ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 3072

1802 SLC SB 729 - SB 750

1802

SUMMARY

It becomes obvious after looking at the detailed analysis of the energy loan programs, that the majority of the loans that have been made are for woodstoves, fireplaces, heat pumps etc. The energy loan programs are basically a home improvement program under the title of energy conservation and alternative technology. Most of these loans have been made in areas where the cost of wood for fuel is higher than other available sources of energy. It makes sense to change the program to a home improvement loan program and let the borrower make the improvements he wishes whether it be a new fireplace, woodstove, remodeling or an addition to his home. By offering a reduced interest rate for energy conservation projects, the borrower has an incentive to have an audit performed and do those things which will save on energy cost. The reduced interest rate more than offsets the cost of having an audit performed.

The savings by consolidating these programs is approximately $5 million.

The Alternative Technology and Energy Revolving Loan Fund; the Residential Energy Conservation Fund; the Child Care Facility Revolving Loan Fund; the Residential Care Facility Revolving Loan Fund; and energy conservation grants will all be replaced by a Home Improvement and Energy Conservation Revolving Loan Fund. The energy audits that are now provided mostly at state expense will be shifted to the private sector. The Non-Conforming Housing Loan program will be moved from the Department of Community and Regional Affairs to the Department of Commerce and Economic Development. The World War II Veterans Fund will be opened to qualified veterans for Home Improvement and Energy Conservation loans. The consolidation of these programs into one agency will eliminate duplication at substantial savings to the state.

A consolidated office will be located in Anchorage, Fairbanks, Juneau, Nome, Bethel, Kotzebue and Dillingham instead of the two or three offices we now have at some of these locations. A toll-free telephone number will be available to residents statewide. One division will administer (1) the Non-Conforming Housing Loans (2) Commercial Fishing Loans (3) Historical District Loans (4) Fisherman's Mortgage & Note Program (5) Bulk Fuel Loans (6) Fisheries Enhancement Loans (7) Mining Loans and (8) Home Improvement & Energy Conservation Loans.

SUMMARY OF RESTRUCTURED PROGRAM

	FY 83 Gov. Request	Proposal
DIVISION OF BUSINESS LOANS		
Operating Budget	2541.2	2541.2
Number of Employees	52	52
DIVISION OF ENERGY, OPERATING		
(1) Energy Administration	858.9	-0-
(2) Energy Grants & Assistance	5901.8	-0-
(3) Field Offices	780.9	-0-
Number of Employees	24	-0-
DIVISION OF HOUSING ASSISTANCE		
Operating Budget	1129.8	1029.8
Number of Employees	16	13
TOTAL OPERATING BUDGET	11212.6	3571.0
TOTAL EMPLOYEES	92	65

CAPITAL BUDGET

DIVISION OF ENERGY		
Grants & Assistance	14078.5	-0-
DIVISION OF HOUSING ASSISTANCE		
Non-Conforming Housing Loans	40500.0	40500.0
DIVISION OF BUSINESS LOANS		
Commercial Fishing Loans	9400.0	9400.0
Residential Care Facilities	80.0	-0-
Child Care Facilities	200.0	-0-
Historical Districts	500.0	500.0
Fishermans Mortgage & Notes	1800.0	1800.0
Bulk Fuel Loans	1000.0	1000.0
Fisheries Enhancement	1500.0	1500.0
Mining	1500.0	1500.0
Residential Energy	4500.0	-0-
Alternative Technology	4000.0	-0-
Home Improvement & Energy Construction	-0-	2500.0
TOTAL CAPITAL	106058.5	108200.0

SUMMARY

OPERATING BUDGET	11212.6	3571.0
CAPITAL BUDGET	106058.5	108200.0
TOTAL	117271.1	111771.0
SAVINGS		5500.1
TOTAL EMPLOYEES	92	65

In addition to the funds appropriated, approximately 3 million will be available to qualified Veterans from the existing World War II fund.

For FY 81 and FY 82, the Legislature appropriated a total of $39,393,300 to the Division of Energy and Power Development. 91% or $35,966,000 of these funds were designated for energy audits, grants, assistance and weatherization. In addition to these amounts, $12,300,000 was appropraited to the Division of Business Loans for energy conservation; and alternative energy and technology loans over the same two year period. This made a total of $48,266,000 available for energy conservation and alternative technology. For FY 81 the following was accomplished with an authorization of $14,662,000.

(1) Weatherization - $1,570,300 was spent

(2) Grants & Assistance - $4,357,200

(a) 7,795 energy audits were performed.
(b) 2,092 grants were made for a total of $616,796. Average grant $294.84

(3) Residential Energy Conservation Loans
179 loans for $683,940 (Average grant $3,821)

(4) Alternative Energy and Technology Loans
459 loans for $2,312,175 (Average $5,037)

(a) Woodstoves	172	37%
(b) Fireplaces	52	11%
(c) Heatpumps	13	4%
(d) Convert to Electric	53	12%
(e) Solar	31	7%
(f) Wind	13	3%
(g) Coal	35	8%
(h) Other	85	19%
TOTAL	459	

(5) Lapse to the General Fund, $6,535,000 by the Division of Energy and Power Development. These funds were not available to the Division of Business Loans for loan purposes. All loan funds available to the Division of Business Loans were used for that purpose.

For FY 82 the following has been acccmplished in the first 5 months with an appropriation of $33,604,000.

(1) GRANTS & ASSISTANCE

(a) 21,374 energy audits performed - $2,505,604
(b) 457 auditors trained
(c) 2,634 grants approved - $775,245

(2) RESIDENTIAL ENERGY CONSERVATION LOANS

(a) 238 loans approved - $903,913

(3) ALTERNATIVE ENERGY & TECHNOLOGY LOANS
490 loans for $1,987,526

(a) Woodstoves	339	69%
(b) Fireplaces	6	1%
(c) Heat Pump	12	2%
(d) Conversion to Electric	1	-0-
(e) Solar	52	11%
(f) Wind	7	1%
(g) Coal	53	11%
(h) Other	19	4%

Attached is a summary by House and Senate Districts that shows what has been accomplished through the residential energy conservation; and alternative energy and technology programs.

FY 81

Residential Energy Losses | Alternative Energy Technology

		Ratio	Town Loans	Wood stoves	Fireplaces	Heat Pump	Conversion To [illegible]	Solar	Wind/Coal	Other	Total
Ziegler		[illegible]	[illegible] (1)			5,000 (1)			13,000 (1)		15,000 (2)
Elinson		0	40,511 (10)	2,650 (3)				15,000 (1)		24,000 (2)	37,150 (5)
Elinson		0	5,000 (1)	1,850 (1)						3,700 (1)	7,550 (2)
Ray		5K	[illegible] (11)	55,657 (22)		175,517 (12)	393,754 (52)	24,000 (4)		33,421 (46)	[illegible] (134)
Kettels		3K	35,128 (4)	7,300 (2)	1,670 (1)					1,555 (2)	43,245 (5)
Kettels		3K	63,175 (21)	61,522 (21)	21,325 (4)	11,400 (3)			22,000 (2)	35,000 (4)	155,157 (33)
Fischer-Stimson											
Bentley-Kelly											
Rodey											
Szczepkowski		39K	61,425 (26)	317,251 (10)	125,000 (42)			112,222 (16)	24,000 (2)	65,000 (1)	244,155 (72)
Collet[illegible]											
Duckworth											
Gilman		30K	4,000 (2)	23,189 (9)	3,900 (3)					4,300 (2)	33,289 (15)
Mulcahy		22	4,433 (1)	1,425 (1)					22,000 (3)		31,875 (4)
Mulcahy		5	0						7,000 (1)		7,000 (1)
Holman		0	0						22,000 (2)	11,000 (1)	33,000 (3)
Holman		5	8,113 (2)					13,000 (1)			13,000 (1)
Sackett		0	0					13,000 (1)			13,000 (1)
Sackett		12	5,000 (2)			12,000 (1)			20,000 (2)	15,500 (2)	45,500 (5)
[illegible]	[illegible]	[illegible]	301,175 (11)	44,265 (13)	20,211 (4)	16,000 (2)	2,925 (1)	64,335 (9)	[illegible] 3[illegible]	63,239 (13)	[illegible] (76)
Ferguson		0	0								0
Ferguson		4K	0							10,000 (1)	10,000 (1)
Cbe totals		[illegible]	46[illegible] (71)	23[illegible] (78)	[illegible] (3[illegible])	[illegible] (10)	33[illegible] (53)	23[illegible] (21)	20[illegible] (19)	[illegible] (85)	[illegible]

	Initials	Date
Prepared By		
Approved By		

FY 82 (July - November)

Residential Energy Cases. — Alternative Energy + Technology

	% Energy Conservation	% Alternative Technology		1 Number of Hearings	2 Audits		3 Grants	4 Total Loans	5 Woodstove	6 Fireplace	7 Heat pump	8 Conversion to electric	9 Solar	10 Wind/coal	11 Other	12 Total
1	3%	1%	Zrylec	15	99,143	516	86	22,294 (7)	9,134 (4)							7,134 (4)
2	4%	1%	Elinson	6	42,511	311	33	47,514 (10)	12,426 (4)		2,100 (1)					13,926 (5)
3	1%	1%	Elinson	6	54,890	570	44	11,651 (2)	5,215 (3)		5,550 (1)	11,000 (1)				7,365 (5)
4	11%	4%	King	37	73,650	704	145	51,097 (21)	51,356 (30)		10,230 (10)		17,644 (3)		36,158 (4)	157,341 (47)
5	4%	2%	Kieltoh	7	73,121	414	170	43,436 (1)	23,785 (12)					2,205 (1)	13,287 (2)	58,237 (15)
6	13%	11%	Kieltoh	46	115,445	11%	384	102,255 (8)	102,325 (30)				39,368 (5)		14,500 (2)	173,115 (45)
7			Fisher-Stinson													
8			Bradley-Kelly													
9			Rocky													
10	13%	5%	Stezyokowski	132	269,151	2255	111	10,748	21,111 (13)				35,265 (37)	41,606 (5)		155,352 (30)
11			Colletta													
12			Duckworth													
13	3%	15%	Gilmore	17	37,209	226	28	22,425 (7)	8,324 (5)				57,367 (5)		31,175 (10)	117,336 (15)
14	3%	0	Malenky	11	54,414	483	30	1,354 (1)								-0-
15	-0-	0	Malenky	7	62,796	800	2	-0-								-0-
16	0	0	Holmes	4	25,641	130	31	-0-						11,000 (1)		11,000 (1)
17	1%	0	Hemmel	6	39,054	364	24	1,141 (2)					11,000 (1)			11,000 (1)
18	0	0	Sackett	6	95,244	711	70	-0-								-0-
19	1%	0	Sackett	6	96,574	277	20	[illegible] (2)	12,541 (1)					9,405 (5)		9,221 (6)
20	4%	4%	Beaudkind - Johnson	17	340,117	281	515	20,194 (40)	25,201 (24)	22,597 (6)			17,465 (1)	17,986 (15)	23,556 (1)	71,455 (8)
21	0	0	Ferguson	12	55,467	150	0	-0-								-0-
22	2%	0	Ferguson	11	29,212	111	36	1,526 (5)								1,247 (1)
23																
24			(out of state)													
25	100%	100%	Extra towns (outside)	357	[illegible]	374	1,145,791	1,795,248 (33)	1,442,255 (31)	22,597 (6)	12,405 (12)	11,000 (1)	98,893 (52)	111,368 (10)	32,994 (19)	1,280,522 (48)
26			FY 81 total			11%	41,278	283,190 (70)	324,638 (11)	115,472 (52)	151,817 (10)	334,674 (53)	257,485 (31)	391,127 (40)	145,451 (85)	2,115,175 (45)
27																
28			Totals, Nov. 30, 1981				1,396,142	2,058,453	1,554,969 (511)	178,574 (58)	201,144 (30)	398,674 (54)	440,422 (83)	1,777,116 (108)	567,127 (104)	2,777,777 (1,110)
29			% by numbers						54%	6%	3%	5%	9%	11%	12%	100%
30			% by dollars						32%	5%	4%	8%	16%	12%	18%	100%
			average loan													

	Initials	Date
Prepared By		
Approved By		

Chapter 10. Veterans.

Article 2. Miscellaneous Provisions.

Sec. 26.10.070. Record of veterans of the armed forces of the United States. (a) A veteran may record without fee his armed forces report of separation at a recorder's office of the Department of Natural Resources. Each recorder's office shall periodically submit to the bureau of vital statistics copies of the reports of separation which it records.

(b) The bureau of vital statistics shall keep a record from copies of reports received under (a) of this section and from information voluntarily submitted to the bureau by veterans of all persons who are bona fide residents of Alaska and who actively served in the Alaska Territorial Guard, Alaska National Guard, organized reserve units, United States Army, Navy, Air Force, Marine Corps or Coast Guard since April 6, 1917. The record shall contain the name, age and place of residence at the time of entering service, place and date of commission, enlistment or induction, branch of service, record of service and the date, place and nature of discharge. (§ 44-2-2 ACLA 1949; am § 1 ch 75 SLA 1955; am § 2 ch 35 SLA 1981)

Cross references. — As to copies of public records for veterans, see AS 09.25.123.

Effect of amendments. — The 1981 amendment designated the existing section as subsection (b) and added subsection (a). The amendment, in subsection (b), substituted "keep" for "compile" preceding "a record," added "from copies of reports received under (a) of this section and from information voluntarily submitted to the bureau by veterans" preceding "of all persons," substituted "are" for "were" preceding "bona fide residents," deleted "the territory of" preceding "Alaska," added "Alaska Territorial Guard, Alaska National Guard, organized reserve units" preceding "United States Army," added "Air Force" following "Navy," substituted "Coast Guard since" for "between" preceding "April," deleted "and November 11, 1918" following "April 6, 1917" and deleted the former second sentence which read "The record shall be kept on file at the office of the bureau and shall be available and open to the inspection of anyone desiring to inspect it."

Chapter 15. Veterans Loans.

Sec. 26.15.040. Veterans' loans. (a) The commissioner of commerce and economic development may, under regulations and policies adopted by him, make the following loans:

(1) Personal loans may be made for educational, domestic, remote area family housing and other personal purposes, not exceeding $10,000. The loans shall be secured by acceptable collateral when available but if not available the commissioner may make loans on the basis of good character. The rate of interest may not exceed nine and one-half per cent a year on the unpaid balance.

(2) Repealed by § 77 ch 106 SLA 1980.

(3) Business loans not exceeding $125,000 may be made to acquire, finance or refinance or equip businesses, including mining and fishing but not including farming, if the loan applicant has had three or more years of general business experience. The loans shall be secured by acceptable collateral and may not exceed 75 per cent of the appraised value of the collateral offered as security. The rate of interest may not exceed nine and one-half per cent a year on the unpaid balance.

(4) Multiple dwelling loans not exceeding $110,000 may be made to purchase, remodel, repair, build, furnish, refinance or equip multiple dwellings. The loans shall be secured by acceptable collateral and may not exceed 75 per cent of the appraised value of the collateral offered as security. The rate of interest may not exceed nine and one-half per cent a year on the unpaid balance.

(b) The commissioner of commerce and economic development may enter into agreements with private banks, other lending institutions and individuals for the purpose of guaranteeing loans made to qualified applicants. The guarantees may not exceed 90 per cent of the amount loaned and the loans shall be secured in the same manner provided for direct loans under this section. A loan made under this subsection and guaranteed by the commissioner of commerce and economic development and the state shall bear an interest rate not exceeding nine and one-half per cent a year on the unpaid balance.

(c) No loans authorized by (a)(2), (3) and (4) of this section may be made unless the commissioner of commerce and economic development is satisfied that money at a comparable rate of interest is not available to the applicant from private lending institutions on a guaranteed basis as set out in (b) of this section. An applicant is eligible for more than one type of loan, but the total may not exceed $125,000 at any one time.

(d) Money loaned shall be delivered to the borrower in the form of a warrant drawn on the treasury, vouchered in the manner prescribed for state disbursing officers, and charged against the Alaska World War II veterans' revolving fund. Each voucher shall be approved by the commissioner of commerce or any bonded deputy authorized to act as a certifying officer. Upon repayment of loans by installments, or otherwise, in accordance with the prescribed terms, or upon liquidation by foreclosure or other process, or upon receipt of interest or other revenue, the money so received shall be turned over to the commissioner of revenue for deposit in the Alaska World War II veterans' revolving fund.

the Department of Fish and Game, and the director of the Alaska division of tourism in the Department of Commerce and Economic Development, or their designees, serve as ex officio members of the commission, without a vote. The director of the Alaska division of tourism serves as the board's executive director. (§ 4 ch 207 SLA 1975)

Sec. 44.33.200. Compensation, per diem, or expenses. Members of the Tourism Advisory Board are not entitled to receive compensation for their services, but they shall receive the same travel pay and per diem as provided by law for board members for attendance at a maximum of three meetings each year. (§ 4 ch 207 SLA 1975)

Sec. 44.33.210. Qualifications of public members. The public members of the Tourism Advisory Board shall be persons with experience or interest in the Alaska tourist industry. (§ 4 ch 207 SLA 1975)

Sec. 44.33.220. Duties. The board shall advise the governor and make recommendations regarding the promotion and development of tourism into and inside the state. The board shall submit an annual report to the governor and legislature summarizing its activities and expenses. (§ 4 ch 207 SLA 1975)

Sec. 44.33.230. Organization and cooperation with regional promotion groups. The Tourism Advisory Board may plan for the organization of local tourism promotion groups in the several geographic regions of the state, acquaint these groups with the program of the Alaska division of tourism, receive recommendations from the groups as to the state programming, and encourage the expenditure of private and regional funds for the promotion of tourism to supplement the programs of the state. (§ 4 ch 207 SLA 1975)

Article 6. Child Care Facility Revolving Loan Fund.

