748 SCRA MTGS WITH HUD-SR CITIZEN DEDUCTIONS

MODULAR INTEGRATED UTILITY SYSTEMS (MIUS)

Demonstration projects supplying all utility services to residential communities from a single on-site plant, using natural resources more efficiently and reducing adverse environmental impact.

Nature of Program: The Modular Integrated Utility System (MIUS) furnishes essential utility services for residential communities by recycling energy and "packaging" into one processing plant six functions: electricity, space heating and air conditioning, solid and liquid waste processing, and potable water.

Conventional methods of generating electricity waste about 65 percent of the energy in excess heat. MIUS recovers better than half of this waste energy and uses it for space heating, air conditioning, water heating, water treatment, and liquid waste treatment. An additional 5-10 percent is saved by recycling solid waste for its energy content. MIUS also reduces thermal, air, solid waste and water pollution.

Collaborating with HUD in this program are the National Aeronautics and Space Administration, the Atomic Energy Commission, the National Bureau of Standards, the Environmental Protection Agency, the Departments of Defense and Health, Education, and Welfare, and the Energy Research and Development Administration.

Applicant Eligibility: Not applicable

Legal Authority: Section 501 and 502, Title V, Housing and Urban Development Act of 1970 (P.L. 91-609)

Administering Office: Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Active

Scope of Program: Eleven agency agreements or project contracts are in place or in process.

$9,462,000 in HUD funds have been authorized for 8 years (through 1980). This does not include other agency funding.

NATIONAL INSTITUTE OF BUILDING SCIENCES (NIBS)

64

A new, nongovernmental entity to provide leadership and technical expertise for the voluntary improvement of the Nation's building codes and standards.

Nature of Program: The main purpose of this nonprofit organization is to encourage new, cost-saving technology by promoting widely acceptable building standards and building product performance criteria.

Establishment of NIBS follows growing recognition that high building costs are caused partly by proliferating local building codes and wide variance in building product performance criteria.

NIBS will coordinate public and private groups active in building product testing, standard-setting and code enforcement. The Institute will disseminate data on building technology, encourage developers of new products and techniques to submit them for testing before marketing, and will promote better testing methods.

The Institute is currently governed by a Board of Directors appointed by the President and confirmed by the Senate. Federal agencies are authorized to contract with it for specific projects.

Applicant Eligibility: Not applicable.

Legal Authority: Section 809, Housing and Community Development Act of 1974 (P.L. 93-383).

Administering Office: Office of Policy Development and Research, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: Otis M. Mader, Vice President, Aluminum Company of America, 2928 Alcoa Building, Pittsburgh, PA 15219, (412) 553-3875.

Mr. Mader is Chairman of the 18-member Board of Directors, sworn in by former Secretary Hills on July 9, 1976.

Current Status: Just activated; formulating a program and hiring staff.

Scope of Program: Congress has appropriated $1 million for FY 1978. The law directs NIBS to become self-sustaining through fees for its services at the earliest feasible time.

SOLAR HEATING AND COOLING DEMONSTRATION PROGRAM

To encourage the use of solar technology in the general housing market.

Nature of Program: As part of the National Solar Energy Program administered by the Energy Research and Development Administration (ERDA), HUD is responsible for a demonstration of the practical application of solar energy in residential heating and cooling. HUD implements its program by: (1) residential demonstrations in which solar equipment is installed in both new and existing dwellings, (2) development of performance criteria and certification procedures for solar heating and cooling equipment; (3) market development to encourage acceptance of solar technologies by the housing industry; and (4) data gathering and dissemination on demonstration and market development efforts.

Applicant Eligibility: HUD periodically invites participation by builder/developers, State and local agencies and other qualified producers of housing for sale on the open market. Grants are currently not made to private individuals or to builders whose projects have been pre-sold.

Legal Authority: Solar Heating and Cooling Act of 1974 (P.L. 93-409).

Administering Office: Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office or write: Solar Heating, P.O. Box 1607, Rockville, Md 20850.

Current Status: Active.

Scope of Program: Number of demonstrations (first to fourth cycles) approximately 375 grants, involving approximately 4,000 dwelling units. Total five-year program through fiscal year 1979: $49,000,000 (est.).

TENANT MANAGEMENT PROGRAM

66

A demonstration of a new approach to upgrading day-to-day operation of low-rent public housing.

Nature of Program: This three-year demonstration program is testing the effectiveness of tenant management as a means of improving the operating performance of public housing, creating new employment opportunities for tenants, reducing social deviance, increasing resident satisfaction, and generally enhancing the community aspects of public housing.

The program is modernizing buildings and grounds and providing salaries for tenant employees, social services, and training and technical assistance to upgrade tenant management skills and public housing authority management capabilities. Eventually, it aims to transfer to tenants primary responsibility in four critical areas of housing management: budget preparation and control, policy development, management operations and tenant relations.

Six public housing authorities are participants in the demonstration which has been designed and will be conducted, monitored, and evaluated by the nonprofit Manpower Demonstration Research Corporation. HUD and the Ford Foundation together are funding the demonstration.

Applicant Eligibility: Participants have already been chosen. No further demonstrations are planned.

Legal Authority: Sections 501 and 502, Title V, Housing and Urban Development Act of 1970 (P.L. 91-609); U.S. Housing Act of 1937 (P.L. 75-412), as amended by Section 6 of Housing and Community Development Act of 1974 (P.L. 93-383).

Administering Office: Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: Manpower Demonstration Research Corp., 3 Park Avenue, New York, N.Y. 10016, or see administering office.

Current Status: Active.

Scope of Program: The seven housing developments participating in the demonstration contain 4,780 dwelling units with about 19,000 low-income residents. HUD has allocated a total of $20.2 million: $15 million in Modernization funds, and $5.2 million for on-site administrative expenses. A Ford Foundation grant supplements $600,000 in HUD funds used to manage the demonstration. The project spans three years, ending December 31, 1978.

URBAN HOMESTEADING

38

A national demonstration program transferring HUD properties to local governments to revitalize declining neighborhoods and reduce the Federal inventory of defaulted mortgages.

Nature of Program: Vacant HUD-held properties are transferred to local governments which developed homesteading plans approved by HUD. Each city had to devise a plan ensuring the availability of rehabilitation financing, technical assistance to homesteaders, and all essential municipal services to the target neighborhoods.

The local governments selected for the program then "sell" these properties for a token sum (as low as $1.) to individuals or families called "homesteaders." The homesteader must make repairs to meet minimum health and safety standards, then occupy the property as a principal residence for at least three years. Within 18 months of occupying the property, he must bring it up to local code standards. When all these requirements have been met, the homesteader receives full title to the property.

Applicant Eligibility: Homesteaders must be equitably selected by each participating city. Cities are chosen as demonstration sites by HUD after submitting acceptable homesteading plans.

Legal Authority: Section 810, Housing and Community Development Act of 1974 (P.L. 93-383); Section 20, Housing Authorization Act of 1976 (P.L. 94-375).

Administering Office: Assistant Secretary for Policy Development and Research, Urban Homesteading Demonstration Program, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Being converted to operating program. (See Office of Community Planning and Development.)

Scope of Program: *Number of projects:* approximately 40 demonstrations cities to date. *Funding:* $5 million was appropriated for FY 1976; HUD also allocated $5 million in rehabilitation loan funds to support the program in FY 1976. The Housing Authorization Act of 1976 authorized an additional $6.25 million for the transition quarter and FY 1977 to support the transfer of HUD-acquired properties to communities participating in the Urban Homesteading Demonstration Program as well as to some new participants. For FY 1978, $15 million has been appropriated. The 23 cities originally participating in the program will receive an additional $3.75 million worth of HUD-owned properties and an additional $7.5 million in rehabilitation loan funds, while new program participants will receive $2.5 million worth of HUD-owned properties and $3.5 million in rehabilitation loans, in their first year, with additional amounts expected later.

URBAN REINVESTMENT TASK FORCE

70

A public-private coalition to stimulate and aid investment in inner city revitalization.

Nature of Program: The Urban Reinvestment Task Force is a joint effort of HUD and the Federal Home Loan Bank Board, initiated in 1974, to demonstrate how a declining but still viable neighborhood can be revitalized through a partnership of residents, financial institutions and local government. With the aid of HUD research and demonstration funds, the Task Force supports two different programs: Neighborhood Housing Services (NHS) and Neighborhood Preservation Projects (NPP).

The major role of the Task Force in NHS is that of catalyst, bringing together members of local partnerships. A high-risk revolving loan fund helps homeowners to make repairs. For Neighborhood Preservation Projects, the Task Force supplements funding support for promising local preservation programs to determine their potential for application elsewhere.

Applicant Eligibility: Community groups, financial institutions, city governments, foundations, or a combination of these.

Legal Authority: Title V, Housing and Urban Development Act of 1970 (P.L. 91-609).

Administering Office: Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: Urban Reinvestment Task Force, 1120 19th St., N.W., Washington, D.C. 20036, (202) 634-1689.

Current Status: Active.

Scope of Program: Over the life of the program, from May 1974 through August 1979, HUD is authorized to spend $14,625,000 and expects to fund a total of 76 projects.

Nature of Programs: HUD has six major areas of research that will require analysis by urban scholars. These outline descriptions pinpoint areas in which HUD invites participation:

• cost of housing: we are interested in looking at ways to reduce the component costs of housing (costs of developing, building, financing and operating) as well as more efficient ways of helping lower-income people afford housing through subsidy programs. We want to examine the impact on housing costs of components such as building codes, environmental reviews, settlement costs, energy conservation, secondary finance markets, large-scale land acquisition and development. Costs and effectiveness of alternative subsidy programs are also important. This research will specifically influence the direction that HUD policy will take in the next years.

• alternative housing finance mechanisms: we will be analyzing the economic impact of potential legislation on alternative mortgage instruments, financial institution regulation and reform, and conventional GNMA mortgage-backed securities. Our research will provide HUD with the capacity to develop initiatives as well as to respond to the many policy concerns in the housing finance system. We plan to convene panels of academic experts to help place policy questions posed by HUD into the context of a larger view of the housing finance system. These panels will help determine where research can be particularly fruitful.

urban economic development and public finance: we will be looking at questions relating to the fiscal viability of central cities and how cities are affected by Federal policies. We will seek to discover workable mechanisms for leveraging private-sector investments and what their advantages are. We plan to examine the role of small business in community development, changes in capital investment by cities, questions of development finance, efforts to coordinate available Federal and local resources, and the impact of Federal tax and grant policies on central cities.

• special users: elderly and handicapped. we will be addressing how best to provide housing and housing-related services to people who have special requirements caused by age or physical condition. What are the optimal strategies for assisting these people? What service package is essential to the success of special programs designed to reach them? Specifically, we want to examine HUD's role in helping elderly people keep their own homes and in helping handicapped people have access to buildings. We will look at the housing-related services that elderly people consume and the housing maintenance decisions that they must make. We will inventory the current housing situation to determine the extent to which people with disabilities have access to federally subsidized housing. We will also examine the need for and costs of retrofitting public buildings so that handicapped people will be assured of access.

• neighborhood reinvestment and revitalization: we will be looking at the process of neighborhood change and at intervention techniques designed to preserve neighborhoods by preventing and reversing decline. We will, for example, study the roles of the private sector and local residents in promoting revitalized neighborhoods, issues of acquisition and disposition of abandoned property, ways to stimulate reinvestment and mortgage lending in deteriorating neighborhoods.

• site selection/integration: we will be addressing issues of economic and racial freedom of choice in housing and learning how changes in demographics may affect trends in location patterns. We will try to determine what interventions are feasible, under what conditions residential dispersion and mobility occur, how to stimulate more imaginative designs to achieve lower-density housing and to integrate housing into the neighborhood environment. Specifically, we will conduct an evaluation of site and neighborhood standards for HUD-assisted programs. We hope to determine how alternative guidelines will affect racial balance in the public schools, neighborhood transition, and the availability of social services. Of equal importance, we will examine how alternate site selection policies would affect the composition of the population served by HUD's housing programs.

Applicant Eligibility: Not applicable.

Legal Authority: Section 501 and 502, Title V, Housing and Urban Development Act of 1970 (P.L. 91-609).

Administering Office: Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Projects being readied for solicitations of interest.

Scope of Program: Funding levels to be determined.

New Communities

NEW COMMUNITIES

76

To encourage development of well-planned, diversified and economically sound new communities.

Nature of Program: HUD may provide a variety of financial and technical assistance to the developers of new communities undertaken in central cities, metropolitan suburbs and rural areas. Development must be in accord with comprehensive areawide planning, enhance the environment, contribute to the welfare of the area, provide for low- and moderate-income housing, and encourage social innovation and improved technology.

