07.080(d). A copy of the
11 revised program shall be submitted to the legislative budget and audit
12 committee.

13 (c) The increase authorized by (a) of this section may not
14 extend beyond the end of the fiscal year in which the resolution is
15 adopted.

16 * Sec. 11. LOAN AMOUNTS ELIGIBLE FOR ASSISTANCE FOR LOANS ISSUED UNDER
17 AS 18.56.098 DURING STATE FISCAL YEARS 1991 - 1993. For first and second
18 mortgage loans purchased by the Alaska Housing Finance Corporation from the
19 special mortgage loan purchase program and from qualified veterans' mort-
20 gage bonds

21 (1) after June 30, 1990, and before July 1, 1991, the loan
22 amount eligible for assistance under AS 18.56.098 is \$70,000;

23 (2) after June 30, 1991, and before July 1, 1992, the loan
24 amount eligible for assistance under AS 18.56.098 is \$50,000;

25 (3) after June 30, 1992, and before July 1, 1993, the loan
26 amount eligible for assistance under AS 18.56.098 is \$30,000.

27 * Sec. 12. Of the two additional public members appointed by the gover-
28 nor under AS 18.56.030(a), amended by sec. 1 of this Act, one member shall
29 serve a term of two years and one shall serve a term of one year. When

1 * Sec. 8. AS 36.30.015(e) is amended to read:

2 (e) The boards of directors of the Alaska Railroad Corporation,
3 the Alaska Housing Finance Corporation, and the Alaska State Housing
4 Authority shall adopt procedures to govern the procurement of sup-
5 plies, services, professional services, and construction for [BY] the
6 respective public corporations [CORPORATION]. The procedures must

7 (1) reflect competitive bidding principles and provide
8 vendors reasonable and equitable opportunities to participate in the
9 procurement process; and

10 (2) include procurement methods to meet emergency and
11 extraordinary circumstances [BE SUBSTANTIALLY EQUIVALENT TO THE PROCE-
12 DURES PRESCRIBED IN THIS CHAPTER AND IN REGULATIONS ADOPTED UNDER THIS
13 CHAPTER].

14 * Sec. 9. AS 36.30.990(1) is amended to read:

15 (1) "agency"

16 (A) means a department, institution, board, commis-
17 sion, division, authority, public corporation, the Alaska Pio-
18 neers' Home, or other administrative unit of the executive branch
19 of state government;

20 (B) does not include

21 (i) [, EXCEPT FOR] the University of Alaska;

22 (ii) [,] the Alaska State Housing Authority;

23 (iii) the [AND] Alaska Railroad Corporation;

24 (iv) the Alaska Housing Finance Corporation;

25 (v) [IT DOES NOT INCLUDE] a regional Native
26 housing authority created under AS 18.55.996, or a regional
27 electrical authority created under AS 18.57.020;

28 * Sec. 10. AS 37.07 is amended by adding a new section to read:

29 Sec. 37.07.085. ALASKA HOUSING FINANCE CORPORATION BUDGET. (a)

1 making the appointments, the governor shall specify the length of the term
2 of each person appointed.

3 * Sec. 13. Sections 2 and 4 of this Act take effect July 1, 1992.

4 * Sec. 14. Except for secs. 2 and 4 of this Act, this Act takes effect
5 July 1, 1990.

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. BINKLEY

TO: CSSB 427 (2d Finance)

Page 1, line 12, after "Act":

Insert "to allow the corporation to expend additional corporation receipts immediately after submission of a revised program to the Legislative Budget and Audit Committee"

A M E N D M E N T

To: CSSB 427(fin)

Page 7, line 7: delete "and"

Page 7, between lines 11 and 12: insert the following new material to read:

"(3) grant preferences that are substantially similar to the resident and product preferences authorized by AS 36.30.170(b), AS 36.30.250(b) and AS 36.30.322 - 36.30.338. "

EFFECT OF AMENDMENT:

This amendment would require the ARRC, ASHA, and AHFC to adopt procurement procedures embodying the Alaska bidder's preference and the Alaska product preference set out in existing law and regulations.

A M E N D M E N T

To: CSSB 427(fin)

Page 7, line 7: delete "and"

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STATE OF ALASKA THE LEGISLATURE

MAR 21 1990

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

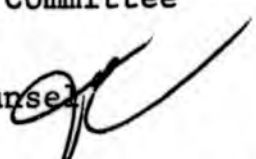
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 21, 1990

SUBJECT: Authority of Alaska Housing Finance
Corporation to expend unappropriated program
receipts -- Amendment Ha to CSSB 427 (Finance)

TO: Senator Rick Uehling, Co-Chair
Senate Finance Committee

FROM: Jack Chenoweth
Legislative Counsel 

The amendment is a variation of language prepared by Assistant Attorney General Jim Baldwin for AHFC Board Chair Robert Mintz, subsequently provided by the latter to your office. The amendment is consistent with the draft "Letter of Intent" for CSSB 427 (Finance) prepared and submitted by the office of Senate Majority Leader Pat Rodey wherein the Senate Finance Committee would go on record as endorsing a directive that "[AHFC] . . . present interim changes to its operating budget to the Legislative Budget & Audit Committee as a matter of information pursuant to AHFC's budget authority to expend funds provided in the front section of the general appropriations act (i.e. sec. 14, ch. 116, SLA 1989 for FY 1990 appropriations).