Section

240. Child care facility revolving loan fund
245. Powers and duties of the department in administering the fund
250. Conditions of loans
255. Loan terms
260. Eligibility for loans
265. [Repealed]
270. Sale or transfer of mortgages and notes
275. Definitions

Sec. 44.33.240. Child care facility revolving loan fund. There is in the Department of Commerce and Economic Development the child care facility revolving loan fund to carry out the purposes of AS 44.33.240 — 44.33.275. The fund may be used for no other purpose. (§ 9 ch 253 SLA 1976)

Sec. 44.33.245. Powers and duties of the department in administering the fund. (a) The department may

Article 6. Child Care Facility Revolving Loan Fund.

Sec. 44.33.245. Powers and duties of the department in administering the fund. (a) The department may

(1) make loans for the construction, renovation, and equipping of child care facilities, including private nonprofit child care facilities;

(2) promulgate regulations necessary to carry out the provisions of AS 44.33.240 — 44.33.275.

(b) The department shall

(1) develop eligibility standards for loans to child care facilities;

(2) adopt guidelines for the determination of loan terms. (§ 9 ch 253 SLA 1976; am § 1 ch 112 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 27, 1981, added "including private nonprofit child care facilities" following "child care facilities" in paragraph (1) of subsection (a).

Sec. 44.33.250. Conditions of loans.

Repealed by § 9 ch 112 SLA 1981, effective July 27, 1981.

Editor's notes. — The repealed section derived from § 9, ch. 253, SLA 1976; § 2, ch. 153, SLA 1978.

Sec. 44.33.255. Loan terms. (a) A loan to a child care facility under AS 44.33.240 — 44.33.275 may not exceed $50,000.

(b) The rate of interest charged shall be seven per cent a year on the unpaid balance of the loan.

(c) The duration for repayment of a loan may not exceed 10 years.

(d) All principal and interest payments on loans under AS 44.33.240 — 44.33.275 shall be paid into the child care facility revolving loan fund.

(e) If a child care facility ceases operation, any loan to the facility from the fund is due on the date the facility ceases operation. (§ 9 ch 253 SLA 1976; am § 3 ch 153 SLA 1978; am § 18 ch 72 SLA 1979; am § 2 ch 112 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 27, 1981, substituted "$50,000" for "$30,000, and no more than one loan may be made to a single child care facility under AS 44.33.240 — 44.33.275" in subsection (a).

Sec. 44.33.260. Eligibility for loans. A child care facility is eligible for a loan under AS 44.33.240 — 44.33.275 if

(3) the general policy to require all construction to be under bid contract as contained in AS 35.15.010 may be waived if the contract is to be performed by the state, another governmental entity, or a nonprofit entity. (§ 1 ch 277 SLA 1976)

Sec. 44.33.305. Regulations. The department, after consultation with the Department of Labor, may adopt regulations to implement AS 44.33.285 — 44.33.310. (§ 1 ch 277 SLA 1976)

Sec. 44.33.310. Definitions. In AS 44.33.285 — 44.33.310,

(1) "base period" means any 10 years after 1950, not necessarily continuous, and if the economic disaster is caused by a fisheries failure the period shall consist of years during which a fishery produced at economically representative levels as determined by the Department of Fish and Game;

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

(3) "economic disaster" means that the annual income to workers in the designated area dropped below the average annual income for the base period for workers in the designated area and the drop in income is of such magnitude that the average family income of all residents of the designated area as determined by the department is below the Federal Social Security Administration Poverty Guideline, adjusted by the department to reflect subsistence economic patterns and appropriate cost-of-living differentials; the availability of alternate employment shall be considered in determining whether an economic disaster has occurred under this paragraph. (§ 1 ch 277 SLA 1976)

Article 8. Residential Care Facility Revolving Loan Fund.

Sec. 44.33.320. Residential care facility revolving loan fund. There is established in the Department of Commerce and Economic Development a residential care facility revolving loan fund to carry out the purposes of AS 44.33.320 — 44.33.380. The fund may be used for no other purpose. (§ 6 ch 153 SLA 1978)

Sec. 44.33.330. Powers and duties of the department in administering the fund. (a) The department may

(1) make loans for the construction, renovation, and equipping of residential care facilities;

(2) promulgate regulations necessary to carry out the provisions of AS 44.33.320 — 44.33.380.

(b) The department shall

(1) develop eligibility standards for loans to residential care facilities;

(2) adopt guidelines for the determination of loan terms. (§ 6 ch 153 SLA 1978)

Sec. 44.33.340. Purpose of loans. (a) Loans under AS 44.33.320 — 44.33.380 shall be made to enable residential care facilities in the state to comply with the established licensing standards for residential care facilities.

(b) A loan may not be made unless the commissioner is satisfied that the applicant cannot obtain funding from private lending institutions for the construction, renovation or equipping of residential care facilities. (§ 6 ch 153 SLA 1978)

Sec. 44.33.350. Loan terms. (a) The principal amount of a loan to a residential care facility under AS 44.33.320 — 44.33.380 may not exceed $20,000.

(b) The rate of interest charged shall be seven per cent a year on the unpaid balance of the loan.

(c) The duration for repayment of a loan may not exceed 10 years.

(d) All principal and interest payments on loans under AS 44.33.320 — 44.33.380 shall be paid into the residential care facility revolving loan fund.

(e) If a residential care facility ceases operation, any loan to the facility from the fund is due on the date the facility ceases operation. (§ 6 ch 153 SLA 1978; am § 20 ch 72 SLA 1979)

Effect of amendment. — The 1979 amendment substituted "seven per cent" for "six per cent" in subsection (b).

Sec. 44.33.360. Eligibility for loans. A residential care facility is eligible for a loan under AS 44.33.320 — 44.33.380 if

(1) the applicant submits to the department a plan for the use of the loan funds which is approved by the commissioner;

(2) the applicant demonstrates that the proposed loan will enable the residential care facility to obtain a license from the Department of Health and Social Service

(3) the applicant has not received over $10,000 in loans from the fund in the five-year period preceding the applic and

(4) the applicant meets eligibility standards established by the department under AS 44.33.330(b)(1). (§ 6 ch 153 SLA 1978)

Sec. 44.33.370. Sale or transfer of mortgages and notes. (a) The commissioner may sell or transfer at par value or at a premium to a bank or other private purchaser for cash or other consideration the mortgages and notes held by the department as security for loans made under this chapter.

(b) Repealed by § 14 ch 122 SLA 1980. (§ 6 ch 153 SLA 1978; am § 14 ch 122 SLA 1980)

Effect of amendment. — The 1980 amendment repealed subsection (b).

Sec. 44.33.330. Definitions. In AS 44.33.320 — 44.33.380

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

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

(3) "residential care facility" means a foster home, group home, or institution which provides 24-hour nonmedical care for dependent adults not related by blood, marriage, or legal adoption to the owner, operator or manager of the facility. (§ 6 ch 153 SLA 1978)

Article 9. Advisory Council on Cultural Facilities.

Sec. 44.33.400. Advisory council on cultural facilities established. (a) There is in the Department of Commerce and Economic Development the Advisory Council on Cultural Facilities.

(b) The council consists of five members, appointed by the governor from a list of candidates provided to him for that purpose by the State Council on the Arts. The members of the council are appointed for overlapping three-year terms, with two of the members first appointed serving three years, two of the members serving two years, and one member serving a term of one year.

(c) The council shall select a chairman and vice-chairman from its membership. (§ 3 ch 62 SLA 1979)

Sec. 44.33.405. Travel expenses and per diem. Members of the Advisory Council on Cultural Facilities are not entitled to receive compensation for their services, but they shall receive per diem and travel expenses allowed by law for members of boards and commissions for attendance at a maximum of four meetings per year. (§ 3 ch 62 SLA 1979)

Sec. 44.33.410. Duties. The Advisory Council on Cultural Facilities shall

(1) by regulation, establish criteria for ranking applications for grants to municipalities for the purpose of construction or development of cultural facilities under AS 43.18.500; the regulations shall provide for the assignment of priority among applications transmitted by the commissioner of commerce and economic development; the criteria for

(1) the applicant submits to the department a plan for the use of the loan funds which is approved by the commissioner;

(2) Repealed by § 9 ch 112 SLA 1981.

(3) Repealed by § 7 ch 153 SLA 1978.

(4) Repealed by § 7 ch 153 SLA 1978.

(5) the applicant meets additional eligibility standards established by the department under AS 44.33.245(b)(1). (§ 9 ch 253 SLA 1976; am §§ 4, 7 ch 153 SLA 1978; am § 9 ch 112 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 27, 1981, repealed paragraph (2) which read "the applicant demonstrates that the proposed loan will enable the child care facility to obtain or renew a license from the Department of Health and Social Services or a certificate from the Department of Education."

Chapter 35. Department of Military Affairs.

Section

30. Construction of memorials to Alaska veterans

Sec. 44.35.030. Construction of memorials to Alaska veterans. The Department of Military Affairs may construct memorials to Alaska veterans. A memorial constructed under this section is not subject to AS 35.15.010, 36.15.120 or AS 35.27.010 — 35.27.030. (§ 1 ch 30 SLA 1981)

Cross references. — As to the duty of the department of natural resources to maintain certain memorials to veterans, see AS 41.20.020 (12).

Effective dates. — Section 4, ch. 30, SLA 1981, makes this section effective June 20, 1981, in accordance with AS 01.10.070(c).

Editor's notes. — Section 2, ch. 30, SLA 1981 provides: "MEMORIAL TO ALASKA VETERANS. (a) A memorial to Alaska veterans shall be constructed by the Department of Military Affairs. The memorial shall be located in Denali State Park on a site adjacent to the Parks Highway.

"(b) The design of the memorial shall be chosen by a committee composed of

"(1) the adjutant general of the state, who shall serve as chair of the committee; and

"(2) one veteran selected by the adjutant general from each branch of the military service.

"(c) The memorial authorized by this section

"(1) shall contain suitable recognition of the contributions made by all men and women who have served on active duty in the military service in Alaska;

"(2) shall acknowledge the contribution of Alaskans to America's military history, including but not limited to, honoring the unique contributions made by the Eskimo Scout Battalion of the Alaska Territorial Guard.

"(d) The memorial shall maintained by the division of parks, Department of Natural Resources."

(1) make loans for the construction, renovation, and equipping of child care facilities;

(2) promulgate regulations necessary to carry out the provisions of AS 44.33.240 — 44.33.275.

(b) The department shall

(1) develop eligibility standards for loans to child care facilities;

(2) adopt guidelines for the determination of loan terms. (§ 9 ch 253 SLA 1976)

Sec. 44.33.250. Conditions of loans. (a) Loans under AS 44.33.240 — 44.33.275 shall be made to enable child care facilities in the state to comply with the appropriate licensing standards for child care facilities or to comply with the requirements for certification by the Department of Education.

(b) A loan in excess of $10,000 must be secured by acceptable collateral with an appraised value of at least 100 per cent of the loan amount. (§ 9 ch 253 SLA 1976; am § 2 ch 153 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote subsection (b).

Sec. 44.33.255. Loan terms. (a) A loan to a child care facility under AS 44.33.240 — 44.33.275 may not exceed $30,000, and no more than one loan may be made to a single child care facility under AS 44.33.240 — 44.33.275.

(b) The rate of interest charged shall be seven per cent a year on the unpaid balance of the loan.

(c) The duration for repayment of a loan may not exceed 10 years.

All principal and interest payments on loans under AS 44.33.240 — 44.33.275 shall be paid into the child care facility revolving loan fund.

(e) If a child care facility ceases operation, any loan to the facility from the fund is due on the date the facility ceases operation. (§ 9 ch 253 SLA 1976; am § 3 ch 153 SLA 1978; am § 18 ch 72 SLA 1979)

Effect of amendments. — The 1978 amendment substituted the language beginning "$30,000, and no more than one loan" for "$10,000" at the end of subsection (a).

The 1979 amendment substituted "seven per cent" for "six per cent" in subsection (b).

Sec. 44.33.260. Eligibility for loans. A child care facility is eligible for a loan under AS 44.33.240 — 44.33.275 if

(1) the applicant submits to the department a plan for the use of the loan funds which is approved by the commissioner;

(2) the applicant demonstrates that the proposed loan will enable the child care facility to obtain or renew a license from the Department of Health and Social Services or a certificate from the Department of Education;

(3) Repealed by § 7 ch 153 SLA 1978.

(4) Repealed by § 7 ch 153 SLA 1978.

(5) the applicant meets additional eligibility standards established by the department under AS 44.33.245(b)(1). (§ 9 ch 253 SLA 1976; am §§ 4, 7 ch 153 SLA 1978)

Effect of amendment. — The 1978 amendment inserted "or renew" in paragraph (2) and repealed paragraphs (3) and (4), which read "the applicant is awarded a certificate of need by the Department of Community and Regional Affairs" and "the applicant has not received over $10,000 in loans from the fund in the five-year period preceding the application; and," respectively.

Sec. 44.33.265. Certificate of need.
Repealed by § 7 ch 153 SLA 1978.

Editor's note. — The repealed section was derived from § 9, ch. 253, SLA 1976.

Sec. 44.33.270. Sale or transfer of mortgages and notes. (a) The commissioner of commerce and economic development may sell or transfer at par value or at a premium to a bank or other private purchaser for cash or other consideration the mortgages and notes held by the department as security for loans made under this chapter.

(b) Repealed by § 14 ch 122 SLA 1980. (§ 9 ch 253 SLA 1976; am § 5 ch 153 SLA 1978; am § 19 ch 72 SLA 1979; am § 14 ch 122 SLA 1980)

Effect of amendment — The 1978 amendment substituted "$1,000,000" for "$300,000" at the end of former subsection (b).

The 1979 amendment in the second sentence of former subsection (b), substituted "may purchase" for "shall purchase" and deleted "until the current principal amount of all mortgages and notes purchased and held by the Department of Revenue equals $1,000,000" from the end.

The 1980 amendment repealed subsection (b).

Sec. 44.33.275. Definitions. In AS 44.33.240 — 44.33.275

(1) "child care facility" means an establishment the principal purpose of which is to provide care for children not related by blood, marriage, or legal adoption, including but not limited to day care centers, family day care homes, and schools for preschool age children;

(2) "department" means the Department of Commerce and Economic Development. (§ 9 ch 253 SLA 1976)

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(2) "department" means the Department of Community and Regional Affairs;

(3) "child" means any person below 11 years of age;

(4) "day care" means the care, supervision, and guidance of a child or children unaccompanied by a parent or legal guardian on a regular basis for periods of less than 24 hours a day;

(5) "municipality" includes a home rule, general law and unified municipality, as defined in AS 29.03.010 — 29.95.030;

(6) "child care facility" means an establishment licensed under AS 47.35.010 — 47.35.080, including but not limited to day care centers, family day care homes, and schools for preschool age children, which provides care for children not related by blood, marriage, or legal adoption to the owner, operator, or manager of the facility. (§ 2 ch 66 SLA 1975; am §§ 6 — 8 ch 253 SLA 1976; am §§ 4, 5 ch 272 SLA 1976; am § 2 ch 98 SLA 1977; am § 8 ch 112 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 27, 1981, added paragraph (6).

Article 9. Division of Housing Assistance.

Section

370. Powers of director
380. Nonconforming housing loan fund
385. Eligible locations
390. Limitations on use of nonconforming housing loan fund
395. Operating loss reserve account
400. Security for loans
410. Interest on loans
420. Title
430. Restricted title loss reserve account
460. Loan origination and servicing
470. Appraisals
490. Assistance by division personnel
510. Regional allocation

Cross references. — For provisions on the Alaska Housing Finance Corporation, see 18.56.010 — 18.56.210.

Sec. 44.47.370. Powers of director. The director may

(1) adopt regulations in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650) to implement AS 44.47.360 — 44.47.560;

(2) make and execute agreements, contracts, and other instruments necessary or conveninet in the exercise of his powers and functions under AS 44.47.360 — 44.47.560;

(3) purchase or participate in the purchase of nonconforming housing mortgage loans in accordance with AS 44.47.360 — 44.47.560;

(4) purchase or participate in the purchase of loans for building materials for nonconforming housing in accordance with AS 44.47.360 — 44.47.560;

(5) procure insurance against loss in connection with his functions under AS 44.47.360 — 44.47.560;

(6) acquire real or personal property, or an interest in real or personal property, by purchase, transfer or foreclosure, when the acquisition is necessary or appropriate to protect a loan in which the division has an interest; sell, transfer and convey that property to a buyer; and, if the sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, rent or lease the property to a tenant pending the sale, transfer or conveyance;

(7) do all acts necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in AS 44.47.360 — 44.47.560;

(8) originate and service direct loans made to qualified buyers in accordance with AS 44.47.360 — 44.47.560. (§ 73 ch 106 SLA 1980; am § 15 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added paragraph (8).

Sec. 44.47.380. Nonconforming housing loan fund. There is created in the Department of Community and Regional Affairs the nonconforming housing loan fund consisting of money appropriated to it by the legislature. The director shall administer the nonconforming housing loan fund in accordance with AS 44.47.360 — 44.47.560 and shall use the money in the nonconforming housing loan fund to originate, purchase, or participate in the purchase of

(1) nonconforming housing mortgage loans;

(2) loans made for building materials for nonconforming housing;

(3) loans made for renovations or improvements to nonconforming housing;

(4) loans made for the construction of owner-occupied nonconforming housing other than loans to builders or contractors or loans that compensate an owner for his labor or services in constructing his own housing. (§ 73 ch 106 SLA 1980; am § 6 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originate" preceding "purchase" in the second sentence of the introductory language and added paragraph (4).

Sec. 44.47.385. Eligible locations. (a) The director may make loans from the nonconforming housing loan fund only for nonconforming housing loans to qualified buyers for nonconforming housing.

(b) Not more than 20 percent of the total principal amount of loans made for nonconforming housing may be made in cities of organized

boroughs and service areas of unified municipalities where the population of the city or service area exceeds 3,500.

(c) For purposes of (b) of this section, population shall be determined with reference to the 1980 preliminary census report as published in "Alaska 1980 Population" and released January 1, 1981, by the Department of Labor.