The major financial assistance program permits HUD to guarantee bonds, debentures, notes or other obligations issued by public and private developers to finance land acquisition and development of new communities. In the case of public land development agencies, guarantees for the principal obligation cannot exceed 100 percent of HUD's estimate of the value of real property before development and the cost of land development. For private developers, guarantees may not exceed 80 percent of the estimated value of real property before development plus 90 percent of the estimated cost of land development. However, the amount of guarantee cannot exceed $50 million for any single project.

HUD also issues Certificates of Eligibility to developers of new communities who do not require loan guarantee assistance but have new community development programs that meet the standards of the Urban Growth and New Community Development Act of 1970 (Title VII).

Federally approved new communities are eligible to receive Community Development Block Grant funds from the Secretary's discretionary fund.

Applicant Eligibility: Private new community developers and public land development agencies, including State, local or regional public bodies, authorized under State or local law to develop new communities.

Legal Authority: Title VII, Housing and Urban Development Act of 1970 (P.L. 91-609); and Title IV, Housing and Urban Development Act of 1968 (P.L. 90-448).

Administering Office: Community Development Corporation, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Of the 13 new community projects that received guarantee assistance, four are being phased out and nine are in various stages of development. Two other projects under development have received Certificates of Eligibility. Applications for assistance have been suspended since January 1975. All available resources are being applied to ongoing developments.

Scope of Program: HUD loan guarantees of new community obligations outstanding as of September 30, 1977 total $249 million.

Fair Housing and Equal Opportunity

EMPLOYMENT AND BUSINESS OPPORTUNITY

80 A program to ensure the employment of low-income residents and participation of small business concerns in HUD-assisted projects.

Nature of Program: Applicants, recipients, contractors and subcontractors in a HUD-funded program must provide opportunities for training and employment to low-income residents of areas where HUD-assisted projects are located. They must also award contracts for work on any such project to business concerns located in or substantially owned by residents of that area. A clause certifying compliance must be included in all work contracts.

Applicant Eligibility: Low-income residents and small business concerns in HUD-assisted project areas. Grievances alleging noncompliance may be filed at HUD Area and Insuring Offices.

Legal Authority: Section 3, Housing and Urban Development Act of 1968 (P.L. 90-448); Section 118, Housing and Community Development Act of 1974 (P.L. 93-383).

Administering Office: Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: HUD Area and Insuring Offices.

Current Status: Active.

Scope of Program: In fiscal year 1977, 1,963 compliance reviews were conducted under regulations of Executive Order 11246 and Section 3, HUD Act of 1968. Complaints handled totaled 136, of which 54 were resolved.

EQUAL EMPLOYMENT OPPORTUNITY

A program to ensure that Federal and federally-assisted contractors do not discriminate in employment.

Nature of Program: Executive Order 11246 directs all Federal agencies to promote and ensure equal opportunity without regard to race, color, religion, sex or national origin, for everyone employed or seeking employment with Federal contractors or recipients of Federal assistance.

HUD is responsible to ensure that the Order is enforced as it affects HUD contracts and housing programs and the nonexempt construction contracts of HEW, VA and Commerce.

Affirmative action is required to ensure equal opportunity for minorities and women in employment. HUD's direct and federally-assisted construction contractors and subcontractors must comply with the Equal Opportunity Clause and applicable Federal Bid Conditions, as well as to the HEW, VA, and Commerce-assisted or direct construction contracts. Any person or group of persons suspecting employment discrimination by a covered construction contractor may file a complaint.

Applicant Eligibility: This program applies to employment under HUD's contracts for supplies and services, and all direct HUD contracts including research and development. It also applies to HUD's direct or federally-assisted construction contracts. Since HUD also administers the EO 11246 Construction Compliance Program for HEW, VA, and Commerce, the program also covers HEW, VA, and Commerce direct or federally-assisted construction contracts. Any person or class of persons suspecting employment discrimination by a covered construction contractor because of race, color, religion, sex or national origin may file a complaint.

Legal Authority: Executive Order 11246, of September 24, 1965, as amended by Executive Order 11375, of October 13, 1967.

Administering Office: Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: HUD Regional and Area Offices.

Current Status: Active.

Scope of Program: In fiscal year 1977, 1,963 compliance reviews were conducted under regulations of Executive Order 11246 and Section 3, HUD Act of 1968. Complaints handled totaled 136, of which 54 were resolved.

EQUAL OPPORTUNITY IN HUD-ASSISTED PROGRAMS

A program to assure equal opportunity to participate in and benefit from HUD-funded activities without regard to race, color, or national origin.

Nature of Program: HUD ascertains the extent to which its programs comply with the Federal law forbidding discrimination in all federally-funded activities.

The Office of Fair Housing and Equal Opportunity investigates complaints and reviews HUD programs to eliminate discrimination. Changes or new policies are developed to make HUD activities responsive to the problems of minorities and to promote their participation in HUD-assisted activities.

Under the Community Development Block Grant Program, discrimination on the basis of sex is also forbidden.

Technical assistance is available to State and local agencies with civil rights problems in HUD-assisted programs. Noncomplying HUD applicants or recipients are given the opportunity of a hearing; if that results in a finding of discrimination, Federal assistance for the program may be terminated.

Applicant Eligibility: Any HUD-funded activity, except contracts of insurance or guaranty, is subject to Title VI.

Any person or group suspecting discrimination in a HUD-assisted program because of race, color or national origin, may file a complaint.

Legal Authority: Title VI, Civil Rights Act of 1964 (P.L. 88-352), Section 109, Housing and Community Development Act of 1974 (P.L. 93-383).

Administering Office: Assistant Secretary for Fair Housing and Equal Opportunity, Development of Housing and Urban Development, Washington, D.C. 20410.

Information Source: HUD Regional and Area Offices.

Current Status: Active.

Scope of Program: In fiscal year 1977, 41 complaints were received and 32 closed; 235 compliance reviews were started and 190 closed. An additional 46 complaints were received and 54 compliance reviews begun under the Community Development Block Grant Program's Section 109.

EQUAL EMPLOYMENT OPPORTUNITY IN HUD-FUNDED AGENCIES

84

A program to assure that local government agencies funded by HUD will not discriminate in employment.

Nature of Program: HUD must assure that all agencies receiving HUD financial assistance comply with the terms and conditions of the equal employment opportunity clause of HUD's loan and grant contracts. This clause requires that HUD-funded agencies, in carrying out their programs, not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. It also requires them to take affirmative action to assure applicants their rights.

HUD periodically reviews its programs to determine compliance and conducts complaint investigations. Where there is an apparent failure to carry out the conditions of the contract clause, HUD attempts to secure voluntary compliance. If that fails, a hearing is held, which may lead to the agency being barred from further contracts with HUD.

Applicant Eligibility: All applicants or recipients who enter into contracts with HUD are subject to the inclusion of an equal employment opportunity clause and are required to carry out the terms and conditions of that clause.

Any person or class of persons suspecting employment discrimination by a HUD-funded agency because of race, color, national origin, sex or religion may file a complaint.

Legal Authority: Section 7(d), Department of Housing and Urban Development Act of 1965 (P.L. 89 174).

Administering Office: Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: HUD Regional and Area Offices.

Status: Active.

Scope of Program: Approximately 12 complaints and 3 compliance reviews were closed during fiscal year 1977.

FAIR HOUSING

A program to assure fair housing throughout the United States.

Nature of Program: HUD administers the law that prohibits discrimination in housing on the basis of race, color, religion, sex and national origin, investigating complaints of housing discrimination and attempting to resolve them through conciliation. HUD refers complaints to State and local fair housing agencies when they afford protection substantially equivalent to Federal law.

Technical assistance is available to State and local groups, private or public, profit and nonprofit, to help them prevent or eliminate discriminatory housing practices. Educational conferences with the housing industry, governmental and private groups interpret and explain the laws.

Executive Order 11063 prohibits discrimination because of race, color, creed, or national origin, in housing and related facilities which are owned or operated by the Federal Government or housing and related facilities provided by Federal financial assistance, including mortgage insurance and guaranty programs, or in the lending practices of lending institutions which make loans on property insured or guaranteed by the Federal Government. The Department receives complaints and conducts compliance reviews under Executive Order 11063.

Applicant Eligibility: Any individual aggrieved by housing discrimination may file a complaint with any HUD office in person, by mail, or by telephone. Pursuant to Title VIII an aggrieved party may also file suit in a Federal or local Court, seeking injunctive relief, actual damages and up to $1,000 in punitive damages

Legal Authority: Title VIII, Civil Rights Act of 1968 (P.L. 90-284), as amended; Executive Order 11063.

Administrative Office: Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office

Current Status: Active.

Scope of Program: Some 3,213 Title VIII complaints were received in fiscal year 1977 which, when added to 1,019 complaints on hand, totaled 4,232 complaints. A total of 2,774 complaints were processed. Conciliation was undertaken in 484 complaints, of which 256 were successful.

VOLUNTARY COMPLIANCE

Voluntary compliance with fair housing and with the employment of minority business enterprises in HUD-related activities.

Nature of Program: HUD promotes voluntary compliance in the private sector and with other Federal agencies in two areas: fair housing nationwide and the employment of minority business enterprise in HUD-related activities. HUD executes formal agreements both locally and nationwide.

Applicant Eligibility: Trade and professional organizations in housing and related fields, including homebuilders, realtors, and lending institutions; and other Federal agencies.

Legal Authority: Title VIII, Sections 809 and 808(e)(d), Civil Rights Act of 1968 (P.L. 90-284); Executive Order 11625.

Administering Office: Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Active.

Scope of Program: Plans and agreements negotiated and approved in fiscal year 1977: 237; approximately the same number is anticipated for fiscal 1978.

HUD program funds on deposit in minority-owned banks in fiscal 1977: $38.6 million; the same is anticipated for fiscal 1978.

HUD program funds awarded or granted to minority entrepreneurs in fiscal 1977: $150 million; approximately $165 million anticipated for fiscal 1978.

Business opportunities for minority entrepreneurs under the Community Development Block Grant program for fiscal 1977: $45 million; a 15 percent increase is anticipated for fiscal 1978.

Neighborhoods, Voluntary Associations and Consumer Protection

NEIGHBORHOOD AND CONSUMER AFFAIRS

90

The office of Neighborhood and Consumer Affairs is responsible for ensuring participation by neighborhood, voluntary, and other nongovernmental organizations in development, revitalization, and stabilization of urban and regional areas. It is also responsible for ensuring that consumers' basic rights are considered in all housing and community development activities and for encouraging and facilitating consumer access to the Department's decisionmaking process.

Nature of Program: This office was created in 1977 to pursue five primary objectives. It assists neighborhood development organizations to improve their management capabilities; helps formulate local cooperative efforts; and encourages voluntary and other nongovernmental organizations to work with HUD on areas of mutual interest and concern. It reviews present and proposed departmental policies, elicits consumer comment, and makes recommendations based on analyses of those contributions. The office also maintains contact with a network of consumer groups developed in conjunction with HUD field offices, and monitors the departmental consumer complaint response system.

Applicant Eligibility: Not applicable.

Legal Authority: Sections 2 and 4(a), among other authorities, of the Housing and Community Development Act (P.L. 89-174).

Administering Office: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Active.

Scope of Program: Nationwide.

COUNSELING FOR TENANTS AND HOMEOWNERS

Free counseling for owners and tenants of HUD-insured housing.

Nature of Program: HUD-approved agencies counsel prospective home buyers and homeowners with respect to property maintenance, household budget and debt management, and such other matters as may assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership. The counseling assistance is provided by qualified agencies voluntarily and generally without remuneration from HUD.

HUD is ***authorized*** to counsel buyers, owners and tenants of all HUD-assisted housing, but the agency is ***required*** to counsel homeowners assisted under the Section 235 homeownership program, and owners of single-family homes with HUD-insured mortgages under Title II of the National Housing Act (the latter requirement added in the 1977 Housing and Community Development Act). HUD may provide these services directly or may pay private or public organizations with special competence and knowledge in counseling low- and moderate-income families. HUD also compiles a counseling information package to be distributed by lenders to prospective buyers under this program.

Applicant Eligibility: Prospective home buyers, homeowners and tenants under HUD-assisted housing programs are eligible for counseling; public and private (but generally nonprofit) agencies may apply for HUD approval.

Legal Authority: National Housing Act, (1934) (P.L. 73-479), as amended by Sections 101(a) and 102(a), Housing and Urban Development Act of 1968 (P.L. 90-448); Section 811(a) Title I Housing and Community Development Act of 1974 (P.L. 93-383); Housing and Community Development Act of 1977 (P.L. 95-128).

Administering Office: Asst. Secretary for Neighborhoods, Voluntary Associations and Consumer Affairs, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: HUD Area and Insuring Offices.

Current Status: Active.

Scope of Program: Approximately 450 HUD-approved agencies have provided counseling services to owners and tenants of HUD-assisted housing; 26 agencies are directly funded by HUD. Three million dollars have been appropriated for this purpose in fiscal year 1977.