Let me note, first, that, in his draft, Mr. Baldwin used the phrase "corporation receipt(s)." I have substituted "program receipts of the corporation," since "corporation receipt" would be a new term while "program receipt" has a connotation that is understood in the context of the Executive Budget Act and is currently used with reference to the income of AHFC. See existing AS 18.56.089.

In summary, I am satisfied that this amendment is (1) unnecessary or (2) if necessary, unconstitutional.

I

So long as the Alaska legislature annually makes appropriations to AHFC of "[a]ll unrestricted mortgage loan interest payments and all other receipts, . . . and all income earned on assets of the corporation . . . for the purposes described in AS 18.56" (see sec. 14, ch. 116, SLA 1989), this provision seems unnecessary. Under this (or any

substantially similar) language making an open-ended appropriation in the front section of the Act making annual appropriations for state government operations, all of the corporation's income becomes available to its board. There are, then, no additional program receipts that would become available during the course of the fiscal year, and proposed AS 18.56.089(b)(2) is meaningless.

II

If, however, the legislature ever fails to appropriate all income and has determined that AHFC should have latitude to expend unappropriated program receipts without prior explicit legislative approval to do so and the Finance Committee wants to recognize that, this language accomplishes that objective. Under the amendment, the corporation's board of directors need only find that "exigent circumstances" ^{1/} warrant use of a larger amount of the program receipt and submit a revised program to the governor and the Legislative Budget and Audit Committee. The additional receipts become available to the corporation and may be used (presumably in a manner consistent with the revised program, though, because of the amendment's "notwithstanding" language, that is not entirely clear).

Regrettably for the corporation, however, expenditures made under the proposed provision would surely be unconstitutional as a violation of article IX, sec. 13's prohibition against withdrawal of money from the state treasury without an appropriation. The language tendered to the Finance Committee by AHFC seems to be predicated on the assumption that, by establishing a corporation and

^{1/} The term "exigent circumstances" appears only one other place in state statutes--AS 38.50.140, relating to legislative review of proposed land exchanges--and there it occurs without definition, but with the proviso that the "exigent circumstances" must "seriously [affect] state interests" and that the circumstances must be "carefully documented." In common parlance, an "exigent circumstance" is one constituting a sudden, unforeseen occurrence or condition calling for an immediate response or remedial action.

I respectfully suggest that, if "exigent circumstance" is offered as the functional equivalent of "emergency," then the latter term should be substituted. If "emergency" is substituted, AS 44.62.270 would presumably apply.

establishing separate fund(s) for the corporation's operations, income earned or raised by the corporation escapes deposit into the state general fund. There is no law that substantiates that reasoning, nor does this office believe that Alaska's courts would so conclude.

Alternatively, the provision may be regarded as a violation of article IX, sec. 7's prohibition against dedication of funds. By the language of this amendment, the legislature invites the corporation to make use of its unappropriated program receipts in any manner that it may determine. 2/ Since there are no limitations expressed in the amendment as to the permissible objects or purposes of expenditure, the amendment would permit the corporation to use unappropriated program receipts for any purpose that the corporation enjoys authority to expend money. Thus, while the amendment does not approach the problem as a general exemption from the Executive Budget Act, the method first suggested in the earliest versions of this measure, the end result would nevertheless be virtually the same: the corporation would enjoy full use of its program receipts, subject, of course, to the "exigent circumstances" and the "revised program submission" requirements.

Effectively, then, the legislature could establish a series of state corporations and related funds and turn over to those corporations and funds the responsibility to receive income and make expenditures free of any prior legislative approval. That, in essence, would defeat the constitutional provision against dedication of money and substitute the judgment of the corporation's board for that of the legislature with respect to the use of the unappropriated program receipts. Nothing in my reading of state law suggests that the courts would endorse this conclusion.

JBC:lmb
L10/017

2/ The language of the amendment provides the corporation broader authority than what was set out in the draft CSSB 427 (Finance) provided to the committee on 3/14/90. In the 3/14 draft, the corporation would have been authorized to "employ additional persons without obtaining prior approval of the Legislative Budget and Audit Committee." Employment of additional persons was the only exception authorized. The committee eliminated that provision.