(d) In allocating money under (b) of this section, if a home proposed for financing is in more than one service area, that home shall be considered to be in the service area with the smallest population. (§ 17, ch 115 SLA 1981)

Effective dates. — Section 52, ch. 115, SLA 1981, makes this section effective July 28, 1981, in accordance with AS 01.10.070(c).

Sec. 44.47.390. Limitations on use of nonconforming housing loan fund. The director may not use the money in the nonconforming housing loan fund to

(1) originate a direct loan or purchase or participate in the purchase of a nonconforming housing mortgage loan which exceeds the limitations on mortgage loans purchased by the Federal National Mortgage Association as to principal amount or loan-to-value ratio;

(2) originate a direct loan or purchase or participate in the purchase of a loan made for building materials for nonconforming housing

(A) which exceeds $45,000 or exceeds

(i) 80 percent of the appraised value of the work completed on the nonconforming housing for which the loan is made if the nonconforming housing is pledged as collateral for the loan; or

(ii) 90 percent of the value of other property which is pledged as security for the loan and which is satisfactory to the director as collateral;

(B) unless the terms of the loan agreement require inspections and certifications, as required by regulations of the director, at the expense of the borrower; and

(C) unless the period of time allowed for repayment of the loan is equal to or less than 15 years;

(3) originate direct loans or purchase or participate in the purchase of a nonconforming housing mortgage loan which is secured by real property the marketable title to which is shown in accordance with AS 44.47.420(b)(2) if the total amount of outstanding nonconforming housing mortgage loans held by the division exceeds 10 times the amount of money in the restricted title loss reserve account (AS 44.47.430). (§ 73 ch 106 SLA 1980; am § 18 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originate a direct loan or" preceding "purchase or participate" and added "or loan-to-value ratio" in paragraph (1). In paragraph (2), the amendment added "originate a direct loan or" preceding "purchase or participate," added $45,000 or exceeds" in subparagraph (A), and in subparagraph (C), substituted "15 years" for

"the lesser of (i) three years; or (ii) the maximum period of time established by regulation by the director based on the prevailing practice among private financial institutions in the general area in which the loan is made for loans for the purchase of building materials." In paragraph (3), the amendment added "originate direct loans or" preceding "purchase or particpate." The amendment also repealed paragraph (4) which read "purchase or participate in the purchase or construction loans."

Sec. 44.47.395. Operating loss reserve account. (a) There is established in operating loss reserve account for the purpose of meeting legal expenses incurred through the foreclosure of properties acquired by the director under AS 44.47.370(6) and making repairs to these properties so that they may be sold to new buyers.

(b) The operating reserve loss account consists of money appropriated by the legislature. To the extent that money is paid out of the operating loss reserve account for the purposes stated in this section, this money shall be replaced with money received as interest on loans authorized by AS 44.47.010 — 44.47.998. (§ 19 ch 115 SLA 1981)

Effective dates. — Section 52, ch. 115, SLA 1981, makes this section effective July 28, 1981, in accordance with AS 01.10.070(c).

Sec. 44.47.400. Security for loans. (a) The director shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650) establishing acceptable security for loans originated or purchased in whole or in part under AS 44.47.380.

(b) A person may pledge as security for the repayment of a loan originated or purchased in whole or in part under AS 44.47.380 a preference right he holds to receive title to land he occupies as a primary place of residence, primary place of business, subsistence campsite, or as headquarters for reindeer husbandry. The preference right must be conveyed to the person by the Native corporation to which the land was granted under section 14 of the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. secs. 1601 — 1626, as amended by P.L. 94-204) before it may be pledged as security under this subsection. The commissioner of community and regional affairs shall prescribe procedures and standard forms for establishing, pledging, and appraising the value of a preference right held by a person to secure the repayment of a loan originated or purchased in whole or in part under AS 44.47.380. (§ 73 ch 106 SLA 1980; am § 20 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originated or" preceding "purchased in whole" once in subsection (a) and twice in subsection (b).

Sec. 44.47.410. Interest on loans. The interest rate on a mortgage loan originated or purchased in whole or in part under AS 44.47.380 is equal to the interest rate, as determined under AS 18.56.098(g)(1) —

(4), on a mortgage loan purchased under AS 18.56.098(g) from the proceeds of the most recent applicable issue of taxable bonds before the origination or purchase of the mortgage loan originated or purchased under AS 44.47.380. (§ 73 ch 106 SLA 1980, am § 21 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, rewrote this section.

Sec. 44.47.420. Title. (a) Before the director originates or purchases a nonconforming housing mortgage loan in whole or in part, the director may require a borrower to show marketable title to real property offered as security for the loan to be purchased.

(b) A borrower may show marketable title to real property for the purposes of (a) of this section

(1) by purchasing title insurance from a title insurance company authorized to do business in the state; or

(2) by delivering to the director a copy of a letter of intent signed by an authorized representative of the United States Department of the Interior which shows the transfer of title to the property from the United States government to the borrower if

(A) the borrower is an Alaska Native; and

(B) title to the property was originally transferred from the United States government, directly or indirectly, to the borrower under federal law.

(c) For the purposes of this section, a deed which federal law prohibits or limits the power to transfer or encumber and which would otherwise constitute marketable title to real property is considered marketable title to real property if the United States Bureau of Indian Affairs or another appropriate federal agency waives immunity under the federal law from foreclosure or other alienation of the real property. (§ 73 ch 106 SLA 1980; am § 22 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originates or" preceding "purchases a nonconforming" in subsection (a).

Sec. 44.47.430. Restricted title loss reserve account. (a) There is established in the division the restricted title loss reserve account. The restricted title loss reserve account consists of money appropriated to it by the legislature and shall be administered by the director.

(b) The director may withdraw money from the restricted title loss reserve account in an amount equal to the loss to the division on a nonconforming housing mortgage loan originated or purchased in whole or in part by the division if marketable title to the real property used to secure the loan was shown in accordance with AS 44.47.420(b)(2). Money withdrawn from the restricted title loss reserve account under this section shall be deposited in the nonconforming

the federal law from foreclosure or other alienation of the real property. (§ 73 ch 106 SLA 1980)

Editor's note. — Section 76, ch. 106, SLA 1980 provides: "By January 21, 1981, the director of the division of housing assistance (AS 44.47.360) shall prepare and submit to the legislature to report on the effect of the marketable title requirements of AS 44.47.420 enacted by sec. 73 of this Act and shall include in the report any recommendations he considers appropriate."

Sec. 44.47.430. Restricted title loss reserve account. (a) There is established in the division the restricted title loss reserve account. The restricted title loss reserve account consists of money appropriated to it by the legislature and shall be administered by the director.

(b) The director may withdraw money from the restricted title loss reserve account in an amount equal to the loss to the division on a nonconforming housing mortgage loan purchased in whole or in part by the division if marketable title to the real property used to secure the loan was shown in accordance with AS 44.47.420(b)(2). Money withdrawn from the restricted title loss reserve account under this section shall be deposited in the nonconforming housing loan fund. (§ 73 ch 106 SLA 1980)

Sec. 44.47.440. Fire insurance. Before purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may require the borrower to agree to purchase and maintain fire insurance for the real property for which the loan is made in an amount not less than the outstanding principal balance of the loan. (§ 73 ch 106 SLA 1980)

Sec. 44.47.460. Loan servicing. Before purchasing or participating in the purchase of a loan, the director shall enter into a loan servicing agreement with the private financial institution from which the loan is to be purchased. Under the servicing agreement, the private financial institution shall administer the loan and may charge the division a negotiated fee on the division's share of the loan. The private financial institution may also charge the borrower a reasonable originator fee not to exceed one percent. (§ 73 ch 106 SLA 1980)

Sec. 44.47.470. Appraisals. Before purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may have or may require the borrower to have an appraisal made of the fair market value of the real property, including structures on the real property, for which the loan is made. In conducting an appraisal under this section, the appraiser shall give full value to insulation and other features of construction in structures on the real property which add to the energy efficiency of the structures. (§ 73 ch 106 SLA 1980)

Sec. 44.47.475. Energy audit exemption. In making loans under this chapter, the division is exempt from the requirements of AS 46.11.050(b). (§ 73 ch 106 SLA 1980)

housing loan fund. (§ 73 ch 106 SLA 1980; am § 23 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originated or" preceding "purchased in whole" in the first sentence of subsection (b).

Sec. 44.47.460. Loan origination and servicing. (a) Before purchasing or participating in the pruchase of a loan, the director shall enter into a loan servicing agreement with the private financial institution from which the loan is to be purchased.

(b) The director may execute service agreements with private lending institutions to service loans originated by the division.

(c) Under the servicing agreement, the private financial institution shall administer the loan and may charge the division a negotiated origination or servicing fee on the division's share of the loan. When appropriate, the private financial institution may also charge the borrower a reasonable originator fee not to exceed one percent.

(d) Loan origination and servicing agreements entered into under this section may provide for higher fees for loans made for nonconforming housing located outside of cities of organized boroughs and service areas of unified municipalities that have a population in excess of 3,500, than for other loans made for nonconforming housing. The division may pay a portion of the higher fees. (§ 73 ch 106 SLA 1980; am § 24 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, designated the former first sentence as subsection (a) and the former second and third sentences as subsection (c) and added subsections (b) and (d). In subsection (c), the amendment added "originating or servicing" preceding "fee" in the first sentence and substituted "when appropriate, the" for "the" at the beginning of the second sentence.

Sec. 44.47.470. Appraisals. Before originating or purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may have or may require the borrower to have an appraisal made of the fair market value of the real property, including structures on the real property, for which the loan is made. In conducting an appraisal under this section, the appraiser shall give full value to insulation and other features of construction in structures on the real property which add to the energy efficiency of the structures. (§ 73, ch 106 SLA 1980; am § 25 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originating or" preceding "purchasing or participating" near the beginning of the first sentence.

Sec. 44.47.490. Assistance of division personnel. (a) The director may establish field offices under AS 44.47.010 — 44.47.998 may hire one or more lending officers, and may contract for the services of

(1) real property appraisers who are familiar with rural construction; and

(2) engineers who are familiar with engineering problems in arctic and subarctic regions.

(b) The personnel described in (a) of this section may make visits to the regions established under AS 44.47.510(a) to provide preconstruction and post-construction inspections of real property for which loans are originated or purchased by the division in whole or in part under AS 44.47.380 and to provide assistance to private financial institutions and their borrowers in the regions. Authority for final approval of loans may not be exercised by the personnel described in this section. (§ 73 ch 106 SLA 1980; am § 26 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, substituted "may establish field offices under this chapter, may" for "shall" preceding "hire" deleted "at least" following "hire," added "or more" preceding "lending," substituted "officers" for "officer" following "lending" and substituted "may" for "shall" preceding "contract" in the introductory language of subsection (a). In subsection (b), the amendment substituted "may" for "shall" following "of this section," deleted "regular" preceding "visits," deleted "each of" preceding "the regions established," added "originated or" preceding "purchased by" and added the second sentence of the subsection.

Sec. 44.47.510. Regional allocation. (a) The commissioner of community and regional affairs, by regulations adopted in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650), shall establish and may amend the boundaries of reasonably compact and contiguous regions in the state.

(b) Unless otherwise required by an appropriation, the director shall allocate the money in the nonconforming housing loan fund among the regions established under (a) of this section for the purpose of originating or purchasing each type of loan described in AS 44.47.380. In making an allocation under this subsection, the director shall consider the past and potential lending activity of private financial institutions in the region as well as the need for loans in the region. The director may reallocate the money among the regions as he considers necessary. (§ 73 ch 106 SLA 1980; am § 27 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originating or" preceding "purchasing each type" in the first sentence of subsection (b).

Article 10. Local Boundary Commission.

Sec. 44.47.583. When boundary change takes effect.

Stated in State, Dep't of Nat'l Resources v. City of Haines, Sup. Ct. Op. No. 2342 (File No. 5067), 627 P.2d 1047 (1981).

Chapter 89. Residential Energy Conservation Fund.

Sec. 45.89.010. Fund established. There is established in the Department of Commerce and Economic Development the residential energy conservation fund to carry out the purposes of this chapter. Refunds, grants and loans made under this chapter may be used to purchase, construct, and install an energy conservation improvement in residential buildings. The fund may be used for no other purpose. (§ 35 ch 83 SLA 1980)

Sec. 45.89.020. Refunds and grants. (a) The department may make refunds or grants for the purchase, construction, and installation of an energy conservation improvement in a residential building if the person applying for a refund or grant demonstrates, on the basis of an energy audit, that the expenditures of the refund or grant for the purchase, construction or installation of the energy conservation improvement would be exceeded by reduced energy costs attributable to the purchase, construction or installation of the energy conservation improvement within seven years.

(b) A refund or grant made under this section may not exceed

(1) $300 for a single-family dwelling; or

(2) $.00 for each unit in a multi-unit residential building.

(c) The department

(1) shall establish simple procedures for the payment of a refund to an applicant within 30 days of submission to the department of an application by the applicant, if the application is supported by receipts for expenditures which comply with the results of an energy audit;

(2) may establish procedures for the payment of a grant to an applicant before the purchase, construction or installation of an energy conservation improvement. (§ 35 ch 83 SLA 1980)

Sec. 45.89.030. Loans. (a) The department may make loans for the purchase, construction, and installation of an energy conservation improvement in a residential building.

(b) A loan for the purchase, construction, and installation of an energy conservation improvement under this chapter may not exceed the lesser of

(1) an amount, as determined by an energy audit, which is equal to the estimated total energy cost saving attributable to the energy conservation improvement at a date which is 10 years after purchase, construction, or installation of the energy conservation improvement; or

(2) $5,000.

(c) A loan for the purchase, construction, and installation of an energy conservation improvement under this chapter may be made for only an energy conservation improvement which has been recommended, in any energy audit, as a measure which is likely to result in energy conservation or energy cost savings.

(d) A loan made under this chapter may be used to finance

(1) all of the cost of purchasing, constructing, and installing an energy conservation improvement; and

(2) the costs of labor for the installation of an energy conservation improvement.

(e) Interest shall be charged on a loan made under this chapter. If a loan is made before January 1, 1984, interest shall be five percent. If the loan is made after December 31, 1983, interest shall equal the percentage of the average weekly yield of municipal bonds for the 12 months preceding the loan, as determined by the commissioner from the municipal bond yield rates reported in the 30-year revenue index of the Weekly Bond Buyer.

(f) The duration of repayment of a loan made under this chapter may not exceed 10 years.

(g) The department may require security for a loan under this section. When a loan is made under this section, the department may require the loan applicant to present copies of invoices or billings for expenses which the proceeds of the loan will be used to pay.

(h) Amounts repaid on a loan made under this section shall be deposited to the residential energy conservation fund.

(i) A person who receives a loan under this section and knowingly uses the loan proceeds for purposes other than those set out in (d) of this section is guilty of the crime of misapplication of property under AS 11.46.620. (§ 35 ch 83 SLA 1980)

Sec. 45.89.040. Sale or transfer of mortgages and notes. The commissioner may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages and notes held by the department as security for loans made under this chapter. (§ 35 ch 83 SLA 1980)

Sec. 45.89.500. Definitions. In this chapter

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

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

(3) "energy audit" means

(A) an energy audit completed under AS 46.11.030;

(B) an energy audit performed under sec. 215(b)(1)(A) of the federal residential energy conservation program of the National Energy Conservation Policy Act (42 U.S.C. 8216(b)(1)(A)); or

(C) an energy audit completed before the effective date of this section which has been approved by the commissioner as an audit which fairly demonstrates the energy consumption characteristics of a residence and which indicates likely energy conservation and cost savings measures;

(4) "energy conservation improvement" means

(A) structural insulation;

(B) thermal windows and doors;

(C) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency;

(D) a device for modifying flue openings designed to increase the efficiency of operation of the heating system;

(E) an electrical or mechanical furnace ignition system which replaces a gas pilot light;

(F) an automatic energy-saving setback thermostat;

(G) a meter which displays the cost of energy usage;

(H) caulking and weatherstripping of doors and windows;

(I) insulating shades and shutters;

(J) air and water recuperators;

(K) any other energy-saving device approved by the commissioner of commerce and economic development under AS 44.33.040(12). (§ 35 ch 83 SLA 1980)

Chapter 90. Tourism Revolving Fund.

Legislative history report. — For report on ch. 171, SLA 1972 (FCCS SCS CSHB 312), see 1971 House Journal, pp. 617, 618; 1972 House Journal, p. 556.

Sec. 45.90.010. Creation of a tourism revolving fund. There is created in the Department of Commerce and Economic Development a tourism revolving fund. (§ 1 ch 171 SLA 1972)

Sec. 45.90.020. Powers and duties of the Department of Commerce and Economic Development. (a) The department may

(1) make loans to a business directly involved in the tourist industry;

(2) designate agents and delegate powers to them as is necessary;

Chapter 11. Conservation of Energy and Materials.

Sec. 46.11.010. Thermal and lighting energy standards for public buildings. (a) All public facilities of the state, the construction of which begins after July 1, 1980, shall be designed to comply with the thermal and lighting energy standards adopted by the Department of Transportation and Public Facilities under AS 44.42.020(a)(14).

(b) By June 30, 1988, all public facilities of the state existing on July 1, 1980 shall be modified, to the extent economically feasible, to comply with the thermal and lighting energy standards adopted by the Department of Transportation and Public Facilities under AS 44.42.020(a)(14). (§ 36 ch 83 SLA 1980)

Editor's notes. — For declaration of legislative policy on energy conservation, see sec. 1, chapter 83, SLA 1980 in the Temporary and Special Acts and Resolves.

Sec. 46.11.020. Training of public building maintenance personnel. Persons responsible for the maintenance of public buildings designed with energy conservation or production features shall be trained by the department in the use and operation of those features. (§ 36 ch 83 SLA 1980)

Sec. 46.11.030. Energy audits. (a) The Department of Commerce and Economic Development shall

(1) establish criteria for the performance of energy audits of commercial and industrial buildings located in the state;

(2) establish criteria for the performance of energy audits of residences located in the state;

(3) develop a program by which to advise persons certified under AS 44.33.040(16) to perform energy audits of contracts to be awarded for performance of energy audits.