COMMUNITY SERVICES FOR TENANTS

92

Increased resources to improve the quality of life for tenants.

Nature of Program: HUD furnishes technical assistance to local management of public housing and HUD-assisted housing. Federal and community agencies provide social services, employment opportunities and recreational programs for tenants through agreements negotiated nationally and collaboration developed at regional, State and local levels.

Applicant Eligibility: Tenants in public housing and other HUD-assisted multifamily rental housing.

Legal Authority: Section 3, (4), U.S. Housing Act of 1937 (P.L. 75-412).

Administering Office: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: HUD Area and Insuring Offices.

Current Status: Active.

Scope of Program: In addition to HUD's Technical Assistance, the Departments of Justice, Labor, and Health, Education and Welfare have contributed over $150 million in the five fiscal years ending June 30, 1976. These combined efforts have served some 3,000 public housing authorities, managing 1,400,000 units housing more than 3 million tenants.

INTERSTATE LAND SALES REGISTRATION

Protects consumers against fraudulent practices of land developers and promoters.

Nature of Program: HUD is responsible for enforcing the laws governing interstate land sales registration. Developers and their agents are prohibited from selling or leasing, by mail or by other means in interstate commerce, any lot in any subdivision of 50 or more lots unless two conditions have been met.

(1) A statement of record must be filed with HUD, listing information about the ownership of the land, the state of its title, its physical nature, the availability of roads and utilities, and other matters.

(2) A printed property report, containing pertinent extracts from the statement of record, must be furnished to the purchaser at least 72 hours before signing an agreement for purchase or lease.

Willful violation is subject to criminal penalties of imprisonment for not more than five years, or a fine of not more than $5,000, or both. A suit for damages may be brought in any State or Federal Court for the district in which the defendant may be found or in which the transaction took place. HUD may seek an injunction against any developer that it can show is violating or about to violate the law.

Applicant Eligibility: Not applicable.

Legal Authority: Title XIV, Housing and Urban Development Act of 1968 (P.L. 90-448).

Administering Office: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Affairs, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Active.

Scope of Program: Number of filings: 12,905 as of November, 1977. Number of subdivisions: approximately 8,747 as of November, 1977.

Federal standards to protect the safety and health of mobile homeowners.

Nature of Program: In consultation with the Consumer Product Safety Commission, HUD issues Federal mobile home construction and safety standards to improve the quality and durability of mobile homes. The standards take into consideration existing State and local laws but preempt those which are not identical to the Federal standards. They apply to all mobile homes manufactured after June 15, 1976. Standards may be enforced by HUD through the Attorney General or the State. HUD may inspect factories and obtain records needed to enforce such standards. If a mobile home does not conform to Federal standards, the manufacturer must repurchase the home or bring it up to standards. Modular homes manufactured in a factory, transported to a building site, and placed on a permanent site-built foundation may, through a certification process, be exempted from Federal mobile home construction and safety standards if the homes meet other specified equivalent codes.

The law prohibits use of the mails and interstate commerce to sell or lease mobile homes that do not meet safety standards. Civil and criminal penalties also are provided where violation of such prohibitions occur.

Manufacturers must notify consumers, dealers and HUD of hazardous defects. The manufacturer must correct the defect if it presents an unreasonable risk of injury or death.

Applicant Eligibility: Not applicable.

Legal Authority: Title VI, Housing and Community Development Act of 1974 (P.L. 93-383). Housing and Community Development Act of 1977 (P.L. 95-128).

Administering Office: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Affairs, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Active.

Scope of Program: The standards apply to mobile homes eight or more feet wide and 32 or more feet long built on a permanent chassis manufactured after June 15, 1976.

REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA)

Protects home buyers by requiring advance estimates of settlement costs, limiting mandatory escrow payments for insurance and taxes, and prohibiting referral fees and kickbacks.

Nature of Program: All borrowers in real estate settlements involving federally related mortgage loans must receive a good faith estimate of settlement costs from the lender when they file their loan application. They must also be given a HUD-prepared booklet containing information about real estate and loan transactions, various services, cost comparisons and information about RESPA at least one business day prior to the settlement date. A settlement statement, following the form prescribed by HUD, must be used at settlement to show the actual costs.

RESPA prohibits referral fees and kickbacks and forbids sellers to require title insurance from a particular title company. Lenders cannot require borrowers to deposit more than 12 months' taxes and insurance payments in an escrow account. The law also requires HUD to undertake studies and demonstrations relating to settlement costs and land recordation systems.

Applicant Eligibility: All lenders of federally-related home mortgages.

Legal Authority: Real Estate Settlement Procedures Act of 1974, as amended in 1975 (P.L. 93-533 and 94-205).

Administering Office: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Affairs, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Active.

Scope of Program: Limited only by the number of federally-related mortgage loans. A federally-related mortgage loan is one made by any lender insured or regulated by any Federal agency, or loan guaranteed or insured by a Federal agency.

LEAD-BASED PAINT POISONING PREVENTION

96

To eliminate lead-based paint hazards in federally-owned or assisted residential construction or rehabilitation.

Nature of Program: Prohibits the use of any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied or both; or with respect to paint manufactured after June 22, 1977 prohibits the use of any paint containing more than six one-hundreths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied. For HUD-assisted housing constructed prior to 1950, eliminate as far as practicable the immediate hazard of lead-based paint to which children may be exposed, and warn purchasers and tenants of such housing of the hazards of lead-based paint.

Legal Authority: Title III of the Lead-Based Paint Poisoning Prevention Act of 1971 (P.L. 91-695), as amended in 1973 (P.L. 93-151) and 1976 (P.L. 94-317).

Administering Office: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Active.

Scope of Program: Nationwide.

Federal Insurance Administration

FEDERAL CRIME INSURANCE

98

Burglary and robbery insurance at affordable rates in States where the cost or availability of crime insurance is a critical problem.

Nature of Program: Federal Crime Insurance enables individuals and businesses to purchase affordable insurance against burglary and robbery losses. Policies are not cancelled because of losses, and rates are uniform within entire metropolitan areas. A minimum of protective devices is, however, required. The program is available in 21 States and the District of Columbia, where the cost or availability of crime insurance is a critical problem.

Residential burglary and robbery insurance is available in amounts up to $10,000, and businesses can purchase as much as $15,000 of burglary and/or robbery coverage.

Applicant Eligibility: A property owner, tenant, or businessman within an eligible State or the District of Columbia may apply for crime insurance. To be eligible for burglary insurance coverage, the premises must meet the protective device requirements. Protective devices are not required for commercial robbery insurance.

Legal Authority: Urban Property Protection and Reinsurance Act of 1968 (P.L. 90-448), as amended by Housing and Urban Development Act of 1970 (P.L. 91-609).

Administering Office: Federal Insurance Administration, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: Call toll-free 800-638-8780, or write to administering office.

Current Status: Active.

Scope of Program: Policies in force: 37,331 as of July 31, 1977. Amount of insurance: $245,700,000 as of July 31, 1977.

NATIONAL FLOOD INSURANCE

Federal insurance for flood-prone areas coupled with local flood plain management to reduce flood losses.

Nature of Program: HUD makes flood insurance available to property owners in flood-prone areas. The communities in which these flood-prone areas are located are required to administer flood plain management programs to minimize future flood damage. The insurance is contingent on the community's formal resolution of participation in the program.

Also contingent on a community's participation in the flood insurance program, is assistance under the Federal Disaster Relief Act following a flood. And federally-related lenders must inform borrowers on properties located in a flood-hazard area that flood disaster assistance will not be available in the event of a flood disaster.

Applicant Eligibility: Communities, i.e., States or their political subdivisions or areas, Indian tribes or tribal organizations, Alaska Native villages or authorized native organizations which have the authority to adopt and enforce flood plain management regulations for the areas within their jurisdiction.

Property owners in participating communities may apply for flood insurance through a licensed agent or broker.

Legal Authority: National Flood Insurance Act of 1968 (P.L. 90-448), as amended by Housing and Urban Development Act of 1968 (P.L. 91-152) and Housing and Community Development Act of 1974 (P.L. 93-383); Flood Disaster Protection Act of 1973 (P.L. 93-234), as amended by Housing Authorization Act of 1976 (P.L. 94-375).

Administering Office: Federal Insurance Administration, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: FIA Regional Offices, or call toll-free 800-424-8872.

Current Status: Active.

Scope of Program: Policies in force: 766,130 as of April 30, 1976. Amount of insurance: $21,528,000,000 as of April 30, 1976. Number of participating communities: 14,500 as of June 30, 1976.

FEDERAL RIOT REINSURANCE

100 Reinsurance for private property insurance companies against damage from riot and civil disorder.

Nature of Program: HUD reinsures insurance companies for excess losses in standard lines of property insurance coverage resulting from riots or civil disorders. Reinsured losses are shared among the insurance companies, the States, and the Federal Government. The sale of reinsurance is limited to companies that cooperate with State insurance authorities in FAIR plans. These are Statewide plans to assure property owners Fair Access to Insurance Requirements.

Minimum criteria for FAIR plans are specified by law, but State insurance authorities are expected to adopt whatever additional provisions are needed to make property insurance readily available to urban areas. FAIR plans are administered under supervision of the State insurance authority subject to Federal minimum regulatory standards. Where necessary, HUD may require additional programs as a condition of continued reinsurance in the State.

Applicant Eligibility: Property insurance companies that participate in a State FAIR plan.

Legal Authority: Title XI, Urban Property Protection and Reinsurance Act of 1968 (P.L. 90-448), as amended by Housing and Urban Development Act of 1970 (P.L. 91-609).

Administering Office: Federal Insurance Administration, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: See administering office.

Current Status: Active.

Scope of Program: As of April 30, 1977, 157 riot reinsurance contracts providing coverage to 412 property insurance companies. Reinsurance premiums totaled $1,150,000; total amount of reinsurance: $500 billion.

Federal Disaster Assistance Administration

DISASTER ASSISTANCE

102

Supplemental Federal assistance to State and local governments and individuals affected by natural disasters.

Nature of Program: Following a Presidential declaration of a "major disaster," the Federal Disaster Assistance Administration (FDAA) may provide eligible individuals and families with temporary housing, special unemployment assistance, low-interest loans to repair or replace real or personal property, food coupons, legal services, crisis counseling, and individual and family grants to meet other disaster-related necessary expenses. Grants may be made to States, local governments, and private nonprofit institutions for debris removal and restoration of damaged facilities.

"Emergency" assistance is also available to save lives, protect property, public health and safety, or to avert or lessen the threat of a disaster. States may receive grants to suppress forest or grassland fires that threaten major disaster.

Applicant Eligibility: State and local governments, certain private nonprofit facilities, and individual disaster victims in areas declared eligible for "emergency" or "major disaster" assistance by the President upon the request of the Governor of the State.

Legal Authority: Disaster Relief Act of 1970 (P.L. 91-606), as amended by Disaster Relief Act of 1974 (P.L. 93-288); Executive Order 11795, as amended by Executive Order 11910.

Administering Office: Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410..

Information Source: Regional offices of the Federal Disaster Assistance Administration.

Current Status: Active.

Scope of Program:

In FY 1977:

Major disaster declarations	18
Emergency declarations	36
Fire Suppression grants	6
Funds Obligated (from President's Disaster Relief Fund)	$360,364,290

Federal aid encouraging States and local governments to prepare for or prevent natural disasters.

Nature of Program: The Federal Disaster Assistance Administration (FDAA) encourages State and local governments to develop comprehensive plans and practicable programs in preparation for disasters, and guides them in coping with pending or actual disasters.

A grant of not more than $250,000 may be made to any State to develop these plans and programs. In addition, FDAA may grant up to $25,000 per year in matching funds for improving, maintaining, and updating State disaster plans.

Technical assistance is also available to supplement the States' own resources in planning to meet disasters.

Applicant Eligibility: Eligible applicants are the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, and (improvement grant only) the government of the Northern Marianas. (States must have applied by May 22, 1975, for the development grant.) The application must include a plan detailing the activities to be undertaken.

Legal Authority: Section 201, Disaster Relief Act of 1974 (P.L. 93-288), and Executive Order 11795, pursuant thereto.

Administering Office: Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410..

Information Source: Regional Office of the Federal Disaster Assistance Administration.

Current Status: Active.

Scope of Program: Number of grants awarded: 56 development, 5 improvement (as of September 30, 1977). Funding: $13,828,189 obligated.

Government National Mortgage Association

GNMA GUARANTEED MORTGAGE-BACKED SECURITIES

106

Privately issued securities based on pools of federally underwritten mortgages. The securities are guaranteed by the Government National Mortgage Association to attract capital into the residential mortgage market.

Nature of Program: The Government National Mortgage Association (GNMA) guarantees the timely payment of principal and interest to holders of securities issued by private lenders and backed by pools of HUD-insured and VA-guaranteed mortgages. The guarantee is backed by the full faith and credit of the United States Government.

