ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1804 SLC SB 757 - SB 798

1804

WELDING EXAMINERS, BOARD OF
(AS 08.99.010-101) 7 members appointed by the Governor from a list of persons prepared by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers and submitted at least 30 days before the expiration of a term and not more than 60 days after a vacancy occurs in an unexpired term. The list shall contain not less than two recommended candidates for each appointment. The Governor shall make appointments within 30 days after receiving list. Confirmed by Legislature; 5-year term.

MEMBERS	REPLACING	APPT.	TERM
Mr. Philip B. Davis 986 N. Coppet Fairbanks, Alaska 99701 (Engineer)	Reappointed	79/07/18	83/12/16
Mr. George A. Fox Union Chemical Division Box 575 Kenai, Alaska 99611 (Engineer)	Richard Schneider	79/07/18	83/12/16
Mr. Donald Delk SRA Box 372-C Anchorage, Alaska 99507	Reappointed	81/02/02	85/12/16
Mr. Donald Lockman 2114 Railroad Avenue Anchorage, Alaska 99501 (Chairman 79/07/18)		78/03/16	81/12/16
Mr. Peter Millar 4047 Kingston Drive Anchorage, Alaska 99504 (Engineer)	Reappointed	80/03/11	84/12/16
Kenneth C. Lomax ARCO Oil & Gas Co. General Engineering P.O. Box 6015 Anchorage, AK 99502	Tim Farrell (effective 80/03/11)	81/01/19	83/12/16
Mr. J. C. Wingfield 495 Sprucewood Road Fairbanks, Alaska 99701	Reappointed	78/03/16	82/12/16

CONTACT AGENCY:
Division of Occupational Licensing
Department of Commerce & Economic Development

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

Finding:

To assure the public of high standards of dental care by professionals in the State.

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

Finding:

There are no similar or conflicting programs.

(4) an assessment of alternative methods of achieving the purposes of the program.

Finding:

Licensure and discipline could be turned over to the Division of Public Health. At this time this step is not practicable. Another alternative is to leave licensure and discipline to the professional associations, but there is no indication that this would work better or save money.

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level.

Finding:

The board is necessary to guarantee professional competency. Reduced funding would reduce frequency of meetings, endangering the testing, investigative and regulatory functioning of the board.

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts;

Finding:

There would be no guarantee of public protection if licensing were eliminated. For example, there have been 38 complaints filed since July 1978. Duplication or conflict with other efforts is precluded by the statutory prescription of the Board's authority.

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

Finding:

The board has promulgated continuing competency regulations in compliance with prior audit recommendations. Elimination of temporary licenses for

rural areas will be accomplished through legislation introduced by the Committee.

The Health, Education, and Social Services Committee finds that:

1. The Board of Dental Examiners should be continued.

2. The Board should continue the improvement it has shown since the sunset review in 1978.

3. The Alaska Dental Society should cooperate with the Board in conducting the clinical portion of the dental examination, in order to lessen the work load on Board members.

4. The Board should develop and submit a revised Dental Practice Act.

Charles H. Parr, Chairman

Mike J. Colletta

Terry Stimson

Tim Kelly

Vic Fischer

SB 757

The following letter dated March 10 was received from Senator Mulcahy, Chairman, Senate Labor and Commerce Committee: "The Senate Labor and Commerce Committee has had the Board of Welding Examiners under consideration for "sunset" review pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of the board, and members of the board and interested members of the public provided the committee with testimony. The committee received both oral and written testimony and examined the performance audit of the activities of the board prepared by the Legislative Audit Division. Guided by the above, the committee took into consideration the factors required to be considered under AS 44.66.050(c).

The Committee feels it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that the Board of Welding Examiners be continued for another four years, and that the repealer with regard to the activities of the board be amended to read 30 June 1985.

Senate bill 757 has been introduced by the Senate Labor and Commerce Committee to implement the recommendations of this report.

Introduced: 2/15/82
Referred: Labor & Commerce

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

SENATE BILL NO. 757

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act continuing the existence of the Board of Welding Examiners; and providing for an effective date."

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

* Section 1. AS 08.03.010(c)(13) is amended to read:

(13) Board of Welding Examiners (AS 08.99.010) -- June 30, 1985 [1981].

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

(9) Repealed by § 42 ch 167 SLA 1980.

(10) Repealed by § 2 ch 153 SLA 1980.

(11) Repealed by § 13 ch 52 SLA 1981.

(c) The following boards have the termination date provided by this subsection:

(1) Board of Nursing (AS 08.68.010) — June 30, 1983.

(2) Board of Chiropractic Examiners (AS 08.20.010) — June 30, 1984.

(3) Board of Examiners in Optometry (AS 08.72.010) — June 30, 1984.

(4) Board of Pharmacy (AS 08.80.010) — June 30, 1984.

(5) Board of Dispensing Opticians (AS 08.7[illegible].010) — June 30, 1985.

(6) Board of Dental Examiners (AS 08.36.010) — June 30, 1982.

(7) Board of Veterinary Examiners (AS 08.98.010) — June 30, 1985.

(8) State Physical Therapy Board (AS 08.84.010) — June 30, 1986.

(9) Board of Nursing Home Administrators (AS 08.70.010) — June 30, 1986.

(10) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010) — June 30, 1982.

(11) State Medical Board (AS 08.64[illegible].010) — June 30, 1983.

(12) Board of Marine Pilots (AS 08.6[illegible]) — June 30, 1983.

(13) Board of Welding Examiners (AS [illegible].010) — June 30, 1981.

(14) Board of Electrical Examiners (AS [illegible]0.010) — June 30, 1982.

(15) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011) -- June 30, 1984.

(16) Board of Barbers and Hairdressers (AS 08.13.010) — June 30, 1984.

(17) Board of Public Accountancy (AS 08.04.010) — June 30, 1984.

(18) Real Estate Commission (AS 08.88.011) — June 30, 1982.

(19) Board of Governors of the Alaska Bar Association (AS 08.08.040) — June 30, 1985.

(20) Guide Licensing and Control Board (AS 08.54.010) — June 30, 1982.

(d) Repealed by § 3 ch 74 SLA 1979.