(b) The commissioner of commerce and economic development may contract with persons certified under AS 44.33.040(16) to perform energy audits. The commissioner of commerce and economic development may negotiate contracts or make contracts on the basis of competitive bids.

(c) The department may contract with a municipality for the performance of energy audits in the municipality.

(d) A person requesting an energy audit is required to pay for the audit. The fee for an audit of a one- or two-family residence is $10. The fee for an audit of other residences or of a commercial or industrial building shall be established by regulations adopted, in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650), by the commissioner of commerce and economic development.

(e) The department shall reimburse persons performing energy audits in the state for the cost, in excess of fees received, of performing energy audits. In this subsection "cost" includes administrative cost. (§ 36 ch 83 SLA 1980)

Sec. 46.11.040. Applicability of thermal and lighting energy standards to private buildings. State financial assistance may not be approved or granted for the construction of a new residential or commercial building if construction of the building begins after December 31, 1980, unless

(1) the building is in compliance with thermal and lighting energy standards;

(2) the building is in compliance with the building code of a municipality and the municipal building code meets or exceeds the thermal and lighting energy standards;

(3) the building

(A) is constructed under an exception to the municipal building code granted under AS 29.33.080(g); or

(B) is located or is to be located in an area where thermal and lighting energy standards are not justified because of the high cost of implementation of the standards, as determined under regulations adopted by the commissioner of commerce and economic development; or

(4) the applicant agrees, in writing, that the building will be brought into compliance with thermal and lighting energy standards within one year of conveyance. (§ 36 ch 83 SLA 1980)

Sec. 46.11.050. Financing of energy efficient homes and buildings. (a) After December 31, 1980, a financial institution shall take into consideration the economic benefits of alternative energy systems, life-cycle energy costs, energy efficient building design, and energy conservation when financing homes and buildings with state financial assistance.

(b) After December 31, 1980, a financial institution that makes home mortgage loans with money provided to it by the commissioner of revenue from surplus state general fund investments authorized by AS 37.10.070, or a state agency which makes a direct home mortgage loan to an applicant, shall include estimated heating and lighting costs as determined by an energy audit in standard principal, interest, taxes and insurance calculation of the cost of buying a housing unit. An applicant for a home mortgage loan shall provide the financial institution or the state agency with a copy of an energy audit. (§ 36 ch 83 SLA 1980)

SB

746

COMMITTEE MINUTES FORM

This form is to be prepared and submitted to the Committee Records Staff within the next legislative day following the public hearing or committee meeting. Please submit this form completed with the following information pursuant to Rule 23 of the Uniform Rules.

Committee Name: Senate Committee on Labor and Commerce Date: March 1, 1982
Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

Public hearing or committee meeting on:

COMMITTEE CALENDAR

SB 746	"An act making a special appropriation to the Department of Commerce and Economic Development, Office of Mineral Development, for production of a documentary film on Alaska's mining history and potential; and providing for an effective date."
bill number	bill title
bill number	bill title

WITNESS REGISTER

Witness Name: Mr. John Sims
Affiliation: Department of Commerce and Economic Dev,; Office of Mineral Developm
Address: 675 5th Ave., Fairbanks, Alaska
Phone:
Summarized Position Statement: Explained the Departments support for the concept of the bill and urged its passage.

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formelly Considered:

Member Moving Adoption: Senator Rodey moved that the bill be moved from committee with individual recommendations.
Action: Passed or Failed
Voting Record: 4 do pass

ACTION NARRATIVE

Tape Recording Number 0000

Chair opens at 004 with members 4 present etc.

Testimony begins at tape reading 216 and continues through tape reading 285.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 23, 1982

Honorable Robert Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

I am pleased to respond to your inquiry concerning the documentary film which is the subject of a special appropriation bill to the amount of $150,000 (SB 746) to the Department of Commerce and Economic Development.

I support the legislation which would appropriate to the Office of Mineral Development the sum involved. Initiatives are under way to have an "Alaska Session" included in the October 1982 Convention Program of the American Mining Congress which is to be held in Las Vegas. It is hoped that a high quality documentary film would be available to premiere at that gathering of the nation's foremost decision makers and leaders of the mining industry. Besides the film which would prelude the program, the "Alaska Session" would be chaired by members (member) of the Alaska Congressional Delegation and would comprise the following elements.

(1) Federal policy and perspectives towards mineral development in Alaska

(2) State policy and perspectives on mineral development in Alaska

(3) Overview of the coal mining scenario and potential in Alaska

(4) Overview of the hard rock mining scenario and potential in Alaska

A well planned and executed program will certainly attract a great deal of industry interest in Alaska and would be an initial trigger mechanism for expanded investment commitment in the State by the mining industry.

08-H2LH

As the appended proposal document stresses, the film in terms of quality and content, would be suitable for showing on public television and also for distribution to schools and other institutions.

It is my judgment that the benefits to be derived from the film will amply repay the relatively modest investment called for by this bill. For the appropriation to satisfy the goal of having a documentary completed in time for the October convention, the prompt passage of the bill is essential.

Sincerely,

E.W. Ebock

Charles R. Webber
Commissioner

CRW/shA-6

Enclosure: Proposal for a Documentary on
Alaska's Mining History and Potential

PROPOSAL FOR A DOCUMENTARY ON
ALASKA'S MINING HISTORY AND POTENTIAL

The American Mining Congress recently sponsored a survey of citizen attitudes towards mining. While only 16% of those polled felt at all familiar with mining, 43% believed it was damaging to the environment, 62% felt it was dangerous and unhealthy, and an incredible 96-97% felt mining was unnecessary to the national economy, unnecessary for the national defense and unnecessary to the quality of life.

As suggested by many industry spokesmen, such shockingly erroneous attitudes stem from the profound failure of America's educational system to teach its students the singular and immutable fact that modern civilization is made possible by, and remains dependent upon, the production and utilization of mineral resources. The resultant ignorance has fostered the misconception that mining is a dangerous and destructive enterprise that should be generally discouraged and locally forbidden. It is this ignorance which has allowed the piecemeal but cumulatively devastating withdrawal of public lands from mineral entry. It is this ignorance that has delivered to the country the specter of a national resource crisis.

The proposed documentary, which will be an accurate portrayal of historical and present mining activity in Alaska, will contribute to redressing this pervasive ignorance. It will show mines to people who have never seen a mine. It will take people underground. It will show them what a billion dollar orebody looks like in its natural disguise. They will be fascinated by a subject of which their only previous experience has been through souvenir shops and tourist displays. For the viewer, mining in Alaska will cease to be a clichéd recitation of sourdough sagas and will begin to assume its true dimension and importance. The educational process will have begun.

The documentary will debut in October 1982 to the delegates of the American Mining Congress Convention, the foremost assembly of public and private industry personnel. At the most obvious level, the delegates will be as interested as anyone in the historical content of the film. Additionally, they will be professionally interested in the contemporary segments which will serve, without explicit overtures needed, a promotional function. And finally, the delegates will recognize and appreciate the value of the film as a much needed educational tool. The presentation to this forum of a stimulating and professional quality film will generate interest in the state's resources and create industry wide respect for the state as a good place to do business.

The documentary will be promoted and distributed for both statewide and national television broadcast. It will also be available for extensive use in schools, colleges, conferences and speaking presentations.

As it is felt that the highest and best purpose of this documentary will be for its educational value, two guidelines will be strictly followed to insure the acceptance of the film by the widest possible audience.

1. Within the documentary narrative, subjective opinions or highly controversial issues will not be endorsed.

2. To avoid the stigma of being a public relations "flak film", the promotional message of the documentary will be implicit in its accurate informational content, rather than be an explicit "pitch".

The following outline describes how the goals discussed above will be achieved.

1. OBJECTIVES

The documentary will accurately portray Alaska's mining history, will

examine its present mines and visit the sites of its future mines. It will be, firstly and foremost, educational, but by virtue of its informational and tonal content, promotional.

2. THEME

The film, by content and tone, will portray mining in Alaska as the positive and essential enterprise it has been and can be, and by inference will be supportive of the mining industry in general.

3. DESCRIPTION OF THE FILM

Using archival photographs, interviews, existing film footage and other materials, Alaska's mining history will be documented. While the salient events will all be at least briefly covered, several of the more unique and fascinating aspects of the history will be explored in some detail. Site visits to existing and future mines as well as the use of existing film footage will be used in the balance of the film. A soundtrack will be recorded and incorporated with a narrative.

4. AUDIENCE

While the first audience to view the documentary will be the foremost gathering of mining industry personnel, the American Mining Congress Convention in 1982, the film will subsequently be heavily used as an educational tool for the spectrum of the population.

5. STYLE

The film will be an educational documentary but should be dynamic and

innovative. It will avoid highly technical or esoteric material but will not be intellectually condescending.

Within the narrative, subjective opinions concerning such highly controversial issues as environmental protection and land use philosphy will not be endorsed. The film will, however, make use of interviews, where appropriate, to address these issues.

6. BUDGET

The estimated budget for all phases of production, from planning through post production, is $150,000.

7. DISTRIBUTION

The film will be distributed for extensive use in schools, colleges, conventions, conferences, and speaking engagements as well as for television broadcast.

COMMITTEE REPORT

SENATE

2/11/82

FURTHER: Finance

Date: 1 March 82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 746

making a special appropriation to the Dept. of Commerce & Economic Development, office of mineral development, for production of a documentary film on Alaska's mining history and potential

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

S 60 (Rev. 12/78)

SB
749

SEN. PATRICK RODEY
CHAIRMAN
(907) 465-3717

SEN. BOB MULCAHY
SEN. TERRY STIMSON
SEN. ARLISS STURGULEWSKI

ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
POUCH V, JUNEAU 99811

ANALYSIS OF CS SENATE BILL NO. 749 (LABOR AND COMMERCE)

CSSB 749 (L&C) would amend language in Chapter 45 of the Alaska Statutes, Trade Practices, specifically 45.45.010(f). This particular subsection was adopted in 1973 and prohibits a lender from taking an equity participation in a loan transaction entered into with a borrower. There is neither case law nor legislative history to explain its inclusion in existing statutes.

In reviewing federal banking law, the committee finds no such prohibition against equity participation. On the contrary, the Office of the Comptroller of the Currency states in Interpretive Ruling 7.7312:

> A national bank may take as consideration for a loan a share in the profit, income or earnings from a business enterprise of a borrower. Such share may be in addition to or in lieu of interest. The borrower's obligation to repay principal, however, shall not be conditioned upon the profit, income or earnings of the business enterprise.
>
> 12 C.F.R. 7.7312

Likewise, in reviewing the banking laws of the other 49 states, the committee finds no such prohibition, although Tennessee does have a statute (47.24.102) which restricts a lender's ability to enter in to an equity participation in loan transactions of less than $1 million.

The committee is concerned about the flow of long-term capital into the state, and finds that the existing 45.45.010(f) inhibits that flow. Present economic conditions, marked by high inflation rates and high interest rates, have forced both developers and traditional long-term lenders to come up with new methods of financing which: (1) provide the lender protection against inflation, and (2) provide the developer an affordable interest rate.

An equity participation allows the lender to participate in the profit, income or earnings from a business enterprise of the borrower, thus providing him with the hedge he needs against inflation. It allows the borrower access to funds with which to develop projects that otherwise would not be economic at the higher interest rates required by traditional financing.

In supporting this legislation, it is the committee's intent that state regulators of financial institutions require lenders and borrowers to abide by the provision of C.F.R. 7.7312 which relates to the repayment of principal. In addition, the committee intends, by the inclusion of credit unions on line 10, to provide parity for all financial institutions doing business within the state. Finally, by inclusion of the limitations on loan amount and term, the committee intends to protect the interests of relatively unsophisticated borrowers.

COOK INLET REALTY CO. Better Homes and Gardens®
619 E. 5th Ave., Anchorage, Alaska 99501 Telephone (907) 276-0000

March 1, 1982

Senator Bob Mulcahy
Chairman, Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 749

Dear Senator Mulcahy:

Last year my partners and I encountered extreme difficulty in securing financing for the purchase of the Alaska Pacific Bank Building in Anchorage due to the statue prohibiting equity participation for the lender. We were successful in the long run but only after contacting eighty-two lenders.

In reading Senate Bill No. 749, I would make the following recommendations for change:

1. "if the term of the loan is less than 15 years" is too restrictive. Most interest sensitive lenders will require a call between the fifth and tenth year. Clarification is needed. Most equity participation loans will have an amortization of thirty (30) years with a call at year ten (10).

2. I would prefer the bill be shortened and end with "less than $1,000,000." By limiting equity participation loans to loans over $1,000,000, the legislature is automatically protecting the small, unsophisticated investor from private loan sharks.

In essence, I do not feel that the government should be involved in restricting free enterprise. If a purchaser can obtain a satisfactory yield through an equity participation loan with a lender, the state government should not prohibit such a transaction.

If we wish to keep our economy healthy in Alaska, we must not prohibit buyers from obtaining equity participation loans on whatever terms are acceptable to the buyer. Rental rates are insufficient to support the current high interest rates on a straight mortgage. As owners and purchasers of real estate, we need the latitude to negotiate the best loan package available and that is often an equity participation loan.

Please keep me informed as to the progress of Senate Bill 749. Thank you.

Marigale Compton

Marigale Compton CCIM

MC/dd

REALTOR MLS

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 25, 1982

Honorable Bob Mulcahy, Chairman
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

RE: SB 749, An Act Relating to Equity Participation

You have requested the position of the Department of Commerce and Economic Development on the above subject bill. First, let me say that, as written, we would find no detrimental impact on the safety and soundness of those financial institutions that we regulate. This is mainly covered by Lines 17 and 18 which provide that the loan principal cannot be conditioned upon profits, earnings or income.

In general, we are in favor of the bill and would support it. We feel that it will encourage financing that would not otherwise be available due to high rates. This legislation would also provide for a new source of participants in lendings, i.e., insurance company, that are otherwise prohibited without this legislation.

Provisions that provide for an exemption on one to four family owner-occupied dwellings will allow new methods of home financing that are springing up in other states. Any of these activities would not create any additional risk that is not already found in lending as it is known today and any risk could be adequately regulated if necessary.

If you wish any further information you may contact Mr. Kirkpatrick direct at 465-2521.

Sincerely,

E.W. Eboch

Edward W. Eboch
Deputy Commissioner

WFK/cw#10R4

08-H2LH

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 749; Summary

Allows equity participation in shared appreciation mortgages for loans greater than $1 million, and with terms in excess of 15 years, and for loans to acquire a one to four family dwelling to be used as the residence of the borrower. The obligation of the borrower to repay the principal may not be conditioned upon the profits, income, or earnings of a business enterprise of the borrower. Amends existing law to facilitate the flow of long term capital within Alaska.

CS for SB 749: Would permit equity participation in loans greater than $1 million and for terms in excess of 15 years.

HOGE AND LEKISCH
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
437 "E" STREET, SUITE 500 • ANCHORAGE, ALASKA 99501
(907) 276-1726

ANDREW E. HOGE
PETER A. LEKISCH
WARREN G. KELLOGG
CALVIN R. JONES
ANN W. RESCH
RICHARD F. DEUSER

March 3, 1982

Senator Bob Mulcahy
Chairman, Senate Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Senate Bill 749

Dear Senator Mulcahy:

Washington Mortgage Co., Inc. (WMC) has asked me to submit the following comments regarding Senate Bill 749.

1. WMC suggests that five (5) years be substituted for fifteen (15) years on the fifth line of the Bill. The reason for this suggested change is that loans that are presently being made in other states have a general term of five to ten years and, in order for Alaska to be competitive in the commercial real estate loan market, it should have a term requirement no more restrictive than the requirements of the present national commercial real estate loan market.

2. The last sentence of Senate Bill 749 appears to be contradictory to the first sentence in that it appears to state that the borrower does not have to repay principal dependent upon the profits, income, or earnings of a business enterprise of a borrower. Obviously, if a borrower has agreed to pay a percentage of profits, income, or earnings in consideration for an otherwise permitted loan and the borrower fails to pay the profit, income or earnings, the lender should have the right to declare a default and require the principal repayment. If the intent of the Special Committee on Banking is to mean something other than indicated above, then that intent should be more clearly reflected in the legislation or in an appropriate committee report.

Very truly yours,

Andrew E. Hoge

Andrew E. Hoge
Attorney for Washington Mortgage Co., Inc.

AEH/ms
cc: Senator Patrick Rodey, Attention Jim Kelly
Washington Mortgage Co., Inc.

COPY OF TELEGRAM BEING SENT TO MEMBERS OF SENATE
LABOR AND COMMERCE COMMITTEE 3/10/82

WASHINGTON MORTGAGE CO., INC.
2720 Third Avenue, Suite 300
Seattle, WA 98121
(206) 682-5240

March 10, 1982

Senator Bob Mulcahy
Chairman, Labor and Commerce Committee
Alaska State Legislature
Room 119 Capitol Building
Juneau, AK 99811

Re: Senate Bill 749
Usury/Equity and Income Participation

Dear Senator Mulcahy and Committee Members:

It has come to our attention that the proposed change in the usury law is contingent upon the minimum loan amount being $1,000,000 and the minimum term of the loan being fifteen (15) years. We have no problem with the minimum loan amount being $1,000,000; however, we do have a real concern about the minimum term being fifteen (15) years. We feel that this will adversely affect the attraction of long term capital to the State of Alaska.

We recommend a minimum of five (5) years with an alternative of five (5) years for multi-family rental projects and ten (10) years for commercial projects. We hope the following paragraphs will clarify and support this recommendation.

Long term lending has changed over the past few years. Inflation has necessitated lenders to negotiate the term of their loans to much shorter periods with ten (10) years being the maximum today. Multi-family rental housing lending for the past five (5) to ten (10) years has been primarily provided by the thrift industry. Pension funds and life insurance companies have not provided this type financing and, in fact, a majority of the operating policies prohibit lending on apartments.

We have provided a lot of apartment lending in Alaska in the past; however, we have done no apartment lending in the past two (2) years because of your usury law. We feel that it is imperative to have five (5) years as a limitation in Senate Bill 749 for multi-family loans if we are to attract long term capital to your state to overcome your present housing shortage.