The modified "pass through" security guarantees monthly payments of principal and interest due on mortgages in the pool regardless of whether they are collected from the mortgagors. All prepayments and claims settlements also are passed through to the security holders.

Potential issuers of securities pool federally underwritten mortgages of homogeneous type (single-family, multifamily project, or mobile home) and interest rate. Once the pool has been approved and the certificates prepared by GNMA, issuers can market securities directly to investors or through securities dealers.

Applicant Eligibility: Applicants must be FHA-approved mortgagees in good standing and generally have a net worth of not less than $100,000.

Legal Authority: Housing and Urban Development Act of 1968 (P.L. 90-448).

Administering Office: Government National Mortgage Association, Department of Housing and Urban Development, Washington, D.C. 20410..

Information Source: See administering office.

Current Status: Active.

Scope of Program: GNMA has guaranteed over $49 billion in mortgage-backed, pass-through securities from the inception of the program in early 1970 through November 1977.

GNMA SPECIAL ASSISTANCE MORTGAGE PURCHASES ("TANDEM")

A secondary mortgage market created by Government National Mortgage Association purchases of mortgages from private lenders to expand and facilitate investment in housing.

Nature of Program: The Government National Mortgage Association (GNMA) was originally established as a secondary market for federally-insured residential mortgages not readily saleable in the private market. These mortgages generally financed housing for groups or in areas with special needs.

More recently GNMA was authorized to purchase both federally-insured and conventional mortgages at below market interest rates to stimulate lagging housing production. These mortgages are then resold at current market prices with the government absorbing the loss as a subsidy.

Applicant Eligibility: FHA-approved mortgagees may apply to sell federally underwritten mortgages to GNMA. Lenders approved by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to participate in their conventional mortgage purchase programs may apply to sell conventional loans to GNMA.

Legal Authority: Housing and Urban Development Acts of 1968 and 1969 (P.L. 90-448 and 91-152), Housing and Community Development Act of 1974, (P.L. 93-383), Emergency Home Purchase Assistance Act of 1974 (P.L. 93-449), Emergency Housing Act of 1975 (P.L. 94-50), Housing Authorization Act of 1976 (P.L. 94-375), and the Housing and Community Development Act of 1977 (P.L. 95-128).

Administering Office: Government National Mortgage Association, Department of Housing and Urban Development, Washington, D.C. 20410.

Information Source: Regional offices of the Federal National Mortgage Association in Atlanta, Chicago, Dallas, Los Angeles, and Philadelphia. Also see administering office.

Current Status: Twenty-five Special Assistance programs have been implemented since 1954. GNMA is currently purchasing mortgages pursuant to outstanding commitments under the following programs: program 17 (Section 236 and 221(d)(3) rent supplement projects); program 21 (unsubsidized multifamily projects); program 23 (HUD-insured multifamily project mortgages).

Scope of Program: Between January 1974 and September 30, 1977, GNMA issued $20.5 billion in commitments to purchase below-market interest rate mortgages under its Special Assistance program.

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Major Federal Legislation and Executive Orders Authorizing HUD Programs

(IN CHRONOLOGICAL ORDER)

NATIONAL HOUSING ACT, 1934 (Public Law 73-479) (P.L. 73-479)

Title I: Property Improvements
  Section 2: Mobile Homes (Loan Insurance)
    Property Improvement (Loan Insurance)

Title II:
  Section 203: Homes (One-to Four-Family) (Mortgage Insurance)
  Section 203(h): Disaster Housing
  Section 203(i): Outlying area properties
  Section 203(k): Major Home Improvements (Loan Insurance)
  Section 207: Multifamily Rental Housing (Mortgage Insurance)
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  Section 223 (e): Housing in Declining Neighborhoods
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  Section 231: Senior Citizen Housing (Mortgage Insurance)
  Section 232: Nursing Homes and Intermediate Care Facilities
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  Section 233: Experimental Housing (Mortgage Insurance)
  Section 234: Condominium Housing (Mortgage Insurance)
  Section 235: Interest Supplements on Home Mortgage
  Section 236: Interest Supplements on Rental and Cooperative
    Housing Mortgages
  Section 237: Mortgage Credit Assistance for Homeownership
    Counseling Assistance for Low- and Moderate-Income
    Families
  Section 240: Purchase of Fee Simple Title (Mortgage Insurance)
  Section 241: Insured Supplemental Loans on Multifamily
    Housing Projects
  Section 242: Nonprofit Hospitals (Mortgage Insurance)

Title III: Government National Mortgage Association

Title VIII:
  Section 809: Armed Services Housing for Civilian Employees
    (Mortgage Insurance)
  Section 810: Armed Services Housing in Impacted Areas
    (Mortgage Insurance)

Title X: Land Development and New Communities (Mortgage Insurance)

Title XI: Group Practice Facilities (Mortgage Insurance)
Title XII: Urban Property Protection and Reinsurance

U.S. HOUSING ACT OF 1937 (P.L. 75-412)

HUD-Assisted Homeownership Management Program

Low-Rent Public Housing
  Section 10(c) and 23: Low-Rent Public Housing – Leasing
  Low-Rent Public Housing – Tenant Services

HOUSING ACT OF 1949 (P.L. 81-171)

Title I: Urban Renewal Projects

HOUSING ACT OF 1950 (P.L. 81-475)

Title IV: College Housing

HOUSING ACT OF 1954 (P.L. 83-560)

Title VII:
Section 701: Comprehensive Planning Assistance
Urban Planning Research and Demonstration
Section 702(b): Urban-Systems Engineering – 23

HOUSING ACT OF 1959 (P.L. 86-372)

Title II:
Section 202: Senior Citizen Housing (Direct Loans)

HOUSING ACT OF 1964 (P.L. 88-560)

Title III:
Section 312: Rehabilitiation Loans

Title VIII:
Part 1: Community Development Training

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT, 1965 (P.L. 89-174)

HOUSING AND URBAN DEVELOPMENT ACT OF 1965 (P.L. 89-117)

Title I: Rent Supplements

Title VII:
Section 702: Public Water and Sewer Facilities
Section 703: Neighborhood Facilities

EXECUTIVE ORDER 11246

Parts II and III, as amended by Executive Order 11375:
Equal Employment Opportunity

DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966 (P.L. 89-754)
Title I: Model Cities
Title X:
Sections 1010 and 1011: Urban Research and Technology

HOUSING AND URBAN DEVELOPMENT ACT OF 1968 (P.L. 90-448)

Title I: Assistance to Nonprofit Sponsors
Title IV: New Communities
Title VIII: Government National Mortgage Association
Title XI: Urban Property Protection and Reinsurance
Title XIII: Flood Insurance
Title XIV: Interstate Land Sales

CIVIL RIGHTS ACT OF 1968 (P.L. 90-284)

Title VIII: (Fair Housing); also Civil Rights Act of 1866 and 1964):
Equal Opportunity in Housing

HOUSING AND URBAN DEVELOPMENT ACT OF 1970 (P.L. 91-609)

Title V: Research and Technology
Title VI: Crime Insurance
Title VII: Urban Growth and New Community Development

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (P.L. 93-383)

Title I: Community Development Block Grants
Title II: Assisted Housing
Section 8: Lower Income Rental Assistance
Title III: Mortgage Credit Assistance
Section 518(b): Compensation for Substantial Defects
Section 244: Coinsurance
Section 245: Experimental Financing
Title VI: Mobile Home Construction and Safety Standards
Title VIII: Miscellaneous
Section 802: State Housing Finance Agency Coinsurance
Section 809: National Institute of Building Sciences (NIBS)
Section 810: Urban Homesteading
Section 811: Counseling

EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974 (P.L. 93-449)
Section 315: GNMA Conventional Tandem Authority

EMERGENCY HOMEOWNERS' RELIEF ACT
Title I: Standby Authority to Prevent Mortgage Foreclosures

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977

(The Housing and Community Development Act of 1977 is omnibus legislation which makes a number of significant changes in the Nation's housing and community development and related authorities. The new law contains nine titles below.)

Title I: Community Development
Title II: Housing Assistance and Related Programs
Title III: Federal Housing Administration Mortgage Insurance and Related Programs
Title IV: Lending Powers of Federal Savings and Loan Associations; Secondary Market Authorities
Title V: Rural Housing
Title VI: National Urban Policy
Title VII: Flood and Riot Insurance
Title VIII: Community Reinvestment
Title IX: Miscellaneous Provisions

Programs Generally Identified by Number

HUD Regional and Area Offices

Region I John F. Kennedy Federal Building Boston, Massachusetts 02203	Area Offices: Boston, Mass.; Hartford, Conn. Service Offices: Manchester, N.H.; Providence, R.I.
Region II 26 Federal Plaza New York, New York 10007	Area Offices: New York, N.Y.; Newark, N.J.; Buffalo, N.Y.; Caribbean Service Offices: Albany, N.Y.; Camden, N.J.
Region III Curtis Building 6th and Walnut Streets Philadelphia, Pennsylvania 19106	Area Offices: Pittsburgh, Pa.; Philadelphia, Pa.; District of Columbia, Baltimore, Md.; Richmond, Va. Service Office: Charleston, W.Va.
Region IV Pershing Point Plaza 1371 Peachtree St., N.E. Atlanta, Georgia 30309	Area Offices: Birmingham, Ala.; Jacksonville, Fla.; Atlanta, Ga.; Louisville, Ky.; Jackson, Miss.; Greensboro, N.C.; Columbia, S.C.; Knoxville, Tenn. Services Offices: Coral Gables, Fla.; Tampa, Fla.; Orlando, Fla.; Memphis, Tenn.; Nashville, Tenn.
Region V 300 South Wacker Drive Chicago, Illinois 60606	Area Offices: Detroit, Mich.; Chicago, Ill.; Indianapolis, Ind.; Minneapolis, Minn.; Columbus, Ohio; Milwaukee, Wisc. Service Offices: Cincinnati, Ohio; Cleveland, Ohio; Grand Rapids, Mich.; Flint, Mich.
Region VI Earle Cabell Federal Building U.S. Courthouse 1100 Commerce Street Dallas, Texas 75242	Area Offices: Dallas, Tex.; Oklahoma City, Okla.; San Antonio, Tex.; New Orleans, La.; Little Rock, Ark. Service Offices: Ft. Worth, Tex.; Houston, Tex.; Lubbock, Tex.; Albuquerque, N. Mex.; El Paso, Tex.; Shreveport, La.; Tulsa, Okla.
Region VII Federal Office Building 911 Walnut Street Kansas City, Missouri 64106	Area Offices: Kansas City, Mo.; St. Louis, Mo.; Omaha, Nebr. Service Office: Des Moines, Iowa
Region VIII Executive Tower 1405 Curtis Street Denver, Colorado 80202	Area Office: Denver, Colo. Service Offices: Helena, Mont.; Salt Lake City, Utah
Region IX 450 Golden Gate Avenue P.O. Box 36003 San Francisco, California 94102	Area Offices: San Francisco, Calif.; Los Angeles, Calif.; Honolulu, Hawaii Service Offices: Santa Ana, Calif.; San Diego, Calif.; Phoenix, Ariz.; Tucson, Ariz.; Fresno, Calif.; Sacramento, Calif.; Reno, Nev.; Las Vegas, Nev.
Region X Arcade Plaza Building 1321 Second Avenue Seattle, Washington 98101	Area Offices: Seattle, Wash.; Portland, Oreg.; Anchorage, Alaska Service Offices: Boise, Idaho; Spokane, Wash.

HUD Area Offices and FHA Service Offices

ALABAMA
*Birmingham 35233
Daniel Building
15 South 20th Street

ALASKA
*Anchorage 99501
334 West 5th Avenue

ARIZONA
Phoenix 85002
244 West Osborn Road
P.O. Box 13468

ARKANSAS
*Little Rock 72201
Room 1490, One Union National Plaza

CALIFORNIA
*Los Angeles 90057
7600 Wilshire Boulevard

Sacramento 95809
801 I Street, Room 147
P.O. Box 1978

San Diego 92112
Federal Office Building
880 Front Street

*San Francisco 94111
1 Embarcadero Center
Suite 1600

Santa Ana 92701
34 Civic Center
Plaza, Room 614

COLORADO
*Denver 80202
Title Building
Fourth Floor
909 17th Street

CONNECTICUT
*Hartford 06103
One Financial Plaza

DISTRICT OF COLUMBIA
*Washington, D.C. 20009
Universal North Building
1875 Connecticut Avenue, N.W.

FLORIDA
Coral Gables 33134
3001 Ponce de Leon Boulevard

*Jacksonville 32204
Peninsular Plaza
661 Riverside Avenue

Tampa 33601
Federal Building
700 Twiggs Street
P.O. Box 2097

GEORGIA
*Atlanta 30303
Peachtree Center Building
230 Peachtree Street, N.W.