(e) Repealed by § 3 ch 74 SLA 1979. (§ 2 ch 149 SLA 1977; am §§ 1, 3 ch 74 SLA 1979; am §§ 1, 3 ch 36 SLA 1980; am §§ 1, 3 ch 37 SLA 1980; am §§ 1, 3 ch 38 SLA 1980; and §§ 1, 3 ch 39 SLA 1980; am §§ 1, 3 ch 40 SLA 1980; am §§ 1, 3 ch 41 SLA 1980; am §§ 1, 3 ch 42 SLA 1980; am §§ 1, 2 ch 43 SLA 1980; am §§ 1, 3 ch 67 SLA 1980; am §§ 10, 11 ch 71 SLA 1980; am §§ 6, 7 ch 72 SLA 1980; am §§ 2, 15 ch 82 SLA 1980; am §§ 1, 3 ch 38 SLA 1980; am §§ 1, 3 ch 39 SLA 1980; am §§ 1, 2 ch 153 SLA 1980; am §§ 2, 5 ch 159 SLA 1980; am §§ 41, 42 ch 167 SLA 1980; am §§ 1, 13 ch 52 SLA 1981; am §§ 1, 2 ch 53 SLA 1981)

bring an action in the superior court to enjoin the act and to enforce compliance with § 120 of this chapter. (§ 1 ch 91 SLA 1963)

Article 4. General Provisions.

Section
250. Definitions

Sec. 08.98.250. Definitions. In this chapter

(1) a person who practices veterinary medicine, surgery, or dentistry is one who does any of the following:

(A) appends to his name a title or abbreviation indicating to the public that he is a veterinarian;

(B) for compensation, diagnoses or treats diseases, injuries, or deformities of domesticated animals;

(C) holds himself out to the public as one who diagnoses or treats diseases, injuries, or deformities of domesticated animals;

(D) maintains premises for receiving, examining, and treating a domesticated animal for compensation;

(2) "board" means the Board of Veterinary Examiners;

(3) "department" means the Department of Commerce and Economic Development. (§ 1 ch 91 SLA 1963; am § 60 ch 218 SLA 1976)

Revisor's note (1973). — In light of the 1966 amendment of AS 08.98.010, "Veterinarian" has been changed to "Veterinary" in paragraph (2) of this section.

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" in paragraph (3).

Chapter 99. Board of Welding Examiners.

Section
10. Creation and membership of board
20. Term of office
30. Source of appointments
40. Removal from office
50. Qualifications of board members
60. Meetings
70. Quorum
80. Powers and duties of the board
90. Applicability of Administrative Procedure Act
100. Expenses
110. Codes
120. Penalty

Sec. 08.99.010. Creation and membership of board. There is created the Board of Welding Examiners, consisting of seven members appointed by the governor. (§ 1 ch 151 SLA 1968)

Sec. 08.99.020. Term of office. Board members serve a term of five years. However, of the members first appointed, one shall be appointed for a term of one year, one for two years, one for three years, one for four years, and three for terms of five years. (§ 1 ch 151 SLA 1968)

Sec. 08.99.030. Source of appointments. The governor shall appoint board members from a list of persons prepared by the Alaska Chapter

ARCO Oil and Gas Company
Prudhoe Facilities Project Group
3201 "C" Street, Suite 560
Anchorage, Alaska 99503
Telephone 907 276 3868

March 7, 1982 AS-13779

Senator Bob Mulcahy
Alaska State Senate
Pouch V
Juneau, Alaska 99811

SUBJECT: Alaska State Bill 757 - Concerning the Continuance of the Board of Welding Examiners

Dear Senator Mulcahy:

In reference to the above mentioned legislation, I am writing to voice my views and concerns. With over 14 years experience in the industrial construction and oil & gas industry of which the last 7 have been with the Prudhoe Facilities Project, I feel a need to address this issue. I presently hold an Alaska Welding Inspectors License and basically agree with the concept of this program and the laws that govern it. However, being directly involved with welding and piping inspection as my primary responsibility, I do not entirely agree with the acceptance criteria for persons applying for licensing approval, along with appointees of the Board itself. The basic concept of the Welding Board, made up of members of the industry, is a good one; the majority members of most design code committees are representatives of the industry they are policing.

The integrity of the facilities that industry is constructing is dependent upon it's own ability to police itself. In light of the fact that the State is facing a probable increase in major construction projects where critical welding could be a volatile area of concern, to abolish the Board now would be a mistake.

The obvious alternative for monitoring this activity would be for the State to establish a welding board or bureau under the Department of Labor. The citizenry of the State of Alaska are far more attuned toward a decrease in government bureaucracy than to create another taxing organization.

The simple economics of the issue show that there is no way that government can compete with private industry to attract the most qualified personnel. For the State to get into the business of policing the welding industry other than in specific areas, I think would be a practical and economic failure.

With some changes to policy and conditions of appointment, the Welding Board as it is now could be our least costly and most effective vehicle to guard against any major distractions like those that plagued the Alyeska Pipeline project.

Thank you for your time and consideration of these views.

Sincerely,

John P. Rosen
Quality Assurance
Acting for ARCO Alaska, Inc.

cc: D. F. Harbour - Government Relations
B. Ward - Government Relations

ARCO Oil and Gas Company
Prudhoe Facilities Project Group
3201 "C" Street, Suite 560
Anchorage, Alaska 99503
Telephone 907 276 3868

March 7, 1982

AS-13797

Senator Bob Mulcahy
Alaska State Senate
Pouch V
Juneau, Alaska 99811

SUBJECT: Alaska Senate Bill 757, an Act Concerning the Continuance of the Board of Welding Examiners

Dear Senator Mulcahy:

The purpose of this letter is to express ARCO Oil and Gas, Prudhoe Facilities Project Group's position regarding Senate Bill 757.

We support the passage of this bill for the following reasons:

1. The Welding Board is comprised of members of private industry. Private industry therefore plays an active role in formulating and enforcing welding regulations through this Board.

2. Killing of Alaska State Senate Bill 757 would likely move jurisdiction of enforcement of welding qualification regulations to the Department of Labor. This, in turn, would create the need for added personnel in the department to carry out the duties of the current Welding Board and private industry. This would impose additional financial drains from State revenues and duplicate more than adequate industry efforts.

3. The movement of control to the Department of Labor would require the hiring of highly competent, highly qualified individuals within the Department of Labor to enforce the welding regulations. The hiring of these individuals would further deplete the supply of these highly qualified persons from the private sector.

In summary, ARCO supports the passage of Alaska State Bill 757. The Bill's passage would maintain the current Board of Welding Examiners. It would preclude the need for assumption of welding regulations by the Department of Labor and reduce costs that would be incurred by the State. Further, it would serve to reduce competition with the current competent private petroleum industry and construction contractors.