Very truly yours,

/s/

Roger J. O'Connell
Senior Vice President

WASHINGTON MORTGAGE CO INC AB
2720 3 AVE SUITE 300
SEATTLE WA 98121

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SENATOR BOB MULCAHY, CHAIRMAN
CARE STATE LABOR AND COMMERCE COMMITTEE
ROOM 119 CAPITOL BLDG
JUNEO AK 99811

REGARDING SENATE BILL #749 USURY/EQUITY AND INCOME PARTICIPATION.

IT HAS COME TO OUR ATTENTION THAT THE PROPOSED CHANGE IN THE JSURY LAW IS CONTINGENT UPON A MINIMUM LOAN AMOUNT BEING ONE MILLION DOLLARS. THE MINIMUM TERM OF THE LOAN BEING 15 YEARS.

WE HAVE NO PROBLEM WITH THE MINIMUM LOAN AMOUNT BEING ONE MILLION DOLLARS HOWEVER WE DO HAVE A REAL CONCERN ABOUT THE MINIMUM TERM BEING 15 YEARS. WE FEEL THAT THIS WILL ADVERSELY AFFECT THE ATTRACTION OF LONG TERM CAPITAL TO THE STATE OF ALASKA.

WE RECOMMEND A MINIMUM TERM OF FIVE YEARS WITH AN ALTERNATIVE OF FIVE YEARS FOR MULTI/FAMILY RENTAL PROJECTS AND TEN YEARS FOR COMMERCIAL PROJECTS. WE HOPE THE FOLLOWING PARAGRAPH WILL HELP CLARIFY AND SUPPORT THIS RECOMMENDATION.

LONG TERM LENDING HAS CHANGED OVER THE PAST FEW YEARS INFLATION HAS NECESSITATED LENDERS TO NEGOTIATE THE TERM OF THEIR LOAN TO MUCH SHORTER PERIODS WITH TEN YEARS BEING THE MAXIMUM TODAY.

MULTI/FAMILY RENTAL HOUSING LENDING FOR THE PAST FIVE TO TEN YEARS HAS BEEN PRIMARILY PROVIDED BY THE THRIFT INDUSTRY. PENSION FUNDS AND LIFE INSURANCE AGENCIES HAVE NOT PROVIDED THIS TYPE FINANCING AND IN FACT A MAJORITY OF THE OPERATING POLICIES PROHIBIT LENDING ON APARTMENTS.

WE HAVE PROVIDED A LOT OF APARTMENT LENDING IN ALASKA IN THE PAST HOWEVER WE HAVE DONE NO APARTMENT LENDING IN THE PAST TWO YEARS BECAUSE OF YOUR USURY LAW.

WE FEEL THAT IT IS IMPERATIVE TO HAVE FIVE YEARS AS THE LIMITATION IN SENATE BILL #749 FOR MULTI/FAMILY LOANS IF WE ARE TO ATTRACT LONG TERM CAPITAL TO YOUR STATE TO OVERCOME YOUR PRESENT HOUSING SHORTAGE.

SINCERELY
R J O'CONNELL
SENIOR VICE PRESIDENT
WASHINGTON MORTGAGE CO INC

1625 EST

TO REPLY BY MAILGRAM, SEE INSTRUCTIONS ON REVERSE SIDE

COOK INLET REALTY CO. Better Homes and Gardens®
619 E. 5th Ave., Anchorage, Alaska 99501 Telephone (907) 276 0000

March 1, 1982

Senator Bob Mulcahy
Chairman, Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 749

Dear Senator Mulcahy:

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Please keep me informed as to the progress of Senate Bill 749. Thank you.

Marigale Compton

Marigale Compton CCIM

MC/dd

MLS REALTOR®

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 25, 1982

Honorable Bob Mulcahy, Chairman
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

RE: SB 749, An Act Relating to Equity Participation

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Provisions that provide for an exemption on one to four family owner-occupied dwellings will allow new methods of home financing that are springing up in other states. Any of these activities would not create any additional risk that is not already found in lending as it is known today and any risk could be adequately regulated if necessary.

If you wish any further information you may contact Mr. Kirkpatrick direct at 465-2521.

Sincerely,

E. W. Eboch

Edward W. Eboch
Deputy Commissioner

WFK/cw#10R4

08-H2LH

COPY OF TELEGRAM BEING SENT TO MEMBERS OF SENATE LABOR AND COMMERCE COMMITTEE 3/10/82

WASHINGTON MORTGAGE CO., INC.
2720 Third Avenue, Suite 300
Seattle, WA 98121
(206) 682-5240

March 10, 1982

Senator Bob Mulcahy
Chairman, Labor and Commerce Committee
Alaska State Legislature
Room 119 Capitol Building
Juneau, AK 99811

Re: Senate Bill 749
Usury/Equity and Income Participation

Dear Senator Mulcahy and Committee Members:

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Very truly yours,

/s/

Roger J. O'Connell
Senior Vice President

(1)

Under the standard of subsection (e) of this section, the courts have utilized a flexible, ad hoc approach to determine, by an essentially factual inquiry, the extent to which an error in the financing statement would be misleading to one undertaking a reasonable search. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Where a financing statement and its underlying loan documents mistakenly identified a debtor as the predecessor partnership rather than the corporation, the financing statement was seriously misleading and the lender had no perfected security interest in the assets of the corporation. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Article 5. Default.

Sec. 45.09.504. Secured party's right to dispose of collateral after default; effect of disposition.

NOTES TO DECISIONS

Noncompliance with subsection (c). In accord with 1st paragraph in original. See Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If a sale was deficient with respect to either notice or commercial reasonableness, then a burden is placed upon the secured party to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

The burden is on the secured party to prove by clear and convincing evidence the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If the secured party fails to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt, then the presumption leads to the conclusion that the entire debt is discharged. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Factors in determining value of collateral. — The local economic market at the time of sale is a recognized factor in determining the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Chapter 45. Trade Practices.

Article
1. Interest (§ 45.45.010)

Article 1. Interest.

Section
10. Legal rate of interest

Sec. 45.45.010. Legal rate of interest. (a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $25,000 is exempt from the limitation of this subsection.

(c) Repealed by § 3 ch 84 SLA 1973.

(d) Repealed by § 2 ch 94 SLA 1981.

(e) Repealed by § 4 ch 146 SLA 1974.

(f) No bank, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any per cent of ownership or profits above its interest rate.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1—3 ch 84 SLA 1973; am §§ 1—4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980; am §§ 1, 2 ch 94 SLA 1981)

Cross references. — As to alternate technology and power resource loans, see AS 45.88.050(e).

Effect of amendments. — The 1981 amendment, effective July 27, 1981, in subsection (b), deleted "dated after June 4, 1976" following "contract or loan commitment" and substituted "on the day on" for "that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during" preceding "which the contract" in the first sentence and substituted "$25,000" for "$100,000" preceding "is exempt" in the second sentence. The amendment also repealed subsection (d) which read "Notice of the annual rate charge member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceding the commencement of each calendar quarter required for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce and Economic Development."

NOTES TO DECISIONS

Cited in State v. Alaska Continental Dev. Corp., Sup. Ct. Op. No. 2254 (File Nos. 4121, 4122), 630 P.2d 977 (1980).

Chapter 50. Competitive Practices and Regulation of Competition.

Article 4. Unfair Trade Practices and Consumer Protection.

Sec. 45.50.471. Unlawful acts and practices.

NOTES TO DECISIONS

Similarity to federal law. — The prohibition in this section against "unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce" is substantially similar to that contained in section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. § [illegible]; Matanuska Maid, Inc. v.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 749
Title An Act relating to equity participation
Requested by Labor and Commerce Date

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Financial Institutions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS,CLAIMS,ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE February 18, 1982 PREPARED BY Willis F. Kirkpatrick, Director
AGENCY Banking, Securities, Sm. Loans, & Corp.
PHONE 465-2521

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

[illegible]-001 (Rev. 12/81)

SB

750

VINCENT W. JONES
GENERAL COUNSEL
(213) 576-4766

Sears, Roebuck and Co.

WESTERN LAW OFFICES
900 SOUTH FREMONT AVENUE
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February 17, 1982

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OUR FILE NO.

Don Magnusson
Executive Director
Alaska Retail Association
310 Second Street
Juneau, AK 99801

Re: Alaska SB 750 - Rate Deregulation

Dear Don:

I have a thought and a question about this bill.

First, the thought. In order to be technically correct, the title of the bill ought to be "An Act relating to the deregulation of interest rates and service charges; and providing for an effective date."

Next, the question. Do you know why at page 3, line 1, the phrase "balances from month to month" was changed to "balance"? Whatever the rate, doesn't it have to be applied to a monthly balance, or balance from month to month? If there is only one balance, which one is it and when is it struck?

Sincerely yours,

Charles McKenney

Charles McKenney

CPM:blp

cc: John Andrew
J. M. Morales

SECTION 7 REPEALERS:

AS 06.20.230 (b) and (c)

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under AS 06.20.010 — 06.20.920 or who makes a loan under AS 06.20.010 — 06.20.920 exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest not to exceed the greater of

(1) one and one-half percent a month; or

(2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance determined in AS 06.20.285(b) [illegible]

Repeals: AS 06.45.060(5) (A) (vi)

the rate of interest may not exceed the greater of 15% a year or the rate specified as AS 45.45.010(b)

Repeals AS 45.45.010 (b)

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $25,000 is exempt from the limitation of this subsection.

TITLE V—STATE USURY LAWS

PART A—MORTGAGE USURY LAWS

MORTGAGES

SEC. 501. (a)(1) The provisions of the constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, credit sale, or advance which is— 12 USC 1735f-7 note.

(A) secured by a first lien on residential real property, by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance is used to finance the acquisition of such stock, or by a first lien on a residential manufactured home;

(B) made after March 31, 1980; and

(C) described in section 527(b) of the National Housing Act (12 U.S.C. 1735f-5(b)), except that for the purpose of this section—

(i) the limitation described in section 527(b)(1) of such Act that the property must be designed principally for the occupancy of from one to four families shall not apply;

(ii) the requirement contained in section 527(b)(1) of such Act that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation or to a loan or credit sale secured by a first lien on a residential manufactured home;

(iii) the term "federally related mortgage loan" in section 527(b) of such Act shall include a credit sale which is secured by a first lien on a residential manufactured home and which otherwise meets the definitional requirements of section 527(b) of such Act, as those requirements are modified by this section; "Federally related mortgage loan."

(iv) the term "residential loans" in section 527(b)(2)(D) of such Act shall also include loans or credit sales secured by a first lien on a residential manufactured home; "Residential loans."

(v) the requirement contained in section 527(b)(2)(D) of such Act that a creditor make or invest in loans aggregating more than $1,000,000 per year shall not apply to a creditor selling residential manufactured homes financed by loans or credit sales secured by first liens on residential manufactured homes if the creditor has an arrangement to sell such loans or credit sales in whole or in part, or if such loans or credit sales are sold in whole or in part to a lender, institution, or creditor described in section 527(b) of such Act or in this section or a creditor, as defined in section 103(f) of the Truth in Lending Act, as such section was in effect on the day preceding the date of enactment of this title, if such creditor makes or invests in residential real estate loans or loans or credit sales secured by first liens on residential manufactured homes aggregating more than $1,000,000 per year; and 15 USC 1602.

(vi) the term "lender" in section 527(b)(2)(A) of such Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act. "Lender."

"Depository institution."

(2)(A) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. For purposes of this paragraph, the term "depository institution" means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(v) any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422); and

(vi) any insured institution as defined in section 408 of the National Housing Act (12 U.S.C. 1730a).

Exemption.

12 USC 1813.

(B) This paragraph shall not apply to any such deposit, account, or obligation which is payable only at an office of an insured bank, as defined in section 3 of the Federal Deposit Insurance Act, located in the Commonwealth of Puerto Rico.

Effective date.

(b)(1) Except as provided in paragraphs (2) and (3), the provisions of subsection (a)(1) shall apply to any loan, mortgage, credit sale, or advance made in any State on or after April 1, 1980.

Exemption, State action.

(2) Except as provided in paragraph (3), the provisions of subsection (a)(1) shall not apply to any loan, mortgage, credit sale, or advance made in any State after the date (on or after April 1, 1980, and before April 1, 1983) on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of subsection (a)(1) to apply with respect to loans, mortgages, credit sales, and advances made in such State.

(3) In any case in which a State takes an action described in paragraph (2), the provisions of subsection (a)(1) shall continue to apply to—

(A) any loan, mortgage, credit sale, or advance which is made after the date such action was taken pursuant to a commitment therefor which was entered during the period beginning on April 1, 1980, and ending on the date on which such State takes such action; and

(B) any loan, mortgage, or advance which is a rollover of a loan, mortgage, or advance, as described in regulations of the Federal Home Loan Bank Board, which was made or committed to be made during the period beginning on April 1, 1980, and ending on the date on which such State takes any action described in paragraph (2).

Discount points, limitation.

(4) At any time after the date of enactment of this Act, any State may adopt a provision of law placing limitations on discount points or such other charges on any loan, mortgage, credit sale, or advance described in subsection (a)(1).

(c) The provisions of subsection (a)(1) shall not apply to a loan, mortgage, credit sale, or advance which is secured by a first lien on a residential manufactured home unless the terms and conditions relating to such loan, mortgage, credit sale, or advance comply with consumer protection provisions specified in regulations prescribed by the Federal Home Loan Bank Board. Such regulations shall—

(1) include consumer protection provisions with respect to balloon payments, prepayment penalties, late charges, and deferral fees;

(2) require a 30-day notice prior to instituting any action leading to repossession or foreclosure (except in the case of abandonment or other extreme circumstances);

(3) require that upon prepayment in full, the debtor shall be entitled to a refund of the unearned portion of the precomputed finance charge in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1; and

(4) include such other provisions as the Federal Home Loan Bank Board may prescribe after a finding that additional protections are required.

(d) The provisions of subsection (c) shall not apply to a loan, mortgage, credit sale, or advance secured by a first lien on a residential manufactured home until regulations required to be issued pursuant to paragraphs (1), (2), and (3) of subsection (c) take effect, except that the provisions of subsection (c) shall apply in the case of such a loan, mortgage, credit sale, or advance made prior to the date on which such regulations take effect if the loan, mortgage, credit sale, or advance includes a precomputed finance charge and does not provide that, upon prepayment in full, the refund of the unearned portion of the precomputed finance charge is in an amount not less the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1. The Federal Home Loan Bank Board shall issue regulations pursuant to the provisions of paragraphs (1), (2), and (3) of subsection (c) that shall take effect prospectively not less than 30 days after publication in the Federal Register and not later than 120 days from the date of enactment of this Act. Regulations.

(e) For the purpose of this section— Definitions.

(1) a "prepayment" occurs upon—

(A) the refinancing or consolidation of the indebtedness;

(B) the actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of the payment obligation by the creditor; or

(C) the entry of a judgment for the indebtedness in favor of the creditor;

(2) the term "actuarial method" means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation;

(3) the term "precomputed finance charge" means interest or a time price differential within the meaning of sections 106(a) (1) and (2) of the Truth in Lending Act (15 U.S.C. 1605(a) (1) and (2)) as computed by an add-on or discount method; and

(4) the term "residential manufactured home" means a mobile home as defined in section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974 which is used as a residence. 42 USC 5402.

(f) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section. Rules and regulations.

(g) This section takes effect on April 1, 1980. Effective date.

PART B—BUSINESS AND AGRICULTURAL LOANS

BUSINESS AND AGRICULTURAL LOANS

12 USC 86a.

SEC. 511. (a) If the applicable rate prescribed in this section exceeds the rate a person would be permitted to charge in the absence of this section, such person may in the case of a business or agricultural loan in the amount of $25,000 or more, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the person is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such person would be permitted to charge in the absence of this section, and such State imposed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the person taking, receiving, reserving, or charging such interest.

EFFECTIVE DATE OF PART B

12 USC 86a note.

SEC. 512. The provisions of this part shall apply only with respect to business or agricultural loans in amounts of $25,000 or more made in any State during the period beginning on April 1, 1980, and ending on the earlier of—

(1) April 1, 1983; or

(2) the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to loans made in such State,

except that such provisions shall apply to any loan made on or after such earlier date pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to such earlier date.

PART C—OTHER LOANS

INSURED BANKS

SEC. 521. The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end thereof the following new section:

12 USC 1831d.

"SEC. 27. (a) In order to prevent discrimination against State-chartered insured banks, including insured savings banks and insured mutual savings banks, or insured branches of foreign banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank or insured branch of a foreign bank would be permitted to charge in the absence of this subsection, such State bank or such insured branch of a foreign bank may, notwithstanding any State constitution or statute which is

hereby preempted for th
reserve, and charge on an
bill of exchange, or other
more than 1 per centum h
commercial paper in effe
Federal Reserve district
branch of a foreign bank is
of the State, territory, or
ever may be greater.

"(b) If the rate prescribe
State bank or such insur
permitted to charge in th
fixed rate is thereby preem
(a), the taking, receiving,
interest than is allowed by s
be deemed a forfeiture of th
other evidence of debt carri
paid thereon. If such greater
who paid it may recover in
appropriate jurisdiction not
such payment, an amount e
paid from such State bank o
taking, receiving, reserving,

INSURED SAVING

SEC. 522. Title IV of the N
seq.) is amended by adding
section:

"SEC. 414. (a) If the appl
exceeds the rate an insured i
in the absence of this section,
any State constitution or stat
purposes of this section, tak
loan or discount made, or up
evidence of debt, interest at a
excess of the discount rate on
at the Federal Reserve bank
such institution is located or
State, territory, or district wh
ever may be greater.

"(b) If the rate prescribed i
institution would be permitt
section, and such State fixed
described in subsection (a), the
ing a greater rate of interest t
when knowingly done, shall
interest which the note, bill, or
or which has been agreed to b
interest has been paid, the per
action commenced in a court
than two years after the date
twice the amount of the intere
receiving such interest.".