HAWAII
*Honolulu 96850
Prince Jonah Kuhio Kalanianaole
Federal Building
300 Ala Moana Boulevard
Suite 3318

IDAHO
Boise 83707
418 North Curtis Road
P.O. Box 32

ILLINOIS
*Chicago 60602
17 North Dearborn Street

INDIANA
*Indianapolis 46207
151 North Delaware Street
4720 Kingsway Drive

IOWA
Des Moines 50309
Room 259
Federal Building
210 Walnut Street

KANSAS
*Kansas City 66101
Two Gateway Center
4th & State P.O. Box 1339

KENTUCKY
*Louisville 40201
Children's Hospital Foundation Bldg.
601 South Floyd Street
P.O. Box 1044

LOUISIANA
*New Orleans 70113
Plaza Tower
1001 Howard Avenue

Shreveport 71120
New Federal Building
500 Fannin, 6th Floor

MARYLAND
*Baltimore 21201
Two Hopkins Plaza
Mercantile Bank and
Trust Building

MASSACHUSETTS
*Boston 02114
Bulfinch Building
15 New Chardon Street

MICHIGAN
*Detroit 48226
Patrick V. McNamara Federal Building
477 Michigan Avenue

Grand Rapids 49505
Northbrook Building Number 11
2922 Fuller Avenue, N.E.

MINNESOTA
*Minneapolis–St. Paul 55435
6400 France Avenue
Minneapolis, Minnesota

MISSISSIPPI
*Jackson 39213
101 C Third Floor Jackson Mall
300 Woodrow Wilson Avenue, W.

MISSOURI
*St. Louis 63101
210 North 12th Street

MONTANA
Helena 59601
Steamboat Block
616 Helena Avenue

NEBRASKA
*Omaha 68106
Univac Building
7100 West Center Road

NEVADA
Reno 89505
1050 Bible Way
P.O. Box 4700

NEW HAMPSHIRE
Manchester 03103
Norris Cotton
Federal Building
276 Chestnut Street

NEW JERSEY
Camden 08103
The Parkade Building
519 Federal Street

*Newark 07102
Gateway Building No. 1
Raymond Plaza

NEW MEXICO
Albuquerque 87110
625 Truman Street, N.E.

NEW YORK Albany 12207
Leo W. O'Brien
Federal Building
North Pearl Street
& Clinton Avenue

*Buffalo 14202
Suite 800
Statler Building
107 Delaware Avenue

*New York 10010
668 Fifth Avenue

*HUD Area Office

NORTH CAROLINA
*Greensboro 27401
415 N. Edgewood Street

OHIO
Cincinnati 45202
Federal Office Building
Room 9009
550 Main Street

Cleveland 44114
777 Rockwell

*Columbus 43215
New Federal Building
200 North High Street

OKLAHOMA
*Oklahoma City 73102
200 N.W. 5th Street

Tulsa 74152
1708 Utica Square
P.O. Box 52554

OREGON
*Portland 97204
520 Southwest 6th Avenue

PENNSYLVANIA
*Philadelphia 19106
Curtis Building
625 Walnut Street

*Pittsburgh 15212
Two Allegheny Center

PUERTO RICO
*San Juan 00917
Federal Office Building
Room 428, Carlos Chardon Avenue
Hato Rey, Puerto Rico
Mailing Address:
G Post Office Box 3869
San Juan, Puerto Rico 00936

RHODE ISLAND
Providence 02903
330 Post Office Annex

SOUTH CAROLINA
*Columbia 29202
1801 Main Street
Jefferson Square

TENNESSEE
*Knoxville 37919
One Northshore Building
1111 Northshore Drive

Memphis 38103
28th Floor,
100 North Main Street

Nashville 37203
U.S. Courthouse
Federal Building Annex
801 Broadway

TEXAS
*Dallas 75201
2001 Bryon Tower, 4th Floor

Fort Worth 76102
Room 13A01 Federal Building
819 Taylor Street

Houston 77046
Two Greenway Plaza East, Suite 200

Lubbock 79408
Courthouse and Federal Office Building
1205 Texas Avenue
P.O. Box 1647

*San Antonio 78285
Kallison Building
410 South Main Avenue
P.O. Box 9163

UTAH
Salt Lake City 84147
125 South State Street
P.O. Box 11309

VIRGINIA
*Richmond 23219
701 East Franklin Street

WASHINGTON
*Seattle 98101
Arcade Plaza Building
1321 Second Avenue

Spokane 99201
West 920 Riverside Avenue

WEST VIRGINIA
Charleston 25330
New Federal Office Building
500 Quarrier Street
Post Office Box 2948

WISCONSIN
*Milwaukee 53203
744 North 4th Street

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

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DEPARTMENT OF HOUSING AND
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FIRST-CLASS

November 1978
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Coastal Zone Mgt - Legal Opinions

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K–STATE CAPITOL
JUNEAU, ALASKA 99811

March 6, 1980

The Honorable Arliss Sturgulewski
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SCR 51-54

Dear Senator Sturgulewski:

This responds to your request for our views on the use of resolutions in the light of the ruling in State v. A.L.I.V.E. Voluntary. In preparing this response we have reviewed that decision and the memorandum from Director Barrier of the Legislative Affairs Agency to Representative Anderson and the memoranda from Legislative Counsel Cook to you. We would agree with them that the use of resolutions as a veto over regulations, programs, or other actions or proposed actions has been placed in great doubt. Indeed, we believe that the ruling makes their use a nullity.

In A.L.I.V.E., the court quoted the terms of the Administrative Procedure Act which provide for the legislature to annul a regulation by a concurrent resolution and said:

> This statute encompasses a variant of what has come to be called the legislative veto. The question in this case is whether this device violates article II of the Alaska Constitution. We hold that it does.

State v. A.L.I.V.E. Voluntary, ___ P.2d ___ (Op. No. 2022, Feb. 17, 1980), at 2 (citation omitted, emphasis added).

Accordingly, the ruling is on the basis that, except as expressly provided for by the constitution, the legislative veto is itself constitutionally impermissible, and -- as the dissent makes clear -- the court's decision leaves no room for argument.

The principal question posed by the ruling in A.L.I.V.E. is whether the court will treat the several statutory requirements for legislative vetoes as severable or nonseverable, that

is, whether the entire statute is invalid or just the provisions for the legislative veto. We can offer no general answer. Each statute must be examined separately. All that we can say is that a serious question exists, and if the legislature does not act to answer it with amendatory legislation, the court will do so on a case-by-case basis as each statute becomes the subject of litigation.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Rodger W. Pegues
Assistant Attorney General

RWP:md

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 6, 1980

SUBJECT: Status of approval of coastal zone management regulations

TO: Senator Arliss Sturgulewski, Chairman
Senate Community and Regional Affairs Committee

FROM: Billy G. Berrier BGB
Director
Division of Legal Services

You have asked what effect the recent decision in State of Alaska v. A.L.I.V.E. Voluntary, (Feb. 19, 1980 Opinion No. 2022) has on approval of coastal zone management programs required by AS 46.40.080.

I have discussed this case in an earlier opinion for Representative Anderson. With his permission, I have made this opinion available to other legislators. A copy of that opinion is attached.

For coastal zone management programs simply requiring approval by bill rather than by concurrent resolution could create substantial problems under Article II, section 19 of the Constitution which prohibits the use of local or special acts where a general act can be made applicable. It may be possible that the legislation can be restructured to bring approval by law within the test for special legislation used in State v. Lewis, 559 P.2d 630 (Alaska 1977) which is the case approving the Cook Inlet land transfer; but this would involve substantial policy decisions by the legislature.

In my earlier opinion, I recommended proceeding in the areas by the use of concurrent resolutions knowing there is a risk involved. This is, of course, a policy decision to be made by the legislators. It would appear probable in this context that if the approval mechanism were held invalid, a court would hold the approval mechanism unnecessary to the validity of the programs and sustain the programs.

BGB:jdn

Attachment

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 28, 1980

SUBJECT: State of Alaska v. A.L.I.V.E. Voluntary

TO: Representative Nels A. Anderson, Jr.
House Majority Leader

FROM: Billy G. Berrier
Director
Division of Legal Services

You have asked my comments on the decision of the Supreme Court in the case of State of Alaska v. A.L.I.V.E. Voluntary, (File No. 3670). A copy of the decision is attached.

The case concerns a regulation relating to games of skill and chance annulled by the legislature. The authority for annulment was AS 44.62.320(a) which provides:

> The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.

The Administrative Procedure Act was adopted by the First State Legislature in 1959. This Act provided, among other things, for the procedure by which regulations of agencies or departments are promulgated and the section was enacted as part of that procedure.

The Court held, with a majority opinion of three justices and a strong dissent by two justices, that regulations could not constitutionally be annulled by concurrent resolution since a resolution is not enacted in accordance with the requirements in Article II of the Constitution for adoption of law. The result, of course, is a non sequitor since the majority opinion avoided addressing the difference between regulation and law and finding that despite the difference, the enactment procedures applied. They, therefore, assumed the middle term of the syllogism and rambled widely to provide a substitute for the missing logic. Various cases were cited, only one of which was relevant and that one is no longer good law in its own jurisdiction.

For this reason, it is very difficult to determine the effect of the decision.

The holding is explicit that regulations may not be annulled by concurrent resolution. Although it is not explicitly stated, there is a clear implication that annulment by bill is constitutional.

Beyond that, the Court made several statements which do not appear necessary to the holding in this case. Much of this dicta is in sweeping terms. It casts doubt over substantial areas and, since the reasoning is essentially stream of consciousness rather than coherent, gives only minimal clues concerning the legal status of these areas.

Essentially the areas affected fall into two classes

(1) regulations and legislative oversight of regulations; and

(2) other areas of law where concurrent resolutions are used to provide legislative oversight.

On regulations the majority opinion states broadly:

> "The express provision in the Alaska Constitution of two specific legislative veto mechanisms supports our view that no implied general power to veto agency regulations by informal legislative action exists.
>
> * * *
>
> "In our view, the specificity with which the constitution deals with the legislative veto powers it does grant leads logically to the conclusion that no other veto power is implied."

The case law on regulations which the majority opinion cited is not helpful. One of the cases is on point but is no longer good law in its own jurisdiction, the second is a trial court decision and the last is a federal case where the question of a one-house veto was present but not reached. The discussion of this last case illustrates the difficulty in following the reasoning in the majority opinion. The Court referring to the United States Circuit Court decision in Atkins v. United States, 556 F2d 1028 (1977) said:

> The court implied that for one House to have the authority to make such a change would be unconstitutional: "Nor could one House do anything more than preserve existing law . . ." Id. at 1064. In contrast, the annullment provisions of AS 44.62.320(a) permit the legislature to void administrative regulations which are in effect. Such regulations are laws in every meaningful sense, and annulling any one of them effects a change in the law.

The connection and logic totally escape me.

In its discussion of delegation of power to annul regulations, an issue injected into the opinion since no delegation is involved in the case before the Court, the opinion is even less helpful. The majority opinion observes:

> "While the power to void agency regulations could be exercised by either the legislature, or by an agency, when the legislature exercises such power it must do so while acting as a legislature. It may not grant itself the power to act as an agency.
>
> "It might be supposed that if the legislature could condition the validity of a regulation upon the subsequent disapproval by both of its houses by concurrent resolution, it could condition the same upon disapproval by a committee, or a single legislator. Using the theory, propounded by the Amici, that a veto is merely a condition there is no principled distinction between these cases. It is therefore worth observing that most authorities have rejected the validity of laws conferring either affirmative or negatory legislative powers on individual legislators or legislative committees."

Perhaps the second point made by the majority opinion in discussing the desirability of legislative oversight of administrative regulations gives the best clue. The opinion stated:

> Second, at least according to a recent case study, the legislative veto has been unimpressive in practice. See Bruff & Gellhorn, Congressional Control of Administrative Regulation: A Study of Legislative Vetoes, 90 Harv. L. Rev., 1369 (1977). That study concludes, essentially, that the legislative veto encourages secretive, poorly

> informed, and politically unaccountable legislative action. Id. at 1409-20. It is consequences such as these that the enactment provisions of our constitution are designed to guard against.

It should be pointed out that the facts concerning the annulment which was the subject matter of the case do not support a conclusion that the annulment resulted from "secretive, poorly informed and politically unaccountable legislative action" but that, of course, is not material.

It is my conclusion that any annulment of regulation other than by law would be unconstitutional under this case. Although the question is not discussed since it is not relevant to the case, it is very clear that regulations which have the effect of law require statutory authorization and the legislature can withdraw the authorization or establish standards in whatever degree of specificity the legislature desired. Since in case of conflict between statute and regulation the statute controls, it is also clearly permissible to make the substantive statutes detailed thereby leaving less or no areas which must be dealt with by regulations. This latter course, however, involves a loss of flexibility and administrative expertise.