Thank you for your time and consideration in considering our opinion to this very important matter.

Quality Assurance & Safety Director

Construction Support Director

Administration & Planning Director

Resident Construction Manager

ARCO Oil and Gas Company
Prudhoe Facilities Project Group
3201 "C" Street, Suite 560
Anchorage, Alaska 99503
Telephone 907 276 1868

March 6, 1982 AS-13778

The Honorable Bob Mulcahy (R)
Alaska State Senate
Alaska State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Subject: Alaska Senate Bill 757, Act Concerning the Continuance of Board of Welding Examiners.

With the impending vote on the Alaska Senate Bill 757, which calls for the continuance of the Board of Welding Examiners, I wish to voice my views on this bill. I currently hold an Alaska State Welding Inspector's license and have actively been involved in the welding field for thirteen years, with seven of the thirteen years spent on the North Slope working for the petroleum industry.

I am in favor of the continuance of the Alaska Board of Welding Examiners as set fourth by the State of Alaska, Regulation 12AAC72. The main argument for continuing the Board is:

The present regulation, 12AAC72, as it is currently structured, allows private industry, through the selection of appointed members by the Governor, to enforce and carry out guidelines set down in the State Welding Regulations. This approach is:

1. Cost effective to the State, due to the fact that policing to assure compliance, is borne by current revenues from licensing fees. On the other hand, if the Welding Board were abolished, it is likely that the Department of Labor would be empowered to enforce state welding regulations. Thus, additional "Qualified" Department of Labor welding inspection personnel would have to be employed to assure statutory compliance. This would require additional state revenues to operate at a time when state budgetary cuts are necessary.

2. Historically, the more qualified welding personnel have been employed in the private sector due to economics. Therefore, it is questionable whether a state board or bureau under the Department of Labor could operate more effectively than the currently appointed board.

3. Private Industry, especially the petroleum industry, must meet several code requirements and parameters (A.P.I., A.N.S.I., ASME) as it relates to welder qualifications and welding inspector qualifications during construction as well as maintenance operations. Here, again, these codes are the result of the public sector and industry in the adoption and their enforcement.

4. Lastly, the public who are intimately involved in the welding field take a professional approach in assuring that proper welding practices, code requirements, company specifications, and State and Federal regulations are adherred to.

The State of Alaska Board of Welding Examiners has done a thorough job in creating and adopting the current regulations, and to abolish this existing board and set up a State regulated and operated bureau or board, would serve no useful purpose.

Thank you for your time and consideration on this matter.

Sincerely,

David H. Derrer

David H. Derrer
Quality Assurance Engineer

DHD:yms

cc: Dave Harbour -- Government Relations, Juneau
Bev Ward - Government Relations, Juneau

SB

771

Alaska
Seafood
Marketing
Institute

526 Main Street Juneau, Alaska 99801 (907) 586-2902

"Promoting Alaska's Finest Resource"

March 10, 1982

TO: The Senate Labor and Commerce Committee:
Senator Robert Mulcahy, Chairman;
Senators Nels Anderson, Jr., Bettye Fahrenkampf, Pat Rodey and
Richard Zeigler.

FROM: Eric Eckholm, Executive Director
Alaska Seafood Marketing Institute

RE: csSB771

The Alaska Seafood Marketing Institute would like to express its support for the committee substitute for Senate Bill 771. The proposal to exempt restaurants, grocery stores and retail fish markets from provisions requiring a special bond from businesses which purchase fish directly from the fishermen should provide a stimulus to growth of fresh seafood marketing within Alaska.

The bond required by the Department of Labor exists for the purpose of protecting the fisherman making substantial deliveries of product to a processor or other buyer. The committee substitute clarifies the intent of the bonding requirement, and will make it easier for fishermen and retailers to reach a greater percentage of the potential in-state market for fresh seafood.

It is clear that this bill would benefit the fishing industry in Alaska, would eliminate provisions that merit the appellation of "red tape" from the standpoint of the retailer or restauranteur; and would probably result in a time savings for employees of the Department of Labor who could devote more attention to their drive to enforce the bonding requirement for large-scale buyers and processors. We urge you to recommend passage of the bill to the entire Senate.

Sen. Mulcahy
Sm 119

Hein ✓

Original sponsor: Eliason

BY THE LABOR AND COMMERCE COMMITTEE

IN THE SENATE

CS FOR SENATE BILL NO. 771 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act exempting restaurants, grocery stores, and established fish markets from the labor bond required of fish processors and primary fish buyers; and providing for an effective date."

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

* Section 1. AS 16.10 is amended by adding a new section to read:

Sec. 16.10.293. EXEMPTIONS FROM BONDING REQUIREMENT. (a) Restaurants, grocery stores, and established fish markets are exempt from the bonding requirement of AS 16.10.290 - 16.10.295.

(b) For purposes of this section

(1) "established fish market" means a market maintained in a permanent structure exclusively for the sale of ~~fish~~ seafood to the general public at retail;

(2) "grocery store" means a store maintained for the sale of food products exclusively to the general public at retail;

(3) "restaurant" includes a place maintained for the sale and on-premise consumption of food, and a street vendor who sells food prepared for immediate consumption.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Current Statutory Requirement for Restuarants Classified as a "Fisheries Business" (as a primary fish buyer):

1) Must file an "intent to operate " statement with the Department of Fish and Game
2) Must file weekly fish tickets with the Department of Fish and Game
3) Must post a $10,000 bond with the Department of Labor
4) Must obtain a "fisheries business license" from the Department of Revenue
5) Must file a surety bond or prove lienable property or prepay the tax to the Department of Revenue
6) Must pay the raw fish tax to the Department of Revenue

Bill No. Senate Bill 771

Date March 10, 1982

Title "An Act excluding restaurants from the labor bond required of fish processors and primary fish buyers; and providing for an effective date."

Contact: Dale Cheek
465-4870
Judy Knight
465-2700

Senate Bill 771 exempts "restaurants" from the bonding requirements in AS 16.10.290 - 16.10.295 and further defines "restaurant." The retail business sector has not presented a problem to the department in enforcement of AS 16.10.290 - 16.10.290. Claims for recovery of employee wages have and can be pursued through Title 23 for retail employees.

The "restaurant" is generally an established fixed business and the worker or fisherman would have ready access or other recourse to recover wages or be paid for fish sold. The street vendor generally is a self employed individual and we are informed that it is a considerable financial burden on such small operators to acquire the necessary bonding.