LINQUENCY DATA

ing and Urban Development shall asibility of collecting data pertain- encies on an appropriate regional cable, but not later than April 1, port containing the results of such

O SECTION 234

of section 234(c) of the National ing after "Act)" the following: "or rantee, insurance, or a direct loan States Code".

MALL GROUP HOMES AND SIMILAR HE HANDICAPPED

Housing Act of 1959 is amended by lowing: "In the case of housing to rimarily nonelderly) persons, such iring existing housing and related ation, alteration, conversion, or ate rehabilitation, thereof, and the ousing and related facilities are

F PREMIUM CHARGES

Housing Act is amended by adding d thereof:

OF PREMIUM CHARGES

ovisions of titles I, II, IV, VII, VIII, e payment of loan or mortgage inancial institution, other mortga- l Government in connection with a am established pursuant to any of quire that payment of such premi- receipt from the borrower; except ayment of such premiums within eipt if the financial institution, interest, at a rate specified by the r the period beginning twenty days and ending upon payment of the ent.".

E SECTION 203(k) REHABILITATION NCE PROGRAM

National Housing Act is amended e and inserting in lieu thereof the d with respect to loans secured by a r this subsection shall be paid in t that all references in section 204 nce Fund shall be construed as ce Fund. Insurance benefits paid y a mortgage other than a first

mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that reference to 'this subsection' in such paragraphs shall be construed as referring to this subsection.". 12 USC 1715k

VALLEY HOMES MUTUAL HOUSING CORPORATION

SEC. 322. (a) Notwithstanding any other provision of law, Valley Homes Mutual Housing Corporation, obligor on a note and mortgage secured by a multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio and held by the Government National Mortgage Association, is hereby relieved of all liability to the Government for the outstanding principal balance on the above mentioned mortgage; for the amount of accrued out unpaid interest thereon; and for taxes, insurance, and other charges previously paid by the Government. This release from liability is in full settlement of all present and any future claims Valley Homes Mutual Housing Corporation, its successors and assigns may have against the United States or any of its Agencies concerning the mortgagor's purchase of the mortgaged premises from the Public Housing Administration in 1954.

(b) The President of the Government National Mortgage Association is authorized and directed to release Valley Homes Mutual Housing Corporation from its liability to the Association and to discharge the mortgage note secured by the mortgage on the multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio.

(c) No amount in excess of ten per centum of the principal and interest due upon the mortgage released under subsection (b) of this provision shall be paid to or received by an attorney or other person in consideration for services rendered in connection with the claims of Valley Homes Mutual Housing Corporation against the United States or any of its Agencies referred to in subsection (a) of this provision. Any person who violates this subsection shall be fined not more than $1,000. Penalty.

STUDY OF FACTORY-BUILT HOUSING

SEC. 323. The Secretary of Housing and Urban Development shall study the feasibility of utilizing factory-built and other appropriate types of housing (other than the traditional type of site-built housing), to the extent practicable, in carrying out housing programs for Indians and Alaskan Native, and shall, not later than eighteen months after the date of enactment of this Act, transmit a report to the Congress containing the findings and conclusions of such study, including a comparison of the costs and benefits of utilizing the traditional type of site-built housing and of utilizing other types of housing in situations in which either type of housing could be used. Study; report to Congress. 12 USC 1715d note.

USURY PROVISIONS

SEC. 324. (a) Section 501(a)(1)(A) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended— *Ante*, p. 161.

(1) by striking out "stock" the first place it appears and inserting in lieu thereof "all stock allocated to a dwelling unit"; and

(2) by striking out "where the loan, mortgage, or advance is used to finance the acquisition of such stock".

OVER

Ante, p. 164.

(b) Section 511 of such Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

Definitions.

"(b) For the purpose of this part—

"(1) the term 'loan' includes all secured and unsecured loans, credit sales, forbearances, advances, renewals or other extensions of credit made by or to any person or organization for business or agricultural purposes;

"(2) the term 'interest' includes any compensation, however denominated, for a loan;

"(3) the term 'organization' means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity; and

"(4) the term 'person' means a natural person or organization.".

Ante, p. 164.

(c)(1) Section 512 of such Act is amended—

(A) by inserting "(a)" after "Sec. 512."; and

(B) by adding at the end thereof the following:

"(b) A loan shall be deemed to be made during the period described in subsection (a) if such loan—

"(1)(A) is funded or made in whole or in part during such period, regardless of whether pursuant to a commitment or other agreement therefor made prior to April 1, 1980;

"(B) was made prior to or on April 1, 1980, and bears or provides for interest during such period on the outstanding amount thereof at a variable or fluctuating rate; or

"(C) is a renewal, extension, or other modification during such period of any loan, if such renewal, extension, or other modification is made with the written consent of any person obligated to repay such loan; and

"(2)(A) is an original principal amount of $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980); or

Ante, p. 1614.

"(B) is part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement therefor is $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980).".

Effective date.
12 USC 86a note.

(2) The amendments made by paragraph (1) take effect on April 1, 1980.

Ante, p. 164.

(d) Part B of title V of such Act, other than section 512(b), is amended by striking out "$25,000" wherever it appears and inserting in lieu thereof "$1,000".

Ante, p. 161.

(e) Section 501(a)(1)(C)(vi) of such Act is amended by inserting before the period at the end thereof the following: ", and any individual who finances the sale or exchange of residential real property which such individual owns and which such individual occupies or has occupied as his principal residence".

LIQUID, HIGHLY RATED CORPORATE DEBT OBLIGATIONS

SEC. 325. (a) The first sentence of section 5A(b)(1) of the Federal Home Loan Bank Act is amended—

12 USC 1425a.

(1) by striking out "and" before "(E)";

(2) by redesignating clause (E) as subparagraph (E);

(3) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following:

Chapter 20. Alaska Small Loans Act.

Sec. 06.20.010. License required. A person may not engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of $25,000 or less and charge, contract for, or receive on the loan a greater rate of interest, discount, or consideration than the lender would be permitted by law to charge if he were not a licensee under AS 06.20.010 — 06.20.920, except as authorized by AS 06.20.010 — 06.20.920 and without first obtaining a license from the department. (§ 2 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 23 ch 218 SLA 1976; am § 1 ch 71 SLA 1978; am § 1 ch 63 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "A" for "No" at the beginning of the section and "$25,000" for "$5,000," and inserted "not" following "A person may" near the beginning of the section.

Sec. 06.20.200. Advertising of misleading statements prohibited. (a) A person may not advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of $25,000 or less, which is false, misleading, or deceptive. The department may order any licensee to desist from any conduct which it finds to be in violation of this section.

(b) The department may require rates of charge stated by a licensee to be stated fully and clearly in the manner considered necessary to prevent misunderstanding by prospective borrowers. (§ 13 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 6 ch 71 SLA 1978; am § 2 ch 63 SLA 1980)

Effect of amendments. — The 1980 amendment, in subsection (a), substituted "A" for "No" at the beginning of the subsection, and "$25,000" for "$5,000" near the end of the first sentence, and inserted "not" following "A person may" near the beginning of the subsection.

Sec. 06.20.230. Maximum interest permitted. (a) A licensee may lend any sum of money not exceeding $25,000 and may charge, contract

for, and receive on the loan interest at a rate not exceeding three percent a month on that part of the unpaid principal balance of a loan not in excess of $500; two percent a month on the remainder of any unpaid principal balance exceeding $500 but not exceeding $1,000; and one percent a month on the remainder of any unpaid principal balance exceeding $1,000 but not exceeding $25,000. On loans the principal of which is $50 or less a licensee may charge, contract and receive interest at a rate not exceeding five percent a month.

REPEALED

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under AS 06.20.010 — 06.20.920 or who makes a loan under AS 06.20.010 — 06.20.920 exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest not to exceed the greater of

(1) one and one-half percent a month; or

(2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance as determined in AS 06.20.285(b). (§ 16(a) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 7 ch 71 SLA 1978; am § 2 ch 84 SLA 1979; am § 3 ch 63 SLA 1980)

Effect of amendments. — The 1979 amendment added subsection (b).

The 1980 amendment, in subsection (a), substituted "$25,000" for "$5,000" twice; in subsection (b), inserted "or who makes a loan under this chapter exceeding $5,000 but not exceeding $25,000" and "the greater of", restructured the subsection into the present introductory paragraph and paragraphs (1) and (2), added "or" following "a month" in paragraph (1), added the provisions of paragraph (2); designated the provisions beginning "Interest on loans" as subsection (c), added "Interest on loans under (b) of this section shall be", and inserted "entire" preceding "unpaid principal" in subsection (c).

Sec. 06.20.250. Computation and payment of interest. (a) Interest shall not be paid, deducted, or received in advance. Except for open-end loans made under AS 06.20.285, interest shall be computed and paid only on unpaid principal balances and shall not be compounded; however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the loan contract may include any unpaid charges on the prior loan which have accrued within 60 days before the making of the loan contract. The maximum interest permitted on loans made under AS 06.20.010 — 06.20.920 shall be computed on the basis of the number of days actually elapsed. For the purpose of these computations a month is any period of 30 consecutive days.

(b) A licensee may compute interest for a loan as provided in AS 06.20.010 — 06.20.920 on an interest-bearing or actuarial basis either

the unearned premium on the policy being financed at that time. No deficiency balance may be established or collected from the borrower. This section does not preclude the licensee from establishing or collecting a deficiency balance to the extent the insurer offsets unearned premiums on the policy financed by premiums earned by reason of endorsements to that same policy not paid for by the insured or financed by the licensee.

(d) The licensee or the insurance agent shall deliver to the borrower, or mail to him at his address shown in the agreement, a complete copy of the agreement. (§ 1 ch 170 SLA 1978)

Sec. 06.40.120. Maximum interest permitted: Prepayment, refund. (a) A premium finance company may not charge, contract for, receive, or collect a service charge other than as permitted by this chapter.

(b) The service charge is to be computed on the balance of the premiums due, after substracting the down payment made by the borrower in accordance with the premium finance agreement, from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final payment of the premium finance agreement is payable.

(c) The service charge may not exceed interest at the nominal annual rate of 15 per cent plus an additional charge of $10 per premium finance agreement which need not be refunded upon cancellation or prepayment. However, any borrower may prepay his premium finance agreement in full at any time before the due date of the final payment and in that event the unearned service charge shall be refunded. The amount of any refund shall be calculated in accordance with regulations adopted by the commissioner. (§ 1 ch 170 SLA 1978)

Sec. 06.40.130. Delinquency charge. (a) A premium finance agreement may provide for the payment by the borrower of a delinquency charge for any payment that is in default for a period of 10 days or more. The charge may be made for each month or fraction of a month that the payment is in default. The amount of the charge may be a minimum of $1 and as a maximum shall be subject to the following limits:

(1) for delinquent payments of less than $250, five per cent of the payment or $5, whichever is less; or

(2) for delinquent payments of $250 or more, two per cent of the payment.

(b) A borrower may at his option separate the financing of the premiums for one insurance policy from a premium finance agreement by requesting in writing that the premium finance company provide that service and by paying a $10 separate charge. (§ 1 ch 170 SLA 1978)

Sec. 06.40.140. Cancellation of policy; requirements. (a) When a premium finance agreement contains a power of attorney enabling the licensee to cancel the insurance policy listed in the agreement, the

(3) adopt, use, and alter a common seal;

(4) purchase, hold, and dispose of property;

(5) make loans, the maturities of which may not exceed 12 years except as provided in AS 06.45.010 — 06.45.400, and extend lines of credit to its members, to other credit unions, and to credit union organizations and participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

(A) loans to members shall be made in conformity with regulations adopted by the commissioner, except that

(i) a residential real estate loan which is made to finance the acquisition of a one-to-four-family dwelling for the principal residence of a credit union member which is secured by a first lien on the dwelling may have a maturity not exceeding 30 years;

(ii) a loan to finance the purchase of a mobile home, which is secured by a first lien on the mobile home, to be used as the residence of a credit union member, or for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed 15 years unless the loan is insured or guaranteed under (iii) of this subparagraph;

(iii) a loan secured by the insurance or guarantee of the federal government, of a state government, or an agency of either may be made for the maturity and under the terms and conditions specified in the law under which the insurance or guarantee is provided;

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds $5,000 plus pledged shares shall be approved by the board of directors;

(v) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser shall be approved by the board of directors when the loans standing alone or when added to an outstanding loan or loans of the guarantor or endorser exceed $5,000;

(vi) the rate of interest may not exceed the greater of 15 percent a year or the rate specified as AS 45.45.010(b);

(vii) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this subsection, when knowingly done, is considered a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid on the note, bill, or other evidence of debt; if a greater rate of interest has been paid the person by whom it has been paid or his legal representatives may recover back from the credit union taking or receiving it the entire amount of interest paid, but the action must be commenced within two years from the time the usurious collection was made;

Under the standard of subsection (e) of this section, the courts have utilized a flexible, ad hoc approach to determine, by an essentially factual inquiry, the extent to which an error in the financing statement would be misleading to one undertaking a reasonable search. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Where a financing statement and its underlying loan documents mistakenly identified a debtor as the predecessor partnership rather than the corporation, the financing statement was seriously misleading and the lender had no perfected security interest in the assets of the corporation. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Article 5. Default.

Sec. 45.09.504. Secured party's right to dispose of collateral after default; effect of disposition.

NOTES TO DECISIONS

Noncompliance with subsection (c). In accord with 1st paragraph in original. See Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If a sale was deficient with respect to either notice or commercial reasonableness, then a burden is placed upon the secured party to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

The burden is on the secured party to prove by clear and convincing evidence the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If the secured party fails to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt, then the presumption leads to the conclusion that the entire debt is discharged. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Factors in determining value of collateral. — The local economic market at the time of sale is a recognized factor in determining the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Chapter 45. Trade Practices.

Article

1. Interest (§ 45.45.010)

Article 1. Interest.

Section

10. Legal rate of interest

Sec. 45.45.010. Legal rate of interest. (a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $25,000 is exempt from the limitation of this subsection.

REPEALED

(c) Repealed by § 3 ch
(d) Repealed by § 2 ch
(e) Repealed by § 4 ch
(f) No bank, savings
company or mortgage co
ownership or profits abo
(g) Loan contracts ar
dwellings may be prepa
loans that require a pre
(h) If the limitations
inconsistent with the p
mum interest, service c
the other statute preva
1968; am § 2 ch 69 SL
ch 239 SLA 1970; am §§
1974; am § 1 ch 110 SL
SLA 1980; am §§ 1, 2

Cross references. — A
technology and power resou
AS 45.88.030(e).

Effect of amendments.
amendment, effective July
subsection (b), deleted "dat
1976" following "contract o
ment" and substituted "on
"that prevailed on the 25
month preceding the com
the calendar quarter dur
"which the contract" in th
and substituted "$25,000"

Cited in State v. Alas
Dev. Corp., Sup. Ct. Op.
Nos. 4121, 4122), 630 P.2

Chapter 50. C

Article 4. Unfair

Sec. 45.50.471. U

Similarity to federa
hibition in this sectio
methods of competiti
deceptive acts or practi

Sec. 45.10.120. Extent of service charge. (a) The service charge shall include all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments under the contract or agreement. No other fee, expense, or charge may be taken, received, reserved, or contracted for investigating and making the contract or agreement, or for the privilege of making the payments.

(b) A seller or holder of a retail installment contract may charge, receive and collect a service charge which shall not exceed the following rates multiplied by the number of months, including a fraction of a month in excess of 15 days as one month, elapsing between the date of the contract and the due date of the last installment,

(1) on so much of the unpaid balance as does not exceed $1,000, five-sixths of one per cent;

(2) if the unpaid balance exceeds $1,000, on so much of the unpaid balance as exceeds $1,000, two-thirds of one per cent;

(3) if the total service charge so computed is less than $12, but if the due date of the last installment of the contract is eight months or more after its effective date, $10.

(c) A seller or holder of a retail charge agreement, revolving charge agreement or other retail charge agreement may charge, receive and collect a service charge not to exceed the following rates computed on the outstanding balances from month to month,

(1) on so much of the outstanding balance as does not exceed $1,000, one and one-half per cent per month;

(2) if the outstanding balance is more than $1,000, one-twelfth of the annual rate permitted under AS 45.45.010(b) per month on the amount over $1,000 of the outstanding balance;

(3) if the service charge so computed is less than $1 for any month, $1;

(4) the service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than $5 provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

(§ 13 ch 141 SLA 1962; am § 1 ch 154 SLA 1966; am § 2 ch [illegible] 1980)

Cross reference. — As to revolving credit plans, see AS 06.05.208.

Effect of amendment. — The 1980 amendment substituted "one-twelfth of the annual rate permitted under AS 45.45.010(b)" for "one per cent" and "more than $1,000" in paragraph (c)(2) of subsection (c).

Sec. 45.10.130. Insurance. If the cost of insurance is included in the retail installment contract or retail charge agreement and a separate charge is made to the buyer for the insurance,

(1) the contract or agree
amount of the insurance,
vehicle, the contract must
under the terms of this con
liability," "public liability,
as applicable;

(2) the contract or agree
be procured by the buyer

(3) the amount include
premiums chargeable in
insurance by the insurer e
if the insurance is cancell
for unearned insurance
insurance, together with t
applicable to the insuran
installments of the ret
agreement, and the rem
premiums shall be refund
required if the amount is

(4) if the insurance is to
within 45 days after deliv
under the contract, delive
the address as specified i
procured, a copy of the p
of the insurance so procu

Sec. 45.10.140. Agree
retail installment contra
buyer agrees not to asse
against the seller or an a

Sec. 45.10.150. Nonw
of the buyer before or at t
installment, retail charge ag
agreement constitutes a
disclaimer or of any remedi
SLA 1962)

Sec. 45.10.160. Contr
SLA 1962. This chapter does
installment contract or
January 1, 1963. (§ 22 c

Sec. 45.10.170. Actio
may bring an action in
violation and prevent a vi

Sec. 45.10.180. Assu
enforcement of this cha

tiff to be just compensation for the property or the interest in it. (§ 13.20 ch 101 SLA 1962)

Cross reference. — See Civ. R. 72-(e)(3).