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. UEHLING

TO: CSSB 427 (Finance)

Page 1, line 10, after "Code":

Insert "and making an exception for the corporation under the Executive Budget Act"

Page 2, following line 2:

Insert new bill sections to read:

"* Sec. 2. AS 18.56.089 is amended to read:

Sec. 18.56.089. EXECUTIVE BUDGET ACT. Except as provided in (b) and (c) of this section, the [THE] operating budget of the corporation is 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 must [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.

* Sec. 3. AS 18.56.089 is amended by adding new subsections to read:

(b) Notwithstanding the provisions of AS 37.07.080, the corporation may, by resolution adopted by the board, increase an item appropriated from program receipts of the corporation if

(1) the board determines that exigent circumstances require the increase; and

(2) additional program receipts of the corporation not specifically appropriated by the legislature are available.

(c) Before an increase authorized by a resolution required by (b) of this section takes effect, the board shall submit a revised program to the governor and the Legislative Budget and Audit Committee."

Renumber the following bill sections accordingly.

Page 8, line 13:

Delete "2 and 4"

Insert "4 and 6"

Page 8, line 14:

Delete "2 and 4"

Insert "4 and 6"

6-2074M.,
Cook/
Chenoweth
3/23/90

Original sponsor(s): Rules/Housing Finance Task Force

IN THE SENATE

*The SFC adopted
Version*

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 427 (2d Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to program and administration requirements of certain state corporations; expanding the number of directors of the Alaska Housing Finance Corporation; exempting the Alaska Housing Finance Corporation from the State Procurement Code and making an exception for the corporation under the Executive Budget Act; amending the corporation's special mortgage loan purchase program and progressively reducing the maximum level of loan amounts eligible for a reduction under a mortgage loan subsidy; amending the corporation's mortgage loan subsidy program for persons of lower and moderate income; and relating to procurement practices of certain state corporations; and providing for an effective date."

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

* Section 1. AS 18.56.030(a) is amended to read:

(a) The corporation shall be governed by a board of directors consisting of

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

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

(3) four [TWO] public members appointed by the governor, one of whom shall be a representative of the financial community and one of whom shall be a person licensed as a real estate broker under AS 08.88.171(a).

* Sec. 2. AS 18.56.091 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, the loan amount eligible for assistance under the subsidy authorized by (a) of this section is the amount determined under AS 18.56.098(f).

* Sec. 3. AS 18.56.098(f) is amended to read:

(f) In this section and in AS 18.56.099

(1) "graduated payment mortgage loan" means a mortgage loan the terms of which provide for monthly principal and interest payments that

(A) during the first year of the mortgage loan are lower than the monthly principal and interest payments that would be required under the terms of a level payment mortgage loan made at the same interest rate; and

(B) during subsequent years of the mortgage loan are graduated to provide for the same return over the term of the loan that would have been provided by a level payment mortgage loan made at the same interest rate;

(2) "loan amount eligible for assistance" means the amount of a mortgage loan that does not exceed the amount of the loan established by law; if an amount has not been established by law, the amount is zero; [REPEALED]

(3) "mortgage loan" includes a beneficial interest or participation in a mortgage loan;

(4) "residence" means

(A) an owner-occupied, single-family residence,

1 including a mobile home; [,] or

2 (B) an owner-occupied duplex, triplex, or fourplex.

3 * Sec. 4. AS 18.56.098(f) is repealed and reenacted to read:

4 (f) In this section and in AS 18.56.091 and 18.56.099

5 (1) "graduated payment mortgage loan" means a mortgage loan
6 the terms of which provide for monthly principal and interest payments
7 that

8 (A) during the first year of the mortgage loan are
9 lower than the monthly principal and interest payments that would
10 be required under the terms of a level payment mortgage loan made
11 at the same interest rate; and

12 (B) during subsequent years of the mortgage loan are
13 graduated to provide for the same return over the term of the
14 loan that would have been provided by a level payment mortgage
15 loan made at the same interest rate;

16 (2) "loan amount eligible for assistance" means

17 (A) the first \$50,000 of a mortgage loan for persons
18 of lower or moderate income whose purchase of a home is assisted
19 under AS 18.56.091; or

20 (B) except as to persons whose purchase of a home is
21 assisted under AS 18.56.091, the amount of a mortgage loan that
22 does not exceed the amount of the loan established by law; if an
23 amount has not been established by law, the amount is zero;

24 (3) "mortgage loan" includes a beneficial interest or
25 participation in a mortgage loan;

26 (4) "residence" means

27 (A) an owner-occupied, single-family residence, in-
28 cluding a mobile home; or

29 (B) an owner-occupied duplex, triplex, or fourplex.