The exemption provided by this bill could be expanded to include retail outlets who are a fixed establishment. A similar bill (House Bill 744) would exempt all retail fish vendors and poses some concerns for those vendors who relocate frequently and sell from vans or trucks. Chapter 18, SLA 1981 provides an exemption for those operations that do not purchase fish or hire employees.

This bill would have no fiscal impact on the department.

The Department of Labor supports passage of this bill.

POSITION PAPER/Department of Labor

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON
P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811

COMMITTEES
FINANCE
RESOURCES
STATE AFFAIRS

February 23, 1982

M E M O R A N D U M

To: Senator Bob Mulcahy, Chairman
Senate Labor and Commerce Committee

From: Senator Dick Eliason

Re: Senate Bill 771

I recently introduced S.B. 771 which would exclude restaurants from obtaining the labor bond which is required of fish processors and primary fish buyers. The bill has been referred to the Labor and Commerce Committee and I would appreciate you scheduling a hearing for it.

Under current statute a restaurant is classified as a primary fish buyer and as a fisheries business as it is the entity "who first actually and physically processes the fishery resource" (AS 43.75.015 (c)) by cooking it. Therefore restaurants must go through all of the procedures to meet requirements for processors. These include filing an "intent to operate" statement with the Fish and Game Department, filing fish tickets with the Fish and Game Department each week, posting a $10,000 labor bond with the Labor Department, obtaining a "fisheries business license" from the Revenue Department, filing a surety bond or prove lienable property or prepay the tax to the Revenue Department, and must file and pay this raw fish tax to the Revenue Department.

Obviously these are a lot of "hoops to jump through" for a restaurant which simply wants to include fresh seafood on its menu. It is evident to anyone who dines at Alaskan restaurants that it is often difficult to find fresh Alaskan seafood offered. My goal with S.B. 771 is to encourage the availability of good fresh seafood to Alaskans and to visitors to our state.

It is apparent when studying the various requirements for restaurants that the one which is the least necessary and by far the most costly and difficult is the labor bond. The other steps have some justification (management data from fish tickets, payment of the raw fish tax as these fish would go untaxed otherwise, and so on). However, the labor bond is meant to protect fishermen and cannery workers from fly-by-night fish buyers and seasonal operators who might buy fish or hire labor and leave without paying them. This is unnecessary for restaurants and is made even more ridiculous as restaurants already must meet labor protection requirements whether they buy fish or not. The labor bond is also very expensive to obtain, particularly for a small operation.

Currently the Department of Labor does not even bother to enforce the labor bond requirement for restaurants as they feel restaurants buy only small quantities of raw fish and are not likely to default to fishermen. The risk involved with breaking the law, however, may be enough to make some restaurants avoid offering fresh fish. Others, because they can't afford to buy the labor bond, may buy and serve fish but fail to do any of the required steps including paying the rawfish tax. Therefore, the State loses the revenue on the fish which are sold in restaurants.

I believe that the cost of the raw fish tax to a restaurant is so minimal that most would not mind remaining in compliance with all of the tax and paperwork requirements if the one which is the big financial burden, the labor bond, were removed.

Again, my goal is to encourage the availability of fresh Alaskan seafood to the consumer and provide a market alternative to fishermen. I believe we can meet our goals of encouraging availability of seafood, improving compliance with the necessary and purposeful paperwork and tax requirements and simplifying the permitting process by eliminating the labor bond requirement for restaurants.

chapter is grounds for suspension of a fishing license or permit by the Department of Fish and Game. (§ 2 ch 33 SLA 1962)

Article 6. Purchase of Fish.

Sec. 16.10.270. Purchase of fish by the pound. (a) A fish processor or primary fish buyer shall purchase raw fish by the pound. The poundage of the fish to be purchased shall be determined by weighing the fish unless both the buyer and seller agree in writing upon a sample weighing technique which will fairly determine the average weight of the fish purchased.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than $5,000, or by both. (§ 1 ch 49 SLA 1965; am § 1 ch 34 SLA 1969; am § 1 ch 102 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "fish processor or primary fish buyer" for "primary buyer" near the beginning of subsection (a).

Legislative committee report. — For report on ch. 34, SLA 1969 (CSHB 40 am S) see 1969 House Journal, p. 142.

Sec. 16.10.280. Price disputes between fishermen and fish processors. In an area where a price dispute exists between at least one-third of the registered commercial fishermen for that area, as certified by the Department of Fish and Game, and fish processors on the price to be paid for salmon, and no agreement has been reached up to 30 days before the opening of the salmon fishing season in that area, a representative from the Department of Labor shall intervene as mediator of the dispute upon request of either party. (§ 1 ch 242 SLA 1970)

Revisor's note (1970). — In ch. 242, SLA 1970, AS 16.10.280 was incorrectly designated AS 16.10.290.

Sec. 16.10.290. Security for collection of wages and payment for raw fish. (a) A fish processor or primary fish buyer shall file with the commissioner of labor a surety bond running to the State of Alaska conditioned upon the promise to pay (1) all persons furnishing labor to a fish processor or primary fish buyer, including contractual employee benefits; and (2) independent registered commercial fishermen for the price of the raw fishery resource purchased from them. The surety or sureties shall be satisfactory, in the determination of the commissioner.

(b) The amount of the bond shall be $10,000. In lieu of the surety bond the fish processor or primary fish buyer may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner in the amount specified for the bond. If no claim is asserted under this section within two years from the date the bond, cash deposit or other security is filed, the term of the bond, cash deposit or other security shall be two years; if a claim has been asserted within two years, the term of the bond, cash deposit or other security shall be for five years.

(c) A person applying for a license as a fish processor or primary fish buyer who has less than $10,000 in lienable property in the state, with proof of the property satisfactorily made to the commissioner, shall file with the application a bond or other security as specified in this section. No bond is required if the fish processor or primary fish buyer has more than $10,000 in lienable property as specified in this subsection.

(d) Upon certification by the commissioner that a person applying for a license as a fish processor or primary fish buyer has complied with §§ 290 — 296 of this chapter, the Department of Revenue may issue that person a license to engage in the business of fish processor or primary fish buyer.