Where the state has adequate knowledge of separate interests, amounts should be specified for each. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

Sec. 09.55.440. Vesting of title and ..pensation. (a) Upon the filing of the declaration of taking and ..e deposit with the court of the amount of the estimated compensation stated in the declaration, title to the estate as specified in the declaration vests in the plaintiff, and that property is condemned and taken for the use of the plaintiff, and the right to just compensation for it vests in the persons entitled to it. The compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment shall include interest at the rate of six per cent per year on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of the judgment.

(b) Upon motion of a party in interest and notice to all parties, the court may order that the money deposited or a part of it be paid immediately to the person or persons entitled to it for or on account of the just compensation to be awarded in the proceedings. If the compensation finally awarded exceeds the amount of money deposited, the deposit shall be offset against the award. If the compensation finally awarded is less than the amount of money deposited, the court shall enter judgment in favor of the plaintiff and against the proper parties for the amount of the excess. (§ 13.2[illegible] ch 101 SLA 1962)

Cross reference.—See Civ. R. 72-(e)(3).

Condemnor takes estate sought in declaration of taking. — The Alaska declaration of taking statutes are as effective as the federal statutes in effecting the vesting of title in the condemnor of whatever interest in the land it seeks to condem.. If the state undertakes to obtain title to real property in fee simple absolute by the filing of a declaration of taking that is the title which it obtains. 1960 Op. Att'y Gen., No. 15.

Alaska Const., art. I, § 18, necessitates that a property owner be compensated for delays incurred between the dates of the government's taking of property and making payment. If an award were paid immediately upon the taking of the land by the state no damages to the property owner would ensure. But where, due to the necessity of legal proceedings to ascertain fair market value of property, delays ensue, the property owner is entitled to an a[illegible] to reimburse him for the loss of use of the money during the period of such delay. To hold otherwise would constitute a taking of the property without just compensation. Therefore, it is well established that the owner of property is entitled to interest from the date of taking to the date of payment. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

This section provides for interest on the amount awarded which exceeds the amount paid into court under the declaration of taking. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Au-

thority, Sup. Ct. No. 1600), 498 P.

Interest can be the amount paid able for immediat owner or owners terests in the lan Greek Catholic America v. Alaska thority, Sup. Ct. No. 1600), 498 P.2

No interest whe draw funds is attr owner.—In situati ure to withdraw f the registry of th able to the dela owner, no interest on the portion of posited. Russian Catholic Church of Alaska State H Sup. Ct. Op. No. 8 498 P.2d 737 (197

A blanket esti covering several p tended by allocati not an effective ten any parcel. Russia Catholic Church of Alaska State Ho Sup. Ct. Op. No. 80 498 P.2d 737 (1972)

Multiple party in for which lump sum out segregation.— one party has an in and a lump sum is segregation as to mated to be just con various interests, impossible to receiv drawal of the funds.

Sec. 09.55.450. ing of the declara compensation, the which and the ter quired to surrende of entry shall no ning of the time f ration of taking. W of the award and sonable rental for plaintiff during suc

(b) The court n special assessment

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 750
Title An Act relating to the deregulation of interest rates
Requested by Labor, Commerce & Finance Date

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Banking and Securities
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS,CLAIMS,ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

DATE February 10, 1982 PREPARED BY

National Conference of State Legislatures

Office of State Federal Relations

444 North Capitol Street, N.W. 2nd Floor Washington, D.C. 20001 202/624-5400

President
Richard S. Hodes
Speaker Pro Tempore, Florida House of Representatives

Executive Director
Earl S. Mackey

September 22, 1980

The Honorable John J. LaFalce
2361 Rayburn House Office Building
Washington, DC 20515

Amendment # 3-4

Dear Representative LaFalce:

On September 23rd, your subcommittee will hold hearings on H.R.7735, which amends the Depository Institutions Deregulation and Monetary Control Act of 1980 to preempt state usury ceilings as applied to consumer finance transactions and state laws regarding access and transaction fees charged to open accounts. While you will hear from many consumer finance companies and small businesses on the impact of H.R.7735, you should be apprised of the position of the National Conference of State Legislatures. States will also be heavily impacted if H.R.7735 is enacted by Congress.

The National Conference of State Legislatures is strongly opposed to any federal legislative or executive action which would permanently or temporarily preempt state interest ceilings. As representatives of state legislators, we are acutely aware of the problems of citizens in our states in these times of inflation and high interest rates, but feel that states should have maximum flexibility in developing their economies. Good consumer finance legislation is as controversial at the state level as the federal level, and forcing legislatures to vote these matters again may prove disruptive because of the current economic situation. Many state legislatures are working to provide usury limits that are more in line with market realities. The ultimate result of this effort may be to provide a better climate for consumer-oriented businesses than federal preemption would provide.

We are particularly disturbed by two provisions in H.R.7735:

1. This bill does not have a sunset provision. Although states may override preemption of usury limits within three years of the enactment of H.R.7735, those states that are unable to adopt constitutional provisions or statutes overriding the preemption permanently lose their jurisdiction over a major portion of consumer finance affairs. This is a rather severe result when one considers that the current economic crisis may be only temporary. If the crisis is permanent, we would need much stronger measures to combat it than this bill would provide. Such measures would require the complete cooperation of state, local and federal governments rather than a preemption-oriented solution.

ALASKA CREDIT UNION LEAGUE

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ANCHORAGE, ALASKA 99503
(907) 278-4949

VINCENT L. USERA
PRESIDENT

February 26, 1982

Senator Bob Mulcahy
Chairman, Senate Committee on
Labor & Commerce
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Mulcahy:

This letter is offered for the record in support of Section 7 of Senate Bill 750 presently before your committee for consideration. Section 7 of this bill would amend present state statutes concerning credit unions by entirely removing the existing usury ceiling imposed on credit unions (state chartered).

The Alaska Credit Union League enthusiastically supports this measure and congratulates the committee on its consideration of such progressive legislation.

Though there are, at present, no credit unions chartered by the State of Alaska, a very progressive state law enabling such charters was enacted in 1980. This statute originally specified a usury ceiling of 12%, similar to the then-extant Federal Credit Union Act. In 1981 the state statute was amended to impose a usury ceiling of 15% on credit union loans to members. The state law imposes no ceilings with respect to the rates that a credit union may pay its members on their savings.

Complete removal of rate ceilings, especially when confronted with the volatile economic climate of the 1980s, makes eminently good sense from several aspects.

One, since there are no ceilings on what can be paid, and competitive forces will drive the cost of funds to an institution to the prevailing market levels, the presence of a ceiling on loan rates does little more than impose a disincentive to lend. Thus, rather than provide a consumer protection as originally intended, the rate ceiling effectively limits borrowing. Any financial institution must achieve a spread between the cost of funds and the pricing of loans. This spread must be adequate to ensure, if not profitability, at very least that all costs are met. As market rates on savings approach the loan ceiling, this spread is reduced to the point where it becomes unreasonable to grant loans.

Two, we firmly believe that market pressures will ensure that the absence of rate ceilings is not subject to abuse. The institution that raises rates far beyond what other competitors in the marketplace charge will find itself out of that market. Indeed, unless all lenders were to raise rates to the same levels, widespread abuse would be virtually non-existent. Increasing consumer sophistication, as well, militates against widespread abuse in this area.

Three, under present law, federally chartered credit union may charge up to 21% on loans to members. All Alaskan credit unions are presently operating under a federal charter, yet none but those making a few high risk loans are charging a rate of 21%. Thus, despite there being available authority to charge higher rates, most loans are made at rates well within market parameters. Though it would be no abuse to charge up to 21%, there is still little use for the curb; the marketplace imposes its own limitations.

Traditionally, credit unions have made loans available to members at or below prevailing market rates. The very reason for the existence and popular growth of credit unions has been that rates on savings were higher than found at other lenders, and rates on loans were generally lower than others. There is little liklihood that credit unions will turn their backs on this history, whatever the upper limits of their lending authority might be.

In sum, Mr Chairman, the Alaska Credit Union League heartily supports this piece of legislation as a benefit to credit unions, and thereby a benefit to their members. We respectfully urge that this portion of the bill be given the most favorable consideration.

The Alaska Credit Union League is the trade association representing 27 of Alaska's credit unions and the more than 250,000 members of those institutions. The League is affiliated with the Credit Union National Association.

Thank you for the opportunity to comment.

Respectfully submitted,

ALASKA CREDIT UNION LEAGUE

BY: Vincent L. Usera

Vincent L. Usera
President

VLU/ps

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 26, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 750 Deregulation of
Interest Rates

The position of the Department of Commerce and Economic Development on the above-subject bill is technical in nature only and not intended to be a position for or against the existence of interest rate limitations. As this bill would effectively repeal all usury control, it will be necessary for the borrowers to seek for themselves the best interest rate.

Sections 1 and 2 of the bill, repeal interest limitations in the Alaska Small Loan Act and the Premium Finance Company Act. Examiners find that most of the violations of these two areas have been problems in interest and refund computations. This amendment, therefore, would have no effect on our regulatory activity for these two industries.

Section 6 further repeals other interest rate limitations of small loan companies and also repeals rate limitations of credit unions. Other cited sections noted in the bill do not fall within the regulatory provisions of our agency.

We will not oppose passage of the bill as we find no evidence that it will have a detrimental effect on financial institutions and it will allow lenders to make funds available in times of high cost of funds. It will, of course, have some effect on consumers. Funds for the borrowing consumer will be readily available but at higher rates. The marketplace competition will be the controlling factor should this bill pass.

Sincerely,

E. W. Eboch

Edward W. Eboch
Deputy Commissioner

08-H2LH

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THE MACNEIL-LEHRER REPORT

Usury Ceilings

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Usury Ceilings

ROBERT MacNEIL: Good evening. Several major banks lowered their prime lending rate half a point today to 19%, an interest rate expected to become the standard for business loans across the country. At the same time, the White House urged the Federal Reserve Board to ease its tight money policies slightly. Deputy Press Secretary Larry Speakes said the administration still supported the Fed's policy of monetary restraint; it merely wanted a rollback of recent actions which had increased restraint on the money supply. On Capitol Hill concern over tight money and the high interest rates is surfacing in another way: proposed legislation to do away with state usury laws, or legal limits on interest rates. Bankers, retailers and finance companies backed the effort, claiming that low interest levels are stifling credit. Removing the ceilings, they say, will cause more credit to flow. Consumer groups and some state officials say that argument is false, and oppose the legislation on the ground that it will legalize loan-sharking. Tonight, should Washington take the cap off state interest rates? Jim?

JIM LEHRER: Robin, usury is defined as the loaning of money at an unconscionable or exorbitant rate of interest. There are 44 states with various laws prohibiting its practice. But there's no uniformity to them, either in the types of loans they cover, or when the rate becomes unconscionable or exorbitant, and thus illegal. At one extreme is Arkansas which has a cap on bank consumer loans at 10%. At the other extreme is South Carolina, where the cap is 24%. The others have ceilings somewhere in between. Congressman John J. LaFalce, Democrat of New York, wants all ceilings, all caps, in all states eliminated, and he's the sponsor of legislation in the House that would do just that. Congressman, why should state interest rate ceilings be eliminated?

Rep. JOHN LA FALCE: Well, I think there are a number of reasons. First of all, I think that the economic forces that are at work determining the market interest rates are either national or international in scope, and bear virtually no relationship to state forces. Secondly, the state laws that are on the books now are really relics of ages long past. The usury rates were set at a time when we had interest rates of perhaps 2%, and you might have a usury law prohibiting interest being charged above 12%. But because of the present volatility of our interest rates, those usury laws have, in effect, prevented the availability of credit. So, if you live in a state with a restrictive usury law, you simply can't get credit. Your down payment for a car costing $7,000 would have to be $7,000. Your down payment for a home costing $100,000 would have to be $100,000. And so, really, what—

LEHRER: And that in fact is the case in states where they have usury laws?

Rep. LA FALCE: In fact that is the case in a great many states where they have such restrictive usury laws. In the state of New York, for example, it was impossible until 1980 to obtain a residential mortgage when the market rates were about 20%, and you had a restrictive rate of around 12%. The issue is not what the interest rate should be. The market will determine that. The issue is whether or not credit will be available to the consumer who wants to make a purchase.

LEHRER: Well, what if you take the laws off? Let's assume that your bill is enacted into law, signed by the President and the whole thing. Wouldn't that mean that interest rates would just skyrocket for retail—

Rep. LA FALCE: No, because we have a classic free market competition here in the United States. There are untold numbers of lending institutions. And I think that the free market would have its chance to work, and would work. Would there be a few number of

abuses? That could well be the case. There would be very, very few, however, in my judgment. There are abuses now that are going unprosecuted because of lack of proof, but the point is, the problem that *[audio lost]* of small businesses going out of business, drying up the real estate market prior to the time that the federal government did preempt the usury ceilings on residential mortgages. The good to be accomplished would offset whatever potential harm might exist by perhaps a thousandfold.

LEHRER: Congressman, let me ask you this. Let's say the people of Arkansas — they have 10% interest rates — that the people of Arkansas want a 10% interest rate, and if they want to pay the $7,000, or whatever it takes to live within that law, why should the federal government say, "Hey, no. You've got to charge more than that?"

Rep. LA FALCE: Well, I think we have a federal problem on our hands. I would preserve, however, the right of the individual states to exercise their sovereignty by permitting them a three-year time period to reinstate that usury law if that would be their desire. So they would have the right to effectively veto the federal preemption.

LEHRER: But three years later?

Rep. LA FALCE: No. Within that three-year period of time. They could do it immediately.

LEHRER: I see. Thank you. Robin?

MacNEIL: A number of states have recently raised or abolished their interest rate ceilings. One of them is Texas, and the experience has caused one congressman from Texas to oppose the LaFalce bill. He is freshman Democrat Bill Patman, also a member of the Banking Committee, the committee chaired for many years by his father, Wright Patman. Congressman, why do you oppose the bill?

Rep. BILL PATMAN: I think this is an important state right that should be maintained. We ought to let the states decide for themselves just what should be done about this particular issue. And I don't believe that the take-out provision is adequate, that Congressman LaFalce mentioned.

MacNEIL: What does that mean, the "take-out provision"?

Rep. PATMAN: Where a state could exempt itself from this particular lifting of the usury ceiling. Because it would have to do so before April the 1st of 1983, or in that area. We don't even meet in Texas in the legislature again until January of 1983, in regular session.

MacNEIL: What happened in the Texas experience recently, partially abolishing the interest rate ceiling, that has caused you such anxiety?

Rep. PATMAN: Well, I think it's regrettable that the Texas legislature did act to raise the interest rate ceiling, but that was its option, acting with what it assumed to be the will of the people behind it. That same legislature may in the future decide that it wants to lower that rate, and passage of this bill after the take-out provision is gone will not permit it to do so. I think it's important to realize that the market rate of interest rate — of interest — is not set for the small consumer loans. We in Texas have a super high rate, of up to 109%, and even beyond that, on loans of $100 and under. We're one of only five states in the entire United States that authorized such abuses of the consumer. And if we pass this bill of the Congressman's and we don't have some exemption of a state from that particular type of loan, then you'll have that same type of abuse prevalent throughout the United States.

MacNEIL: Give me an example of the kind of abuse you're talking about.

Rep. PATMAN: Well, a $100 loan for six months would be chargeable — cash loan — would have charges on it amounting to 109%. The lenders in Texas of those particular

loans actually flip them, or renew them every couple of months, and then charge a non-refundable acquisition charge that raises the effective yield, in some instances that we noticed when I was in the Texas Senate, to up to 149%.

MacNEIL: Mr. LaFalce says that his bill is necessary because credit has dried up in states where the usury laws keep the interest rate below a ceiling that is below current market rates. And so people just can't get credit.

Rep. PATMAN: That's a common argument of the loan companies and the finance companies. I've followed this issue for many of the years in which I served in the Texas Senate, and these finance companies will go from state to state now, and seek to jack up the rates. And then they'll go around to the other states that have not increased their rates, and say, "You're out of line." We kept those rates low in Texas, or at least lower than some of these other states, for at least 12 years. And all that time, these finance companies were promising that they would go out of business if we didn't suddenly increase their rates. They made huge profits. In fact, one loan company, we found by examining the records in Massachusetts, regarded Texas as its 11th most profitable state out of some 38 or so in which it operated, even though we kept our rates at what they called a low level.

MacNEIL: Well, do you argue, then, Congressman, that the interest rate ceilings are not preventing the availability of credit?

Rep. PATMAN: Yes. I think in general they could cause some difficulty in obtaining credit in some areas. But there doesn't seem to be a shortage of the availability of credit throughout the nation to call for an extreme measure of this type. I think that once we take off these limits that the states have imposed themselves, we'll never get them back down, and we'll have a large series of abuses, a long series of them, that will really result, I think, ultimately, in a public outcry against this type of thing.

MacNEIL: Well, thank you. Jim?

LEHRER: Among those pushing for federal elimination of state usury ceilings are small businesses which depend on consumer credit. This includes the retail furniture business, and people like Mel Kusin of Texarkana, Texas. Mr. Kusin owns three furniture stores, two in Texas, one next door in Arkansas. He's also on the board of the National Home Furnishings Association, his business's trade organization, and was to testify this week at hearings on the usury law issue — hearings that have now been postponed, you discovered once you got to Washington a while ago, right?

MEL KUSIN: Right.

LEHRER: Okay. Mr. Kusin, in your Texas stores, what interest rate do you charge now?

Mr. KUSIN: Presently we're charging 24%. That's the new limit allowed by the state of Texas under the new legislation.

LEHRER: I see. Now, what do you charge across the— across the street in Arkansas?

Mr. KUSIN: Well, our other store is 32 miles away in Hope, Arkansas. We charge 10%.

LEHRER: Well, now, what's the difference in terms of what people buy, and the success of these stores?

Mr. KUSIN: Well, there's an unbelievable difference, and it's getting more and more painful all the time. In the state of Arkansas, retail furniture prices are normally about 11% higher than those in surrounding states of Texas, and, I believe, Oklahoma.