It appears that any form of legislative oversight of administrative regulations would be regarded with suspicion by the court. However, devices such as providing chat no regulation can become effective until it has been before the legislature in session for a set time or even a provision that no regulation may become effective unless approved by law are not clearly precluded.

In Plumley v. Hale, 594 P.2d 497 (Alaska 1979), our Court discussed the question of non-retroactive treatment in civil cases. The Court in that case stated:

> In accord with United States Supreme Court precedent, we have previously identified four conditions indicating the propriety of non-retoractive treatment in civil cases: 1) the holding is one of first impression, or overrules prior law, and was not foreshadowed in earlier decisions; 2) there has been justifiable reliance on an alternative interpretation of the law; 3) undue hardship would result from retroactive application; and 4) the

> purpose and intended effect of the holding is best accomplished by prospective application.

The case concerned approval of free conference committee reports without a recorded roll call vote. The Court held the criteria to be satisfied and the decision to be prospective only. In my opinion the facts here, while not as compelling as the facts in Plumley, would lead to a conclusion that annulment of regulations which occurred prior to this case are not affected by the case.

The second major problem area is legislative oversight exercised by concurrent resolution in other areas than regulation oversight. The majority opinion made a very broad statement saying:

> The question presented by this case is whether the legislature can exercise its legislative power without following these enactment provisions. In our view the answer must be in the negative, for otherwise they would serve no purpose.

(The dissenting opinion quite correctly pointed out this is not the question at all. Justice Boochever said

> In my opinion, the majority misstates the question presented as being whether the legislature can exercise its legislative power without the usual constitutional safeguards. The real question is whether, having exercised its legislative power, subject to all those safeguards, it may condition the delegation of regulatory power to an executive agency upon a provision for legislative oversight. I agree with our statement in Boehl that the legislature has that power.

This view will be significant in subsequent cases which concern the use of concurrent resolutions in context other than annulment of regulations placing as it does the issue before the Court in focus.)

The majority opinion went on the say:

> Of course, when the legislature wishes to act in an advisory capacity if may act by resolution. However, when it means to take action having a binding effect on

those outside the legislature it may do so only by following the enactment procedures.

While the dissent noted that numerous other statutes provide some specific legislative review function by concurrent resolution, the majority opinion does not specifically address this. The sweeping generality of the majority opinion clouds, and on its face forbids, these other functions.

These include:

1. AS 18.45.025 -- Approval of facilities siting permit for nuclear facilities.

2. AS 18.65.060 -- Disapproval of regulations relating to compilation of criminal justice information and release of this information.

3. AS 28.05.021 -- Approval of compacts with other states relating to motor vehicle registration and driving licenses.

4. AS 28.15.141 -- Approval of regulations relating to classification of drivers licenses.

5. AS 28.15.081 -- Approval of regulations relating to drivers license examination.

6. AS 35.10.080 -- Approval of physical facility procurement and planning policy.

7. AS 37.05.280 -- Approval of leases by the state with a rental in excess of $12,000. (While this has general application, it was adopted as part of and specifically relates to construction of public buildings by ASHA for lease to the state and is necessary for the validity of the revenue bonds issued by ASHA.)

8. AS 37.12.080 -- Approval of investments in a single project or to a single applicant by Alaska Renewable Resources Corporation if the investment exceeds $1,500,000 or five percent of the resources of the corporation.

9. AS 38.05.037 -- Disapproval of zoning by the division of lands in the unorganized borough.

10. AS 38.05.182 -- Disapproval of a determination by the Commissioner of the Department of Natural Resources that the taking of royalty on natural resources in money rather than in kind is in the best interests of the state.

11. AS 38.05.065 -- Approval of disposition of oil and gas and contracts for sale of state owned royalty gas or oil.

12. AS 39.23.080 -- Approval of salary commission recommendations. (This is now repealed but until the pay bill this year went into effect, it was the basis on which higher government officials, including the governor, legislators and judges, were paid.)

13. AS 44.55.110 -- Approval of Alaska Power Authority plans. This approval is a specific condition on bonding.

14. AS 44.57.210 -- Approval of projects of the Alaska Toll Bridge Authority. This approval is required before bonds may be issued.

15. AS 46.03.758 -- Disapproval of regulations establishing civil penalties for discharge of oil.

16. AS 46.40.080 -- Approval of Alaska coastal management programs.

While all of these are clouded by the language in the majority opinion, that language is clearly dicta except on the point of annulment of regulations. In my opinion, an attempt to determine whether in later cases the court would follow the broad sweep in the instant case, narrow that sweep depending on the issue before it, or even confine the case to its facts would be pure speculation. Courts have frequently done all three. The majority opinion with its conclusionary approach unsupported by a coherent rationale is of little assistance in determing the scope of the opinion.

Earlier in the opinion, I discussed retro-activity as it applied to regulations annuled by concurrent resolution before the opinion. There is an even stronger case for holding that retroactive application cannot be given to a decision in the areas where annulment of regulations is not in question.

I am, however, very distrubed by the possibility that a future decision in this area could be retroactive to the date of this decision based on a finding by the Court that this decision "clearly foreshadowed" a subsequent decision that resolutions could not be used as prescribed in these statutes. I do not think this would be the decision since certainly at the time of enactment of the laws referred to there was no foreshadowing and bringing all legislative action to a halt in areas of major concern to the state while the legislature re-wrote the law in these areas is certainly not reasonable.

Since the alternative would be to halt, among other things, power development, coastal zone management, and oil and gas sales based on a possibility that the Court will look on legislative oversight in these areas as unfavorably as it does on legislative oversight of regulations, I recommend continuing to operate within the statutory framework now established until the Court, by a subsequent decision, clarifies its position.

I would also recommend that the legislature consider the question of what options are open to it to meet the serious problems created by the case.

BGB:jdn

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 26, 1980

SUBJECT: Legislative role in approving coastal management programs.

TO: Senator Arliss Sturgulewski, Chairman
Senate Community and Regional Affairs Committee
Attn: Margo Waring, A.A.

FROM: Tamara Brandt Cook TBC
Legislative Counsel

AS 46.40.080 simply provides for adoption by the legislature of coastal management programs which have already been reviewed and approved by the council. Clearly under the terms of this statute the legislature may approve the program or disapprove the program. Although the statute does not provide for the situation involving legislative approval of only part of a program, there is also no clear requirement that the legislature approve or disapprove the entire program. In fact, the legislature has done just that on previous occasions, so there is some precedent for the proposition that under the terms of AS 46.40.080 the legislature may approve a program in part and disapprove it in part. SLA 1978, Legislative Resolve Number 41.

Under AS 46.40.060 all district coastal management programs are submitted to the Alaska Coastal Policy Council for review and approval. Standards for council review are itemized in AS 46.40.070. In view of these provisions, an argument could be made that the legislature should not disapprove a program or part of a program that has been adopted by the council unless it finds that the council failed to properly apply the standards set out.

Since there is no case law on point and the language of the statute does not specifically restrict the legislative role, the legislature appears to be free to approve a management program, disapprove a program, or approve it in part and disapprove it in part. Note that the recent case, State of Alaska, and Department of Revenue v. A.L.I.V.E. Voluntary, No. 2022, February 19, 1980 casts considerable doubt upon the ultimate effect of legislative resolutions.

TBC:ljb

OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V STATE CAPITOL
JUNEAU ALASKA 998[illegible]
907-465-3800

M E M O R A N D U M February 26, 1980

SUBJECT: Constitutionality of legislative approval or disapproval by resolution of agency regulations.
(Work Orders No. 8190, 8191, 8192, and 8193)

TO: Senator Arliss Sturgulewski, Chairman
Senate Community and Regional Affairs Committee

FROM: Tamara Brandt Cook
Legislative Counsel

AS 44.62.320(a) which provides that the legislature, by a concurrent resolution, may annul a regulation of an agency or department, was recently held to be unconstitutional. State of Alaska, and Department of Revenue v. A.L.I.V.E. Voluntary, No. 2022, February 19, 1980. Essentially, that case held that specific provisions of the Alaska Constitution set out in Article II, sections 13, 14, and 18 must be complied with before the legislature can make new law. Additionally, the governor must have the opportunity to veto any new law. In view of these mechanics, the Supreme Court has concluded that the legislature may not create new law through resolution. The proposition that administrative regulations are not the same as bills and ought not to be subject to the same requirements was specifically presented and rejected by the Court. "Such regulations are laws in every meaningful sense, and annulling any one of them effects a change in the law." State of Alaska, and Department of Revenue v. A.L.I.V.E. Voluntary, supra, 21.

The Court recognized that the legislature may delegate law-making power to an administrative agency, and that the delegation could be made subject to a condition. But the condition must be lawful. Making a delegation subject to later change by the legislature through informal action (resolution) was held to be an unlawful condition. The Court reasoned that whenever the legislature exercises its law-making power, it must do so pursuant to the mechanics

set out in the constitution. While an agency may adopt regulations without following any of the same mechanics, the legislature may not act as an agency itself.

In view of this broad holding, AS 46.40.080, requiring approval of amendments to the state coastal management program by adoption of concurrent resolution or by majority vote while both houses are convened to confirm executive appointments, is questionable constitutionally since both these methods constitute informal law-making on the part of the legislature. Although this case did not deal with AS 46.40.080 specifically, it is significant to note that AS 46.40.080 was identified in the dissenting opinion as another example of a statute similar to the one held to be unconstitutional. State of Alaska, and Department of Revenue v. A.L.I.V.E. Voluntary, supra, 46.

TBC:ljb

Enclosure

READING

FILE

Alaska State Legislature

Senate

Committee on

Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 24, 1980

Senator Arliss Sturgulewski

Information Sheet

CAPITAL FOUNDATION FUND

The Capital Foundation Fund will, by appropriation, provide funds to all areas of the State for certain capital improvements. To expend funds, each area will need to develop an areawide capital improvement plan, approved by the local assembly when there is one, and developed with the Department of Transportation and Public Facilities when there is no local government.

Organized and unorganized boroughs are encouraged to conduct regionwide planning to avoid costly duplications of capital projects and to prioritize, on the local level, needs among communities, rather than leaving this process to state level government.

Each area, so long as appropriations are made, is certain of a source of funding for local projects. Each area will receive a formula share of the appropriation. This stability will be advantageous to local governments for planning purposes. Additionally, unlike the current situation, areas may have greater ability to use capital projects for anti-cyclic economic benefits by being in control of fund expenditures. Annual funds do not lapse and may be accumulated for locally determined purposes.

Capital Foundation Funds may be used as the local match required for certain state and federal projects. This will be particularly significant in rural areas which do not now have a source of local match.

Funds are eligible for both construction and maintenance costs. This means that local governments will be encouraged to consider life-cycle costs and encouraged to maintain buildings and other improvements in order to maximize the efficiency of their capital dollars.

Local governments, under the Capital Foundation Fund program, will be assured of a steady supply of state funds for capital improvements that will be directed toward locally determined project needs and can be expended at a locally determined pace.

CAPITAL FOUNDATION

FUND

Intent

It is the intent of this legislation to establish a capital foundation program which will equitably provide funds for the orderly development of capital improvements throughout the state. It is intended that the planning for such developments reflect regional and local needs and priorities and that, whenever possible, borough governments have complete responsibility for the expenditure of the capital foundation program funds.

This legislation recognizes that most capital development projects have greater than local significance and should, therefore, be planned and prioritized on the regional level. Further, the legislation acknowledges that the cost of construction and the cost of maintenance are closely related and that maximally efficient use of funds is encouraged by combining maintenance and construction funds.

Formula

Please see attached pages.

Funds may be used for either capital construction, betterment or maintenance, but not operation of the facilities. Funds allocated to either organized or unorganized boroughs do not lapse and may be accumulated for large projects or for growth management purposes.

Question: Should there be a ceiling on the amount which may be accumulated by any one borough?

Eligible Facilities

libraries
public protection facilities including fire service and holding facilities
neighborhood parks and other recreation facilities
water/sewer
solid waste and resource recovery facilities
health facilities
community facilities
Transportation facilities such as local service roads & trails, small boat harbors, seaplane floats, local transit facilities and equipment, upgrading and improvements in existing air transport facilities such as aviation aides and improvements and associated field improvements, emergency and/or recreational airstrips, so long as no transportation facilities jeopardize or are inconsistent with the state system as defined in the regional transportation plans and the State Facilities Plan.

However, only projects identified in the capital improvement plan are eligible for Capital Foundation Program expenditures.

Distribution

Capital Foundation Program funds will be distributed by formula to boroughs and to unified home rule municipalities, provided each has developed a capital improvement plan which includes a priority listing of capital improvement projects. In organized boroughs the cip will need assembly approval, after a public hearing.