(e) The commissioner may accept the assignment of a claim held by a person against a fish processor or primary fish buyer under this section and may bring suit upon the bond, cash deposit or other security on behalf of the assignor in the superior court of the judicial district in which the work is done or in any judicial district in which jurisdiction may be obtained. This action shall not be construed to limit the right of a person having a claim under §§ 270 — 296 of this chapter against a fish processor or primary fish buyer to bring suit upon the bond, cash deposit or other security in his own right, in which case a copy of the complaint shall be served by registered or certified mail upon the commissioner at the time suit is filed. The commissioner shall maintain a record, available for public inspection, of all suits commenced under this subsection. The service shall constitute service on the surety, and the commissioner shall transmit the complaint or a copy of it to the surety within 72 hours after it has been received.

(f) If the surety on the bond desires to cancel the bond, he may do so by giving the commissioner written notice of his intention to cancel. The cancellation is effective 30 days after the notice is delivered to the commissioner.

(g) If a judgment is entered against the cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit. (§ 2 ch. 102 SLA 1977)

Sec. 16.10.292. Filing evidence of compliance. A fish processor or primary fish buyer subject to §§ 270 — 296 of this chapter shall initially file evidence of his compliance with the bonding requirements of §§ 290

— 296 of this chapter, in the form prescribed by the commissioner. (§ 2 ch 102 SLA 1977)

Sec. 16.10.294. Suspension and revocation of license. (a) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposits or other security so that there is not in effect the bond, undertaking cash deposit or other security in the full amount prescribed in § 290 of this chapter, the license of the fish processor or primary fish buyer shall be suspended until the liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(b) If a bonding company cancels its bond of a fish processor or primary fish buyer, the fish processor's or primary fish buyer's license shall be revoked. He may again obtain a license by complying with the requirements of this chapter.

(c) If a licensed fish processor or primary fish buyer fails to fulfill his obligations as set out in § 290 of this chapter, his license shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions his license may be permanently revoked.

(d) Proceedings to suspend or revoke a license are governed by the Administrative Procedure Act (AS 44.62).

(e) If the commissioner determines that a fish processor or primary fish buyer is acting in violation of §§ 270 — 296 of this chapter, he shall give written notice prohibiting further action by the person as a fish processor or primary fish buyer. The prohibition continues until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(f) A person affected by an order issued under this chapter may seek equitable relief preventing the commissioner from enforcing the order.

(g) In an action instituted in the superior court by the commissioner or his representative, a person acting in the capacity of a fish processor or primary fish buyer in violation of this chapter may be enjoined from acting as a fish processor or primary fish buyer. (§ 2 ch 102 SLA 1977)

Sec. 16.10.296. Definitions. In §§ 270 — 296 of this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of labor;

(2) "fish" means any species of aquatic fin fish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state;

(3) "fish processor" means a person engaging or attempting to engage in a business for which a license is required under AS 43.75.010 — 43.75.090;

(4) "primary fish buyer" means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any raw

Effective dates. — Section 4, ch. 18, SLA 1981, makes this section effective June 3, 1981, in accordance with AS 01.10.070(c).

Sec. 16.10.280. Price disputes between fishermen and fish processors. In an area where a price dispute exists between at least one-third of the registered commercial fishermen for that area, as certified by the Department of Fish and Game, and fish processors on the price to be paid for salmon, and no agreement has been reached up to 120 days before the opening of the salmon fishing season in that area, a representative from the Department of Labor shall intervene as mediator of the dispute upon request of either party. (§ 1 ch 242 SLA 1970; am § 1 ch 59 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "120" for "30" near the middle of the section.

Sec. 16.10.291. Waiver of bonding requirement. The commissioner may, after investigation, grant a waiver from the bonding requirement of AS 16.10.290 — 16.10.296 for those operations that do not purchase fish or hire employees. (AS 16.10.292(b); § 2 ch 18 SLA 1981)

Effective dates. — Section 5, ch. 18, SLA 1981 makes this section effective December 31, 1981.

Editor's notes. — This section was enacted as AS 16.10.292(b) and was renumbered by the revisor of statutes under AS 01.05.031(b).

Sec. 16.10.295. Penalty. A person who is required to obtain the bond required by AS 16.10.290 — 16.10.296 and fails to obtain that bond is guilty of a class A misdemeanor. Each day a violation occurs constitutes a separate offense. (§ 3 ch 18 SLA 1981)

Cross references. — As to sentences for misdemeanors, see AS 12.55.135.

Effective dates. — Section 4, ch. 18, SLA 1981, makes this section effective June 3, 1981, in accordance with AS 01.10.070(c).

Article 7. Commercial Fishing Loan Act.

Sec. 16.10.310. Powers of the department. (a) The department may (1) make loans to

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(i) In this section:

(1) "loan insurance commitment fee" means a fee which is a percentage of the principal amount of a loan to be insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account;

(2) "loan insurance premium" means an annual insurance premium which is a percentage of the portion of the unpaid principal amount of a loan insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account or any subaccount.

(j) Notwithstanding (a) — (i) of this section, the authority may establish additional insurance accounts to secure special obligation bonds, and may pay into an insurance account established under this subsection money made available from an appropriation or any other source. An insurance account established under this subsection is not subject to the requirements of (d) and (g) of this section.

(k) A loan may not be insured from a loan insurance account within the enterprise development fund if the loan is for a project the cost of which exceeds $10,000,000.

(*l*) A loan in excess of $1,000,000 may not be insured from a loan insurance account within the enterprise development fund unless at least 20 percent of the principal amount of the loan is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank. (§ 65 ch 106 SLA 1980; am § 39 ch 115 SLA 1981)

Effect of amendments. The 1981 amendment, effective July 28, 1981, added subsections (j) — (*l*).

Sec. 44.88.158. Small enterprise loan account. (a) A small enterprise loan account is established in the enterprise development fund. The account may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the small enterprise loan account, the unpledged income of the enterprise development fund, and other money or assets deposited in it by the authority.

(b) The authority may use money in the small enterprise loan account to purchase the guaranteed portion of a loan made by a private financial institution after June 30, 1981, to a small enterprise to pay the cost of a project, as defined in AS 44.88.220, if the loan is guaranteed by the United States or an agency or instrumentality of the United States, including, but not limited to, the Small Business Administration, the National Marine Fisheries Service, and the Farmers Home Administration.

(c) The authority may purchase loans originated by the Alaska Rural Rehabilitation Corporation which are made to agricultural en-

terprises. Loans purchased under this subsection may be secured by substitute collateral if the amount of the loan does not exceed 75 percent of the value of the total collateral for the loan. Loans may be purchased under this subsection only from money appropriated to the small enterprise loan account for that purpose. (§ 65 ch 106 SLA 1980; am § 40 ch 115 SLA 1981)

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

Editor's notes. — Section 50, ch. 115, SLA 1981, provides: "MULTI-FAMILY DWELLING ENTERPRISES. (a) Until July 1, 1982, the Alaska Industrial Development Authority may use the assets of the small enterprise loan account established under AS 44.88.158 to purchase a loan made to a project applicant, as defined in AS 44.88.220, for a multi-family dwelling enterprise. Loans may be purchased under this section only from money appropriated to the small enterprise loan account for that purpose.