LEHRER: So you're getting it anyhow? You just have to raise the price of the furniture? Is that it?

Mr. KUSIN: I'll explain to you. We pay— we are lucky to pay approximately prime bank interest in our area, which is about 20%. In Arkansas, with the 10% state limitation, the store has to make up the difference itself. Anybody in the furniture business in Arkansas today who deals in credit sales has to supplement the sale itself, or else raise the price on it.

LEHRER: But the people in Arkansas are still buying furniture, I guess, and doing all these other things. How does it work?

Mr. KUSIN: They're paying more money— more money for their furniture because of the interest differential. The furniture stores there — many of them — are having to decide whether to stay in business or not, because they are the ones supplementing that whole difference in what they have to pay for money, and what the state limit is. Now, our position is this on the money available for something like furniture or automobiles or that. We're in the business of providing our customers with furniture. We're not in the business of credit. We handle the credit more as a convenience, a necessary convenience. If a state could set the rate at which a business borrows money, then it would be fine to set the rate at which it loans the money. But we have, as businessmen, to go by a federal existing loan rate, which would be the bank prime rate. But yet, within states, we are limited by the state law. So unless a furniture store can supplement the difference, it just won't work. And this is why we feel that it should— the interest rate should follow the level of the market.

LEHRER: In other words, what you're saying is that if you could borrow the money yourself in Arkansas, say, for 8% or 9% or even 10%, then you wouldn't mind using— mind giving people credit at 10%.

Mr. KUSIN: Exactly.

LEHRER: I see. What would be the effect of Congressman LaFalce's bill —if it, in fact, was enacted into law — on your particular business — or the small businessman generally that deals in consumer credit?

Mr. KUSIN: Let's say in Arkansas we could then again go to the loaning agencies, which would be banks or large firms — national firms that sell such financing. They would take all of the so-called contracts that a furniture store or any other retailer has if they had the difference to work between. If the— if the new law were to be passed that would allow a floating-up on the interest to a market price, then we wouldn't— we would no longer be in the credit business in the furniture business. We would be selling furniture, as we should be.

LEHRER: I see. You do not share Congressman Patman's fear that this thing will be abused, and could lead to some serious abuses in terms of the amount of— the exorbitant rate of interest that could eventually be charged?

Mr. KUSIN: No, we don't think so at all. Our business, from a- - the furniture business itself is a very competitive business. The prices of furniture will be held down by competition. If the interest rate is allowed to seek its own level, that will also become competitive. But most important, the consumer who wants to buy furniture can buy it on credit. Today in states like Arkansas, when furniture dealers have to withdraw from the market because they can't support it anymore with those high interest rates, the consumer is the one who really suffers, either through high prices, or through the, really, the almost lack of availability within a market place of furniture.

LEHRER: I see. Thank you, Mr. Kusin. Robin?

MacNEIL: A number of consumer organizations, led by the Consumer Federation of America, oppose the usury legislation. Another witness who was in Washington to testify, is Barbara Reid Alexander, superintendent of the Maine Bureau of Consumer Credit Protection, a state agency. Ms. Alexander, why do you oppose these bills? I should say,

there is also a bill in the Senate, correct?

BARBARA R. ALEXANDER: There is. Many state regulators and people associated with the state agencies that control consumer credit around the country oppose these bills because our state laws are the product of a very delicate balancing between the decision as to what interest rate should be mandated, and what consumer protections should be garnered in return for high interest rates. Consumer protections are linked to high rates in most states. They certainly are in Maine. If Congress enacts these bills, we will find that many important consumer protections, that our state legislatures thought were crucial in the regulation of credit, will be destroyed.

MacNEIL: Like what?

Ms. ALEXANDER: Well, for the privilege of higher rates in many states, we regulate substantive contract terms, and limit late fees, attorneys' fees, closing costs, default charges. We require a rebate of interest when a consumer prepays a contract early. We prohibit prepayment penalties. We limit the amount that the creditor can increase a contract when the consumer has troubles and comes in to refinance that contract. All of those protections are gone when we enact HR-2501, which is sponsored by Congressman LaFalce.

MacNEIL: What do you say to a dealer like Mr. Kusin in the retail business, who said that if you don't allow the interest rates to rise to the market level that dealers are going to have to get it another way, simply by putting supplemental prices on their product?

Ms. ALEXANDER: It's interesting that we find ourselves talking about Arkansas in this program. They are the state that is used to push this bill — and has been used to push bills like this for some years, now. The state of Arkansas had a statewide referendum on their 10% usury ceiling, which is in their constitution. The people in that state went to vote, and overwhelmingly defeated an attempt to increase that 10% limitation. I am not going to defend the 10% limitation of Arkansas. That's Arkansas' problem.

MacNEIL: What is the limit in Maine?

Ms. ALEXANDER: Generally 18%, with higher rates allowed for smaller transactions.

MacNEIL: And what effect is that having on consumer credit — on the availability of consumer credit?

Ms. ALEXANDER: I think that most credit is available in Maine at the maximum rates right now, and I think the volume of credit is down, and I think it's because people will not pay those high rates. I think the credit availability argument is really a non-argument. People are not going out to buy cars right now because the rates are too high, and they don't want to buy a car at 18%, 19% and 20% interest rates. The credit in this country is growing nationally at a rate of 7% to 8%. That contrasts with the rate of increase for 1980 — all of 1980 — of only 1%.

MacNEIL: You mean, credit availability— credit is growing faster this year than it was last year?

Ms. ALEXANDER: That's correct, sir.

MacNEIL: Even with the high interest rates?

Ms. ALEXANDER: And that's because most all states have made changes in their interest rate ceilings. Seven to 10 states have totally deregulated interest rates, except for a criminal usury statute that prevent loan-sharking, bills and legislation which would also be totally obliterated by HR-2501. Every time we increase rates nationally 1% in this country, we're costing consumers $3 billion. That's money that doesn't go into economic growth

and development or capital expenditures to expand our economy. That's money that goes into retiring debt service, which is really not what I think Congress should be about at the present time.

MacNEIL: Well, thank you. Jim?

LEHRER: Congressman?

Rep. LA FALCE: Yes, let me make a number of points. First of all, I think that everyone here, and probably everyone in Washington, is against high interest rates, and we want to do all that we possibly can to bring those interest rates down. Secondly, I think there is true—

LEHRER: Yeah, but to her point. Her point, basically, is that it's high interest rates — period — that are causing people not to buy cars and furniture from Mr. Kusin, and all the usury laws don't have a thing in the world to do with it.

Rep. LA FALCE: Well, it's true that high interest rates are causing that, and I have been criticizing high interest rates and calling for actions to cope with high interest rates. But it is also true that regardless of the high interest rates we have right now, if the market interest rates are, say, double the usury ceiling, you're going to have a total closure of the window on credit. And that has happened historically, and that still is happening now for individuals who do believe that they can afford the going interest rates.

LEHRER: Do you agree with that, Congressman Patman?

Rep. PATMAN: No, I certainly don't. The market does not set the small loan rates. The small loan rates are set up to the maximum that the lender can charge. Now, I don't know what's going to happen when this happens — when we pass this bill, if it passes. Mel mentioned going up to 24%. Obviously he did that as soon as he had the opportunity.

LEHRER: What was it before it was— you said that it's now, in Texas law— 24% is what you're now allowed. What was it before the law?

Mr. KUSIN: Eighteen.

LEHRER: Eighteen. So you went up 6% overnight?

Mr. KUSIN: Yes. Well, we do financing through General Electric Credit Corporation and the banks and the— everybody in the state followed the law as it allowed. It eased the pinch, but not completely. Now, that's an interesting thing, because we still— when we sell our accounts receivable through financing companies, we still have to pay a discount. With that 24%—

LEHRER: Let me make sure we explain what that means. You— somebody walks into your furniture store, they buy furniture, you give them credit. You take that paper and then you sell it to a finance company. All right, now, what do you sell it to them? Now, if you charged the customer 24%, what do you sell it to the finance company for?

Mr. KUSIN: Today in Texas I believe the approximate discount that the store has to pay — the store has to pay — is about 4%.

Rep. LA FALCE: So that store is either going to take a loss or it's going to pass that difference on to the customer in some camouflaged way, rather than directly, rather than openly. Another point—

Rep. PATMAN: But the point is, though, that these loan companies always charge the maximum, whether it's 31¼%, as it is under the Uniform Consumer Credit Code in some states, or some— or a higher amount, often 45%. It's gotten grossly out of proportion

LEHRER: Ms. Alexander, let me ask you. If you— if the usury law in Maine suddenly went away tomorrow— it's now 18%, right?

Ms. ALEXANDER: Generally, yes.

LEHRER: What do you think, if the market were allowed to work its magic, where do you think it would go?

Ms. ALEXANDER: I don't know what it would do in Maine, but we know something about what's happening in some of the states that have deregulated. In the state of New York, interest rates increased dramatically. In the state of Arizona—

Rep. LA FALCE: Well, you know, I am from New York, and I know a little bit about that. And she says that interest rates increased dramatically. The fact of the matter is, the market interest rates were already considerably higher than the usury ceiling. So if the usury ceiling is 12, and the market interest rates are 18, and you're able under a new law to charge the market interest rates, of course there's going to be a dramatic interest— dramatic increase. But it wasn't above and beyond what the market was charging.

LEHRER: Well, what's the market in— Yeah, go ahead.

Ms. ALEXANDER: I wasn't characterizing the increase. You asked what happened. That is what happened.

LEHRER: Right.

Ms. ALEXANDER: In the state of Arizona, we find that used car loans are going in the range of 30% to 50%, that people who live near or in the Indian reservations out there, who do not— are not able to shop for credit because the credit availability is not there, are paying 50% interest rates to buy a used car because they have a captive market, and the used car dealers in the area have set a rate at extraordinarily high rates.

LEHRER: Make sure we understand, now. Arizona was a state that had a usury law, had a cap, removed it — deregulated — and that's what you're— what about that, Congressman?

Rep. LA FALCE: Well, first of all, she's complaining about a 30% interest rate, whereas the state of Maine, for small loans, has a 30% usury ceiling. I have no doubt that an individual could always point to a specific instance — a specific example — and say here is an example of abuse. But I can also point to 99% of the cases where I think the classic competition that exists within our free market would work, and I could also point out literally hundreds of thousands of small businesses that have failed, in large part due to restrictive usury laws that are on the books.

Ms. ALEXANDER: I don't know where the Congressman's getting those statistics. Ten thousand small businesses close every year, and it doesn't have anything to do with interest rates they're able to charge consumers. It has to do with rates that are imposed on them by banks so that they can operate. It's the prime rate of 19%, 20% and 21% we were talking about before. But let me get back to— the issue here is not whether or not I can sit here and defend any one state's scheme of things. The point is that the state of Maine has a scheme; it's very happy with that scheme. It's reviewed every year in our legislature. It forms a delicate balance between credit availability, which we want to have available, generally, and consumer protections. And if the legislature and the people in the state of Maine have decided that that approach which we have is the one for Maine, I question whether it's proper for Congress to step in and erase that balance without really understanding the impact of it.

Rep. LA FALCE: If I could address myself to that issue, first of all, a great many state

legislators in states that have the restrictive usury ceilings, have said, "We hope Congress will bail us out because this is a tough political issue. You can't sell it back home. You do the dirty work." Secondly, we do give the states the right to revoke the federal preemption. Third, the Congress has the power, and I think the obligation, to act to effectuate the interstate commerce laws. If this isn't interstate commerce, I don't know what is. In a great many instances, the Congress has already preempted usury ceilings. We've done it for business loans; we've done it for agricultural loans; we've done it for residential loans, etc. In preempting usury ceilings on those type of loans, and permitting credit, therefore, to flow to those type of loans, we have engaged in credit allocation, and we've denied that type of credit, therefore, to the consumer and to the small businesses.

LEHRER: Congressman Patman?

Rep. PATMAN: It's legal for the Congress to do this, but it is wrong. We should never have preempted the states' rights— the states' right to operate in these other areas, and I really believe that we're going to be getting in this— in legalizing loan-sharking throughout the United States by passing this bill. That will be—

LEHRER: How does it legalize loan-sharking?

Rep. PATMAN: Well, loan-sharking is the charging of a rate that is illegal. Right now, or at least when I left the legislature, loaning money over 18% in certain transactions was loan-sharking. Loaning money at 25%, in the other states, was loan-sharking. But we're going to be taking off the lid entirely, and nothing will be loan-sharking. We'll be like legalizing burglaries, and permitting them and licensing them.

LEHRER: But if you have the market rate up at 20%, how could that be loan-sharking? I mean if it's costing that much as a result of the economy, and the prime rate is at 20%—

Rep. PATMAN: Well, the amount that's charged fluctuates from state to state, perhaps. It's something that every state legislature can examine carefully. Sure, it's a tough issue. But the people ought to have a right to talk to folks on the local level about these matters.

LEHRER: We just have a few seconds. Speaking of the local level, back to you, Mr. Kusin. Do you think that the people in Arkansas do not have— should not have the right to do what they want to do in their state, right?

Mr. KUSIN: I believe they should certainly have the right, but the merchants from whom they buy the goods cannot operate under a system where they have to supplement by fully 10% what the interest is.

LEHRER: Thank you. Robin?

MacNEIL: Yes, that's the end of our time this evening. Thank you all for joining us in Washington. Good night, Jim.

LEHRER: Good night, Robin.

MacNEIL: That's all for tonight. We will be back tomorrow night. I'm Robert MacNeil. Good night.

Transcript produced by Journal Graphics, Inc., New York, N.Y.

WESTERN UNITED STATES

MAXIMUM FINANCE CHARGE RATES

For Retail Revolving Credit
as of July 1, 1981

18%

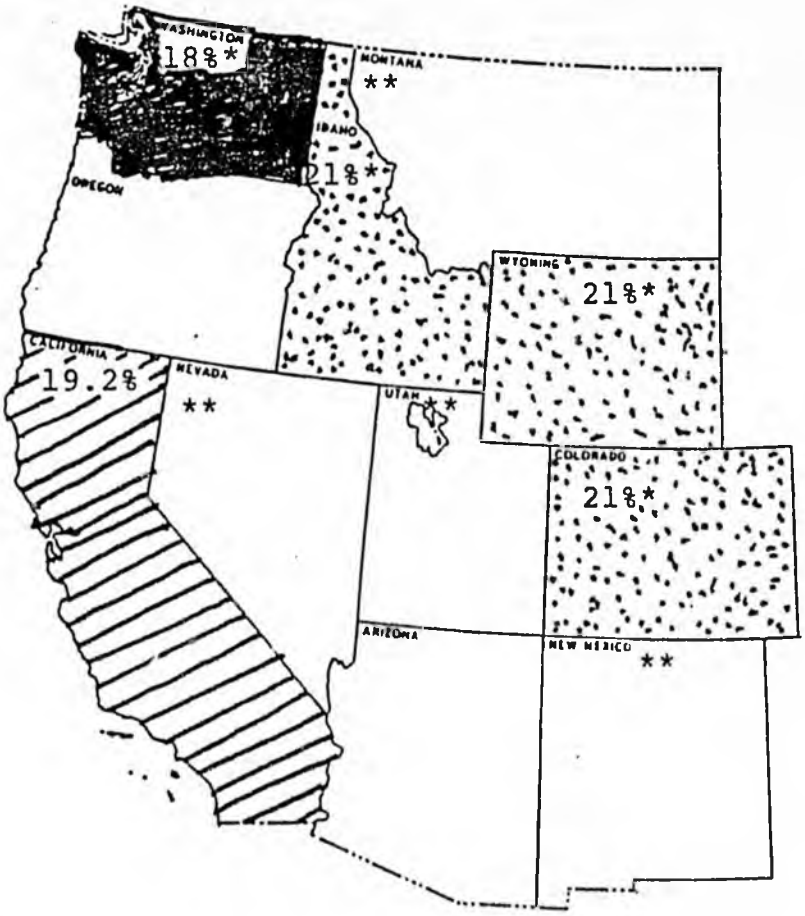
19.2%

21%

No Statutorily Imposed Ceiling

* Raised in 1981

** Ceiling Removed in 1981



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UPDATE

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An UPDATE of State Governmental Legislation and Regulation

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IN THIS ISSUE: Report on 1981 State Legislative Sessions . . State Regulatory Actions . . Credit Interest Rates . . Unemployment Compensation . . Appliances . . Energy . . Bankruptcy . . Taxes . . Plain Language . . Service Contracts

CREDIT

STATE INTEREST RATES IN 1981

There was a high degree of success in obtaining interest rate increases... State government affairs lobbied changes in 17 states...MW Credit Division projected this was worth an annual increase in revenues of approximately $20 million...Of MW's top 15 states, 12 were targeted for lobbying (Oregon has no limit; Illinois permits 21.6%; and Michigan, 20.4%)...Bills to increase revenue in one form or another were passed in seven...These included the low rate state of Minnesota from 12% to 16%, and obtaining credit deregulation in New York.

CREDIT INTEREST RATES FOR 1981

The deregulation breakthrough in New York State led to two other deregulation bills in Delaware and New Jersey which have already been signed into law...However, not all states are competing with each other for economic hospitality...Most are content to only consider rate bills that will offer minimum relief to retailers and other credit lenders...MW's major revenue states and low rate states continue as priority targets, with rate relief in Texas being foremost.

Thirty-two states now permit straight 18% or better...Of these, 15 permit a higher rate assessment on all or a substantial part of the account balances...Six of the 32 have no rate limit...This same group consisted of 22 states in 1980, with the additions being 10 of 17 successful bills lobbied.

As of this writing, no-limit bills are awaiting governors' signatures in Montana and Utah; Kansas extended its 21% rate for another year; Wyoming passed a 21% rate bill; Oklahoma has introduced a 24% rate; Colorado and North Carolina have 21% bills pending; Georgia's 21% rate is awaiting governor's signature; Missouri and Washington are considering 18%; Texas has a variable rate bill pending with a floor of 18% and 24% maximum; Illinois, Iowa, Ohio and Louisiana have introduced deregulation bills.