In third class boroughs and for the unorganized borough, the following measures are taken to provide for planned regional development of capital improvements, as there is no regional government responsible for planning and expending funds.

Funds will be distributed to unorganized boroughs (SB 348). If this legislation is not passed, funds will be distributed to those areas identified as REAA's.

However, expenditure of the funds for unorganized boroughs is the responsibility of DOTPF. In order to properly plan for and prioritize capital improvements in the unorganized boroughs, advisory groups are established to assist DOTPF. (Amend Chap. 168 SLA 78).

Regional Advisory Councils

Advisory Council members are appointed by the Governor.

Membership of the advisory groups will consist of one elected official from each first class city or municipality, selected by the city. Additional representation from elected officials of second class cities and representatives of unincorporated communities shall be selected from nominations made by the Division of Community Planning, DCRA and DOTPF. Each regional advisory council shall consist of fifteen members.

The regional advisory councils will assist DOTPF in the development of a regional capital improvement plan, in prioritization among projects, in decision making regarding trade-offs between maintenance and new construction, and in project scheduling.

If an unorganized borough opts to become organized, the borough government will assume the capital improvement planning responsibility, responsibility for foundation program funds and may take title to existing capital improvement projects.

Definitions

Maintenance means preservation, upkeep and repair to keep a facility as close as possible to original condition.

Betterment means improvements, adjustments, additions which more than restore to a former condition for better service without major changes in original construction.

Operation means all costs attributable to utilization of the facility, such as heat, light, janitorial services.

CAPITAL FOUNDATION PROGRAM
(Construction and Maintenance)

FORMULA

Appropriations. The amount of appropriations authorized to be made to the capital foundation program for a fiscal year is equal to two hundred dollars times the state population.

Distribution. Amounts in the capital foundation program shall be distributed annually to municipalities and unorganized boroughs by the department by (a) allocating one-half of the amounts on the basis of population and one-half on the basis of area; and (b) determining the share of an individual municipality or unorganized borough by multiplying its population and area by the construction cost differential for that region. The minimum grant shall be five per cent of the largest distribution made to any municipality or unorganized borough.

Construction Cost Increases. The Department of Transportation and Public Facilities shall submit to the legislature on or before February 15 of each year an estimate of the average percentage increase in construction costs in the state during the previous year.

DEFINITIONS

(1) 'population" means the population of the state, municipality, or an unorganized borough as determined by the department using the latest figures of the U.S. Bureau of the Census or other reliable population data, including but not limited to school enrollments, public utility connections, registered voters, or certified employment payrolls.

(2) "construction cost differential" means one plus the percentage by which average construction costs in a region are greater than or less than the average construction costs in Anchorage as determined by the Department of Transportation and Public Facilities using the latest figures.

(3) "department" means the Department of Community and Regional Affairs.

ILLUSTRATION OF FORMULA (in round terms)

Base:	Population	X	Construction Cost Differential		Area (Sq. Mi.)	X	Construction Cost Differential	
Organized Areas	349,000		1.0	= 349,000	149,376		1.0	= 149,376
Unorganized Boroughs	80,000		1.25	= 100,000	437,036		1.25	= 546,295
	429,000			449,000				695,671

Appropriation: 429,000 X $200 = $85,800,000

Grant:

Adjusted Per Cent of Population X $200
Adjusted Per Cent of Area X $200

Organized Areas

349,000 / 449,000	= .78	X	$42,900,000	= $33,462,000		
149,376 / 695,671	= .215	X	$42,900,000	= 9,223,500		
				$42,685,500		$42,685,500

Unorganized Boroughs

100,000 / 449,000	= .22	X	$42,900,000	= $ 9,438,000		
546,295 / 695,671	= .785	X	$42,900,000	= 33,676,500		
				$43,114,500		43,114,500
					Total	$85,800,000

Reading file

March 31, 1980

TO: Senator Clem Tillion

FROM: Senator Arliss Sturgulewski

RE: Revision of AS 29

It is generally recognized, especially by those who work most closely with it, that AS 29 is in need of revision. Since the time of original enactment, changes in the title, problems in its application, and policy questions of importance have been noted by municipal attorneys, city managers and clerks, and such other municipal officials as assessors. The Legislative Revisor has indicated that AS 29 should be next approached in terms of needed revision.

The work of revision is complicated and, at times, highly technical. I have received numerous inquiries and requests for a process by which to revise AS 29. I have discussed this problem with many people, including Mr. Berrier, and Ms. Chitwood of the Alaska Municipal League.

I would like to suggest the following as an approach to the revision of AS 29 during the period of time between this session and the 1981 session. Funds and responsibility for this project would be directed by the Legislative Council to Mr. Billy Berrier, Legislative Legal Services, to conduct the revision. I foresee the project as follows: two groups would be selected by Mr. Berrier from recommendations provided by the Department of Community and Regional Affairs, Alaska Municipal League and other interested and affected parties. The first group would be a policy advisory group composed of a variety of perspectives and interests, representing the diversity of local governments across the state, and would include a representative of the legislature. The second, a much smaller group, would be a working group, composed of people who have had experience in the application of AS 29. The work group should consist of municipal attorneys, representatives of the Department of Community and Regional Affairs and the Department of Law, as well as a staff member of Legislative Legal Services; other municipal staff functions should also be represented, such as managers or clerks. While the actual technical work would be conducted by the working group, the policy group would provide overall guidance and assistance on policy questions.

Administrative and secretarial responsbility would rest in Legal Services. In order to support this project funds would be required for travel and per diem. Most local governments will be glad to contribute staff time to this project. However, for both the policy and the working group it will be necessary to provide travel funds. As often as possible, teleconferencing will be used to reduce travel needs and to expedite the

project. A draft bill will be ready for January 1981.

It is anticipated that $20,000 should cover the cost of this project. Any funds remaining would be returned.

Thank you for your attention to this matter.

Official Business

Alaska State Legislature

Senate

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

March 8, 1980

TO: Senator Arliss Sturgulewski
Representative Hugh Malone

FROM: Margo W. Waring & Paul Quesnel

RE: Sunset Free Conference Committee

Our previous memorandum on this subject (Feb. 29, 1980) conveyed to you the options and recommendations of Gerald Wilkerson, Legislative Audit. In this memorandum, we would like to present a fuller discussion of the issue of revision of the sunset process.

To establish a context for decisions about sunset revisions, a restatement of the policy approach of the sunset legislation may be appropriate. The significant difference between sunset and previously existing audit and review laws (as embodied in AS 24.20, Legislative Budget and Audit and AS 37.07 Executive Budget Act) is the provision for automatic termination of programs and agencies unless positive joint legislative action is taken. The philosophic assumption informing this approach is that needless government regulation over the private lives of individuals exists that creates a costly and needless burden. Hence, only positive action would save these agencies from automatic extinction. This bias of "guilty til proved innocent" is the key distinction between traditional audit and review mechanisms and the mechanism available in the sunset process.

Alaska's experience with sunset has not been atypical: few agencies have been allowed to terminate. A great deal of time, energy, and money has gone into reviewing boards and determining both their effectiveness and the adequacy of their enabling legislation. However, apparently, few legislators have felt a deep commitment to sunset, and several standing committees have found their time overwhelmed by the demands of the sunset process.

It is within this context that our instructions were given: to review the sunset process with a goal of a revision which would focus on those agencies/boards which require review, free regular committees from the burden of so tight a schedule, yet maintain the sunset process.

While the instructions are clear, the criteria used for judging any particular option are stringent: any number of alternatives would achieve the first two criteria; very few will meet the added criterion of

maintaining a process in which agencies/boards are automatically terminated unless positive action is taken by the legislature.

Discussion of Alternatives

1. The first alternative is the one suggested by Mr. Wilkerson (memorandum of February 29, 1980) in which legislators annually target agencies for sunset. While this option preserves the appearance of the existing sunset process, it should be noted that the power to annually target agencies/boards for sunset already exists under AS 24.20.271 relating to legislative audit. Passage of legislation which would enact this option would essentially duplicate existing authorities. Nothing more would be achieved than would be achieved by the simple repeal of sunset. Additionally, since bills would need to be signed by the Governor, possible veto could endanger this approach.

2. As mentioned in the memorandum of February 29, 1980, stretching out the existing schedule would meet the three criteria we were given, with the exception of focussing on agencies "in need" of sunset review. Even so, this option merits further discussion, as its implementation could be within the function of the Free Conference Committee itself. Legislative Legal Services informs us that the original intention behind placing the health boards in one group for sunset review was to achieve certain efficiences in approach and to provide for coordination in review, so that consolidations, cross references and other inter-disciplinary approaches could be undertaken by the legislature. However, the Free Conference could elect to extend the life of the health boards by varying lengths. For example, while the Psychology Board might be extended for one year, the Board of Nursing could be extended for six or eight years, effectively staggering reviews over a longer time period. Such action would achieve all three objectives: more frequent attention on those boards "in need" of review, less work for the standing committees, and retention of the sunset process.

3. If greater attention is paid to the concept of "less work" than to the other criteria, other options suggest themselves.

a) The sunset legislation allows for joint hearings on the agencies/boards. If joint hearings were held, less total legislative time would be spent; it would be easier for board members to participate, and the whole process would be less expensive. These benefits would be increased if boards were extended for greater periods of time, as suggested in 2 above.

b) Most states, in their sunset legislation, review only licensing/regulatory boards. If the Sunset Act were amended to eliminate the program agencies, then the work load would be reduced. In support of this concept, it should be remembered that program agencies can and are routinely reviewed and audited, that the executive budget process performs similar performance reviews and that the perceived burden of government regulation on the lives of citizens comes substantially from the public interest efforts of licensing and regulatory boards. Hence, if program agencies were to be removed from the sunset list, all three criteria would be observed, without great loss, as program agencies can and are routinely reviewed under traditional mechanisms.

Either or both of the options mentioned in 3(a) and (b) can be supported by the following argument. During the first cycle of sunset reviews, a great deal has been learned regarding the conduct of the process. In 1983, when the boards would again be sunsetted, review criteria will be easier to establish, the organization and scheduling of hearings should be easier, and, perhaps most significantly, there should be less to review as most of the boards will have undergone considerable revision of their practice acts.

4. There is a fourth alternative which would also meet the criteria given to us. This option does not necessarily involve changes in the sunset process or in the scheduling of boards for review. Instead, the legislature itself could establish an alternative process for the sunset reviews. A standing Sunset Committee (perhaps a Joint Committee) would be established. Staff would be hired for this committee. In favor of this option are several efficiences of effort. Although the same time and money would be spent as now, those efforts and funds could be more efficiently used. Staff would develop an expertise in the sunset process, hearings could be held over the interim, deadlines would be more easily met, and the public could be educated regarding the public interest goals of the boards, thus encouraging greater public participation in the sunset hearings. The theoretical loss involved in this option would be the expertise of existing standing committees.

This option could be combined with those detailed in 3(a) and (b) above.

After this memorandum was written, we received a copy of the "House Commerce Committee Interim Report, Sunset in Alaska, 1979-1980." On page 32 of that document a recommendation is made to establish a permanent committee on sunset. A copy of that page is attached to this memorandum.

Summary

There are several options which meet the criteria assigned to us for use in selecting optional revisions of the sunset process. Several of the options can be combined. Of importance in the consideration of these options is whether or not you wish to pursue an aggressive sunset review program. If so, the process selected should be well established and supported. On the other hand, you may consider that the primary value of sunset has already been achieved by the first sunset cycle: revisions to practice acts have been made, board performance has been improved, management adjustments have occurred, and some boards may have been terminated. In other words, we see this juncture as a further determination of the public interest and how that may be served.

Enclosure

March 7, 1980

TO: Arliss Sturgulewski
Chair, Senate Community & Regional Affairs

Hugh Malone
Chair, House Special Committee on the
Permanent Fund

FROM: Margo W. Waring
Jim Rhode
Marge Gorsuch

RE: Capital Foundation Fund

At your request, we have prepared the attached material on a proposed Capital Foundation Fund. We have attempted a thorough listing of all pertinent points.

If you wuld like, we can meet at your earliest convenience to answer any questions you may have.

Attachment

March 24, 1980

TO: Committee Members
Community and Regional Affairs

FROM: Senator Arliss Sturgulewski

RE: Capital Foundation Fund

The Capital Foundation Fund will, by appropriation, provide funds to all areas of the State for certain capital improvements. To expend funds, each area will need to develop an areawide capital improvement plan, approved by the local assembly when there is one, and developed with the Department of Transportation and Public Facilities when there is no local government.

Organized and unorganized boroughs are encouraged to conduct regionwide planning to avoid costly duplications of capital projects and to prioritize, on the local level, needs among communities, rather than leaving this process to state level government.