"(b) A loan purchased under this section may not exceed $3,000,000 or $50,000 for each dwelling unit of a multi-family dwelling enterprise, whichever is less.

"(c) The interest rate on the portion of a loan purchased by the Alaska Industrial Development Authority for a multi-family dwelling enterprise shall be one percent more than the interest rate, as determined under AS 18.56.098(g)(1) and (2), on a mortgage loan purchased under AS 18.56.098(g) or (h) from the proceeds of the most recent issue of taxable bonds before the loan purchased for a multi-family dwelling enterprise.

"(d) A loan may not be purchased under this section after June 30, 1982.

"(e) The authority shall adopt regulations to establish priorities for the purchase of loans for multi-family dwelling enterprises which take into account the need for multi-family housing in the state as reflected by vacancy rates in multi-family housing in different areas of the state.

"(f) In this section "multi-family dwelling enterprise" is a rental or cooperative dwelling of eight or more units."

Sec. 44.88.159. Interest rates. (a) The interest rate on a loan financed from the proceeds of tax-exempt bonds or excepted by the authority to be financed from the proceeds of tax-exempt bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing.

(b) The interest rate on a loan financed from the proceeds of taxable bonds or expected by the authority to be financed from the proceeds of taxable bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on taxable bonds, plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing costs.

(c) The interest rate on a loan purchased by the authority with money in the small enterprise loan account that is not from the proceeds of the sale of a series of bonds is equal to the most recent index of Aa corporate bond yield averages as published by Moody's Investors Service. (§ 41 ch 115 SLA 1981)

SB

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 779
Title An Act making special appropriations to the Veterans home improvement revolving loan fund; and providing for an effective date.

Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Economic Development
BRU, Program, Or Subprogram(s) Affected Division of Loans and Veterans' Affairs
(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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME		-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

SEE FISCAL NOTE ON COMPANION BILL SB 780.

IV. DATE 2/22/82 PREPARED BY: Don Hostak, Director
AGENCY Department of Commerce & Economic Development
PHONE 465-2655 or 465-2510 Division of Loans and Veterans' Affairs

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

33-001 (Rev. 12/81)

Sec. 26.15.070. Sale or transfer of mortgages and notes. (a) The commissioner of commerce 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 of Commerce as security for loans made under this chapter.

(b) The commissioner of commerce may sell or transfer at par value to the Department of Revenue the mortgages and notes held by the Department of Commerce as security for loans made under this chapter. The Department of Revenue shall purchase all of these mortgages and notes offered, allowing the Department of Commerce a one-half of one per cent service fee. (§ 1 ch 127 SLA 1961; am § 5 ch 109 SLA 1971)

Sec. 26.15.080. Power of commissioner to assign and sell mortgages. The commissioner of commerce may assign and sell veterans' loan mortgages to the Alaska State Mortgage Association in consideration of receiving its cash, bonds, debentures and notes upon conditions which he considers advantageous to the state veterans' lending program. (§ 44-2-12 (f) ACLA 1949; added by § 1 ch 131 SLA 1961)

Sec. 26.15.090. Creation of fund. There is created the Alaska World War II veterans' revolving fund to carry out this chapter. This fund shall be used for no other purpose. (§ 44-2-13 ACLA 1949)

Sec. 26.15.100. Repayment of loan to fund. The sum of $1,200,000 appropriated for the purpose of implementing the Alaska World War II veterans' revolving fund to enable the Territorial Veterans Administration to fully carry out the purpose of the Alaska World War II Veterans Act is a loan from the general fund of the territorial treasury which shall be paid back to the general fund as follows: $100,000 during the fiscal year beginning July 1, 1970, and ending June 30, 1971, and an equal amount during each fiscal year thereafter until the principal amount has been repaid in full. Interest at the rate of two and one-half per cent per annum shall be paid on the amount of the principal outstanding from April 1, 1957, until the principal and all interest are fully paid. (§ 1 ch 70 SLA 1949; am § 1 ch 5 SLA 1955; am § 4 ch 97 SLA 1957; am § 1 ch 136 SLA 1960)

For appropriation and provision for repayment under former law, see Alaska World War II Veterans' Bd. v. Territory of Alas., 11 Alas. 463, 165 F.2d 604 (9th Cir. 1948).

Sec. 26.15.110. Limitation on securing bonus and loan. Persons eligible for loans under this chapter are eligible for the bonus provided for by this chapter, but no bonus may be paid to a person who has received a loan under this chapter, and no bonus may be paid after July

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 780
Title An Act relating to loans for veterans; and providing for an effective date.

Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Economic Development
BRU, Program, Or Subprogram(s) Affected Division of Loans and Veterans' Affairs
(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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source) Veterans Loan Fund	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

IV. DATE March 1, 1982

PREPARED BY Don Hostak, Director
AGENCY Department of Commerce & Economic Development
PHONE 465-2555 or 465-2510 Division of Loans and Veterans' Affairs

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

33-001 (Rev. 12/81)

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 780:

Section 1) Amends AS 26 by adding a new chapter: VETERANS HOME IMPROVEMENT REVOLVING LOAN FUND. The fund is to be established in the Divison of Loans and Veterans Affairs, Department of Commerce and Economic Development, for the purpose of making loans to qualified veterans for improving or rehabilitating their residences.

Sec. 26.16.020 Loans to veterans under this chapter bear the same eligibility requirements as veterans eligible under AS 18.56.101

Sec. 26.16.030 Loans under this chapter :

1) may not exceed $10,000
2) be repaid at an interest rate of 9 percent
3) shall be secured by a first or subsequent mortgage on the property to be improved, or by other security considered sufficient by the Dept.
4) only for the purpose of improving or rehabilitating a single family dwelling (owner occupied), duplex, or manufactured home.

Sec. 26.16.040 Repayments of principle and interest shall be paid by the department into the Veterans home improvement revolving loan fund.

Sec 26.16.050 The department may adopt regulations to impliment this chapter.

Sec. 26.16.060 The department may sell or transfer at par value or at a premium or discount 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.

Sec 26.16.070 "department" means the Department of Commerce and Economic Development.

Section 2) Appropriations, money, records, equipment, loan documents,and other property of the Alaska WW II veteran's revolving loan fund are transferred to the veterans home improvement revolving loan fund. Repayment of principal and interest on loans made from

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 780 continued

the Alaska WW II Veterans' Revolving Loan Fund received after the effective date of this act shall be transferred to the veterans home improvement revolving loan fund.

Section 3) Immediate effective date.

SB
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ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

POSITION PAPER

Senate Bill No. 783
Twelfth Legislature - Second Session

By: Sturgulewski

An act adding multi-family dwellings as a qualified project for purposes of the Alaska Industrial Development Authority.

Attached is a copy of a study prepared for the Alaska Industrial Development Authority by Lehman Brothers Kuhn Loeb Incorporated dated February 15, 1982, and titled "A Strategy for Tax-Exempt Financing of Multi-Family Rental Housing Development Projects in Alaska".

It is the position of the Alaska Industrial Development Authority that the Authority is able and willing to implement a program for financing multi-family dwelling enterprises following any of the feasible scenarios presented in the study as it is directed to follow except a direct loan to borrower program.

The Authority does not have the staff which would be needed for a state-wide direct loan to borrower program and does not feel that such staffing would be economically justified nor satisfactorily productive.

The Authority does recognize a need for financing vehicles enabling the construction of multi-family dwellings in the State of Alaska and feels that the energies of the Authority may well be directed towards achieving suitable financing for such projects.

February 24, 1982

A STRATEGY FOR TAX-EXEMPT FINANCING OF MULTI-FAMILY RENTAL HOUSING DEVELOPMENT PROJECTS IN ALASKA

Parts 1 and 2 (Complete)

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

Public Finance Division
Lehman Brothers Kuhn Loeb Incorporated
February 16, 1982

PART I

I. INTRODUCTION

The purpose of this report is to provide the Alaska Industrial Development Authority with an outline of alternative approaches for the financing of multi-family rental housing projects. This report is intended to serve as an initial focal point for the discussion and clarification of the goals and constraints under which AIDA can implement programs to support rental housing development. Among the issues that can and should be discussed are the following:

a) the size and scope of an AIDA multi-family housing program (e.g. $20 million versus $200 million);

b) the size and income levels of the target population for such rental housing;

c) the cost and market rent levels for new rental housing;

d) vacancy rates in existing rental units; (i.e. Demand Study)

e) the form of any State assistance including, as examples: rental subsidies, a State moral obligation to back-up AIDA multi-family bonds, or State appropriations for AIDA operating or debt service outlays.

f) the ability of private domestic (Alaskan) financial intermediaries to participate in, or pledge collateral for new rental housing loans.

g) the ability and willingness of AIDA to add staff members with experience in administering multi-family loan programs; and

h) the applicability of various federal programs to an AIDA-sponsored multi-family loan program.

Following clarification of these issues, a more complete report will develop detailed financing alternatives targeted to meet the special needs and resources of AIDA.

This initial report is based on a set of underlying assumptions that may be revised or refined in subsequent discussions. In particular, it is assumed that an efficient and effective mechanism for importing capital funds must expressly address the concerns of investors with the risks inherent in multi-family rental housing projects. Section II of this report reviews these risks and discusses methods used by other agencies in reducing these risks to bondholders. This report also assumes that these risks will not be borne solely by AIDA; rather any program must expressly provide for a sharing of risks by private financial intermediaries domiciled in Alaska and by project owner/mortgagors.

Many of the program characteristics that may be necessary to successfully attract outside investors will not vary with the choice of taxable versus tax-exempt financing alternatives. Nevertheless, since it is assumed that a major goal for AIDA is to attract the lowest cost source of funds, this report is restricted to a discussion of tax-exempt financing alternatives. Under present market conditions, tax-exempt financing carries a cost advantage of approximately 300-400 basis points over taxable financing of equivalent projects. For rental units with a cost, say, of $40,000 per unit financed over 30 years, these savings may amount to more than 16% of annual debt service costs and cumulatively amount to more than $34,000 over the life of the mortgage. By the same token, it is presumed that these cost savings will be passed through from project owners to renters.

Finally, because of uncertainty and a lack of information regarding the applicability of various federal programs in the Alaska housing market, this initial report assumes that multi-family projects financed through AIDA will not carry FHA insurance nor will such projects be subject to rental subsidy payments through the Section 8 program.

II. GENERAL CONSIDERATIONS IN THE DESIGN OF ALTERNATIVE FINANCING VEHICLES

A. Eligibility Requirements for Tax-exempt Financing

Based on the assumptions outlined above, the development of an AIDA financing program must first meet the requirements outlined under federal statutes including the Mortgage Subsidy Bond Tax Act of 1980 ("MSBTA") Briefly, the principal tests that must be met are three:

a) Bonds issued after December 31, 1981 must be in registered form;

b) The interest rate on mortgage loans cannot exceed the true interest cost of the tax-exempt bonds by more than 150 basis points; and

c) At least 20% (15% in targeted areas) of the rental units financed must be provided to low-income tenants as defined by the Internal Revenue Code, Section 167(K)(3)(B).

More specifically, low-income tenants are defined as households with incomes (adjusted for family size) not in excess of 80 percent of the median income for the area as determined by the U.S. Department of Housing and Urban Development. Moreover, under present interpretations of the 1980 legislation, these units must be rented to eligible tenants for a minimum of twenty years and maximum rents charged cannot exceed 30 percent of the maximum monthly income allowed for occupants of such units.

The combined effects of the "20% - 30%" requirements mean that alternative subsidy arrangements will generally be necessary for any given housing development to generate adequate revenues. In theory, the rentals charged for the remaining 80 percent of the units could be raised to the point necessary to meet projected revenue goals. The feasibility of this approach depends on the level of required rental revenues for unsubsidized units relative to "market rents" on alternative housing units in the area. A more complete

analysis of this approach requires specific data on such factors as income and rent limits for eligible low income tenants, project costs, and area market rents. It should also be noted that AIDA and the State legislature may decide, as a matter of policy, that rental subsidy payments can and should be provided from State resources.

B. General Considerations in Insulating Bondholders from Project Risk

Investors, generally, are risk-averse and multi-family rental housing projects are generally perceived as inherently risky. Therefore, a viable financing program must devise suitable methods to insulate bondholders' from the risk of losses associated with project delinquencies or defaults.