Each area, so long as appropriations are made, is certain of a source of funding for local projects. Each area will receive a formula share of the appropriation. This stability will be advantageous to local governments for planning purposes. Additionally, unlike the current situation, areas may have greater ability to use capital projects for anti-cyclic economic benefits by being in control of fund expenditures. Annual funds do not lapse and may be accumulated for locally determined purposes.

Capital Foundation Funds may be used as the local match required for certain state and federal projects. This will be particularly significant in rural areas which do not now have a source of local match.

Funds are eligible for both construction and maintenance costs. This means that local governments will be encouraged to consider life-cycle costs and encouraged to maintain buildings and other improvements in order to maximize the efficiency of their capital dollars.

Local governments, under the Capital Foundation Fund program, will be assured of a steady supply of state funds for capital improvements that will be directed toward locally determined project needs and can be expended at a locally determined pace.

Distribution

Capital Foundation Program funds will be distributed by formula to boroughs and to unified home rule municipalities, provided each has developed a capital improvement plan which includes a priority listing of capital improvement projects.

In third class boroughs and for the unorganized borough, the following measures are taken to provide for planned regional development of capital improvements, as there is no regional government responsible for planning and expending funds.

Funds will be distributed to unorganized boroughs (SB 348). If this legislation is not passed, funds will be distributed to those areas identified as REAA's.

However, expenditure of the funds for unorganized boroughs is the responsibility of DOTPF. In order to properly plan for and prioritize capital improvements in the unorganized boroughs, advisory groups are established to assist DOTPF. (Amend Chap. 168 SLA 78). Accumulated funds will be managed by the Commissioner of Revenue.

Regional Advisory Councils

Advisory Council members are appointed by the Governor.

Membership of the advisory groups will consist of one elected official from each first class city or municipality, selected by the city. Additional representation from elected officials of second class cities and representatives of unincorporated communities shall be selected from nominations made by the Division of Community Planning, DCRA and DOTPF. Each regional advisory council shall consist of fifteen members.

The regional advisory councils will assist DOTPF in the development of a regional capital improvement plan, in prioritization among projects, in decision making regarding trade-offs between maintenance and new construction, and in project scheduling.

If an unorganized borough opts to become organized, the borough government will assume the capital improvement planning responsibility, responsibility for foundation program funds and may take title to existing capital improvement projects.

Definitions

Maintenance means preservation, upkeep and repair to keep a facility as close as possible to original condition.

Betterment means improvements, adjustments, additions which more than restore to a former condition for better service without major changes in original construction.

Operation means all costs attributable to utilization of the facility, such as heat, light, janitorial services.

CAPITAL FOUNDATION

FUND

Intent

It is the intent of this legislation to establish a capital foundation program which will equitably provide funds for the orderly development of capital improvements throughout the state. It is intended that the planning for such developments reflect regional and local needs and priorities and that, whenever possible, borough governments have complete responsibility for the expenditure of the capital foundation program funds.

This legislation recognizes that most capital development projects have greater than local significance and should, therefore, be planned and prioritized on the regional level. Further, the legislation acknowledges that the cost of construction and the cost of maintenance are closely related and that maximally efficient use of funds is encouraged by combining maintenance and construction funds.

Formula

Please see attached pages.

Funds may be used for either capital construction, betterment or maintenance, but not operation of the facilities. Funds allocated to either organized or unorganized boroughs do not lapse and may be accumulated for large projects or for growth management purposes.

Question: Should there be a ceiling on the amount which may be accumulated by any one borough?

Eligible Facilities

libraries
public protection facilities including fire service and holding facilities
neighborhood parks and other recreation facilities
water/sewer
solid waste and resource recovery facilities
health facilities
community facilities
Transportation facilities such as local service roads & trails, small boat harbors, seaplane floats, local transit facilities and equipment, upgrading and improvements in existing air transport facilities such as aviation aides and improvements and associated field improvements, emergency and/or recreational airstrips, so long as no transportation facilities jeopardize or are inconsistent with the state system as defined in the regional transportation plans and the State Facilities Plan.

However, only projects identified in the capital improvement plan are eligible for Capital Foundation Program expenditures.

Should schools, correctional facilities, energy projects of any scale be included?

Alaska State Legislature

Senate

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

February 29, 1980

TO: Senator Arliss Sturgulewski
Representative Hugh Malone

FROM: Margo W. Waring
Paul Quesnel

RE: Sunset Free Conference

As requested, we spoke with Gerald Wilkerson regarding a schedule of sunsets that would achieve several objectives: focus on those agencies/boards which require review, free regular committees from the burden of so tight a schedule, yet maintain the sunset process.

Our discussion was a fruitful one. Several options were discussed. Below are three options which appear most worthwhile. The first is the one recommended by Mr. Wilkerson for possible action.

1. Eliminate from the sunset statute that language which lists the agencies and their review schedule. Instead, substitute language which would achieve the following: each year, prior to the year in which the review will take place, legislators will submit bills designating agencies for sunset review. These bills would be acted upon in the usual manner. This new process would be in addition to the process followed by LB&A, though additional language might be added to separately identify LB&A recommendations for sunset reviews as being transmitted to both houses by, for example, March 30.

The benefits of this approach are that the work load would be selected by those who will be doing the work. Legislators would be able to translate their own and their constituents' concerns into a work schedule for the next session. It may be anticipated that, having selected for review those agencies which legislators feel require review, there will be attention and follow-up during the subsequent session. Since there would be a focus on those agencies which require sunset, agencies which are functioning well can continue to do so. On the negative side, it would be possible for a single agency/board/commission to be selected year after year, impairing their effectiveness. This difficulty could be resolved by additional language which would limit the numbers of reviews possible (as in, "No agency can be selected for review in two consecutive years.")

2. Another solution which could achieve the objectives identified above would be to stretch out the existing schedule so that, for example,

Reading

Alaska State Legislature

Senate

Committee on Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 3, 1980

TO: Billy Berrier, Director
Legal Services

FROM: Arliss Sturgulewski
Chairman

RE: Legal Opinion Request

As a result of our public hearing on February 19, 1980, a legal opinion is requested concerning the substitution of the word "construction" for "capital improvements" in the title and body of SB 436.

The Department of Environmental Conservation testified on behalf of their concern. In the past, the program has funded items such as water delivery vehicles and honey bucket trucks, and they wish to continue this practice. They felt these items might not be included as a definition of "construction;" but could certainly be included as "capital improvements."

In order that the wording substitution does not modify the department's practice of funding some non-construction costs, particularly rolling stock, a legal opinion is desired. Would you also send a copy of this opinion to the Senate Finance Committee, where this bill was recently referred. Thank you.

cc: Senate Finance
Dept. Env. Cons.

May 19, 1980

TO: Myrt Charney, Executive Director
Legislative Affairs

FROM: Senator Arliss Sturgulewski
Chairman, Community and Regional Affairs Committee

The Senate Community and Regional Affairs Committee proposes to undertake a project, starting at the end of the second session of the Eleventh Legislature, which would forward the work of the House and Senate Joint Interim Committees completed during the interim between the first and the second session of the Eleventh Legislature. This work will serve to knit together the various threads of studies and policy analysis that will be on-going during the time period prior to the commencement of the First Session of the Twelfth Legislature.

In addition, the Senate CRA Committee proposes to undertake a separate special study that will be beneficial to Senate members during the next session. A full project description has been developed and is attached, along with background material and the budget breakdown. The project is estimated to cost $32,144.

I would appreciate it if you would take the necessary steps to process this request for the committee. I also would appreciate receiving, as soon as possible, specific information regarding office space and other incidental arrangements.

Your assistance is appreciated.

cc: Senator Tillion
Senator Hohman

Enclosure

TO: Billy Berrier, Director
Division of Legal Services

FROM: Twyla Hartsock, Administrative Assistant
Senate C/RA Committee

SUBJECT: SCS CSHB 932

The Senate C/RA Committee this date passed "Senate Committee Substitute" version (WO 7871-Berrier) out with the following additional amendments:

pg. 1 - line 6 - title: delete "the office of rural development, and"

pg. 2 - line 14: delete "Office of" and add "Council" following "development."

pg. 5 - lines 18-20: delete sec. 44.19.226.
pg. 5 - line 23: delete "and the office"
pg. 5 - line 27: add "Executive" between "the" and "director"; delete "of the office" and add "the" between "of" and "rural"
pg. 5 - line 28: add "Council" following "Development"

pg. 6 - lines 1 & 2: state more clearly this section <u>will be repealed</u>.

Would you please incorporate the above changes and return the final "SCS" jacketed version as soon as possible. When it is received, the bill will be immediately forwarded to the Senate Secretary's Office for transmittal to the next referral, the Senate Finance Committee.

Official Business

Alaska State Legislature

JOINT SENATE AND HOUSE
COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
LOCAL GOVERNMENT STUDY

Co-Chairmen
Senator Arliss Sturgulewski
Representative Bill Parker

Address all correspondence to:

LOCAL GOVERNMENT STUDY

Pouch V
State Capitol
Juneau, Alaska 99811

May 14, 1980

Dear Friend:

By this letter we are transmitting to you a copy of one of the pieces of work prepared for the Joint House and Senate Community and Regional Affairs Committees for their Local Government Study.

The positions stated are those of the consultant, Vic Fischer, and are thought-provoking. We feel that the report raises issues that may need to be addressed in the future. We would be interested in learning your response to this report and any suggestions you might have for future legislative action.

Distribution of this report is rather limited, but if you know of other people who might be interested in receiving a copy, please let us know and we will be glad to send one to them.

Sincerely,

Representative Bill Parker
Co-chairman, C/RA Committee

Senator Arliss Sturgulewski
Co-chairman, C/RA Committee

May 7, 1980

TO: John B. Chenoweth
Legislative Counsel

FROM: Twyla Hartsock, Administrative Assistant
Senate C/RA Committee

RE: W.O. 8250

A sectional analysis is requested on SCS CS HB 947, the latest revised version as of this date.

Question - AS 23.025 (f) p. 3

If the commissioner determines maladjustment, what happens next? The Senate C/RA members feel the commissioner's findings should be advisory only and that there would be no legal ramifications involved. Page 4, line 14-16 -- scratch G-(3) to reflect above intent. Section 29.23.025. Judicial - should also reflect above intent.

Page 4 - change period to a semicolon and add the following, beginning in the next line:

"provided, if the change in subject to review by a federal agency, the change shall become effective with the first regular election of borough assembly members which is held more than 60 days after receipt of such agency approval of or nonobjection to the change or the expiration of the time during which the agency may object."

Above should apply to both sections (1) and (2).

Page 4, delete lines 25-29

Page 5, delete lines 1-3

Page 5, line 9, delete under AS 29.23.025

Page 5, line 22, delete borough assembly and insert "legislative body"

Page 5, end of line 22, delete "borough"

Page 5, line 23, delete "assembly"

SR Citizen
property
TAX DEDUC

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

4/18/80

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

To; Myrt Charney, Executive Director
Legislative Affairs Agency

From: Senator Arliss Sturgulewski, Chairman
Senate Community & Regional Affairs
Rep. Bill Parker, Chairman
House Community & Regional Affairs

RE: Joint Local Government Interim RSA from DPDP, Office of Coastal Zone Management

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Myrt,

It appears that there is a question related to the disposition of $12,000 which remained in the Senate Community and Regional Affairs Interim budget and which had been allocated for use of the Joint House and Senate Community and Regional Affairs Committee Local Government Study conducted during 1979. It was our intent and direction that these funds be returned to the Division of Policy Development and Planning, Office of Coastal Management.

The history of the Reimbursable Services Agreement between OCM and Legislative Affairs Agency for $25,000 can be reconstructed as follows. The documenting memos are attached.

1. A Reimbursable Services Agreement was approved on Sept. 14, 1979 between the Division of Policy Development & Planning, Office of Coastal Management and the Legislative Affairs Agency for services to be performed. Specifically, the RSA specified that public hearings would be conducted and staff services provided for the local government study. The amount of the RSA was $25,000.

2. On September 26, 1979 a memo was sent to the Division of Administrative Services by staff of the Joint Committee indicating the intent of the Chairmen that funds appropriated by

the Legislative Council for the Interim Local Government Study be expended BEFORE the $25,000 from the Office of Coastal Zone Management was to be expended.

3. Prior to the Second Session of the Eleventh Legislature, on January 11, 1980, the Division of Administrative Services was directed to encumber the $25,000 to cover expenses incurred by the Joint Committee during the Interim for which billings had not been received by Administrative Services.

4. In early March the House and Senate C&RA Committees were advised that approximately $12,000 remained in the Interim budget and that that amount could not be transferred back to the Office of Coastal Management as it did not specifically state on the RSA that any of the $25,000 not expended by the Committee would be returned. Apparently, the bookkeeping procedure used in this instance was an increase in the appropriation granted to the Joint Committee instead of a reduction in the expenditures.

The Chairmen of the Committee would appreciate a resolution of the problem with the $12,000 returned to the Office of Coastal Management.