The ability of owners of multi-family rental developments to meet required mortgage payments and operating expenses depends upon a variety of factors, including the achievement and maintenance of a sufficient level of occupancy; sound management; timely and adequate increases in rents to cover increased taxes, utility costs and maintenance; and social and demographic factors that influence consumer demand for the project.

Bondholders, particularly investors outside the State, cannot be expected to incur the costs of monitoring these factors or of absorbing these risks.

Traditionally, issuers of tax-exempt bonds have developed a variety of methods designed to shield bondholders from these risks, including the use of FHA insurance and/or the pledge of rent subsidy payments under the Section 8 program. Under the assumption that these federal programs do not apply in the present Alaska housing market, AIDA will need to develop other methods of credit support and the choice will, to some extent, be dictated by the type of programmatic approach followed in implementing a multi-family housing program.

The two generic approaches adopted by other agencies are direct loan programs and loan-to-lender programs.

C. Direct Loan Programs

Under these programs, the agency (e.g. AIDA) issues tax-exempt securities and uses the proceeds to grant mortgage loans directly to project owners or to purchase mortgages from eligible originators. The agency's bonds are secured in the first instance by mortgage loan repayments, including any insurance or subsidy payments directly related to the mortgage portfolio.

It should be emphasized that investors and rating agencies place particular importance on the experience and resources of agency staff members in assessing the quality of bonds issued under direct loan programs. As stated by Standard & Poor's Corporation:

> "Considerable emphasis must be placed on the agency staff since a detailed analysis of each project is impossible and the resolutions generally provide for additional series of bonds. We consider the size and experience of the staff in the key areas of design, underwriting, finance, legal, construction management and property management." (Standard & Poor's Corporation, Bond Rating Guide)

Among the tasks required to be performed or monitored by agency staff under direct loan programs are site selection and market review, economic feasibility analyses, construction inspection and management selection and review.

The evaluation of site selection and review may include an inspection of site characteristics, surrounding land uses, availability of public transportation and utility systems, proximity of the site to recreation, health care, religious and social amenities, shopping and educational facilities, and employment opportunities. Such analysis may also include review of demographic factors as

well as current rent levels and vacancy rates for comparable housing units in the market area.

The analysis of economic feasibility requires assessment of construction costs and possible delays in construction or future increases in cost; the financial and management capabilities of the developer and/or project owner; the projection of rent levels, operating expenses and taxes; and the compatibility of the project with governmental building codes and Federal and State environmental requirements.

During the critical construction phase, suitable arrangements must be developed to monitor compliance with plans and specifications, to review and approve changed orders, and to approve requisitions for construction advances.

This brief discussion of the functions required to be performed under direct loan programs carries important implications for the implementation of new programs.

While it may be possible to contract with outside parties for the performance of certain of these functions from time to time or project to project, the interests of the agency (AIDA) in managing its risk exposure can be expected to require in-house staff capabilities. There will necessarily be a significant lead time to recruit and staff these functions and to develop appropriate operating procedures for direct lending. These staff resources must also be viewed as "fixed costs" and will entail a significant increase in annual operating expenses. In the short run or start-up period, these costs may require appropriations from other AIDA programs or State appropriations. In the long run, the incremental resources and costs may be funded from fees charged to mortgagors and developers. However, the viability of this approach requires a substantial, sustained commitment by AIDA and the State to multi-family

programs so that these fixed costs may be economically allocated over a sizeable number of projects.

While adequate professional staff resources are a prerequisite to developing marketable bonding programs, it will also be necessary to develop other sources of credit support to further insulate bondholders from project risks. The most common approach used in other programs is to provide bondholders with:

a) the general obligation pledge of the agency under which any otherwise unencumbered revenues may be used to supplement mortgage loan repayments;

b) the use of a debt service reserve fund invested in marketable securities and pledged solely for the purpose of meeting temporary cash flow aberrations from projects; and

c) the "moral obligation" pledge of the State to replenish the debt service reserve fund.

It should be noted that this approach has been followed by AIDA in the implementation of its Umbrella Bond Program.

The use of an additional moral obligation pledge by the State requires, obviously, State approval and this will occasion a review of the costs and benefits of such "contingent" State liabilities.

The potential benefits are clear: rating agencies generally accord revenue bond issues with State "moral obligation" backups a rating one level below the rating on State general obligation debt. Moreover, with adequate project supervision and selection, the likelihood for actual cash outlays by the State can be mitigated.

The costs are more difficult to measure but require an analysis of the effects of added "contingent liabilities" on the cost and ratings of State general obligation debt. Further analysis of these important issues requires additional data and is beyond the scope of this report.

Other important issues in evaluating the efficacy of a multi-family direct loan program for AIDA include the analysis of construction loan versus permanent mortgage financing and the extent of risk-sharing or participation by private lending institutions.

D. Construction Lending versus Permanent Mortgage Financing

The past experience of many agencies in other States has pointed out that substantial risks in multi-family rental housing lending occur during the construction phase of projects. Several approaches have been used to mitigate these risks to lending agencies and their bondholders. Several State agencies have opted to restrict program lending activities to permanent mortgage purchases for recently completed projects. Simply, this approach permits the agency to avoid construction risks. It also requires mortgagors to seek alternative, higher-cost, construction financing from conventional sources at taxable interest rates. Thus the full potential benefits of lower tax-exempt borrowing costs are not passed through to the initial capital costs of project development. A second approach followed by agencies restricts construction loan financing to projects covered by FHA insurance on construction loan advances and commitments by GNMA to take out the permanent mortgage upon final endorsement for insurance by FHA. This approach generally protects the agency from construction risks and results in high ratings and low borrowing costs. However, the applicability of this approach assumes that projects and mortgages can meet the appropriate requirements under these Federal programs.

Finally, other agencies provide combined construction loan and permanent mortgage financing. Generally, the implementation of this approach is restricted to agencies with a successful track record of multi-family lending and to projects with substantial Federal subsidy supports.

E. Mortgage Participations by Private Lending Institutions

It may be appropriate for AIDA to develop a mortgage loan participation program to shift relatively more of the construction risks to private mortgage origination intermediaries. For example, AIDA could provide, say, 50% of construction loan financing while private lending institutions supply the remaining loan advances. Permanent mortgage financing, contingent upon the successful completion of construction, could then provide for 90% AIDA participation and 10% participation by private mortgage lending institutions.

In general, the concept of risk sharing through a loan participation program can serve as an added element of latent credit support for AIDA and its bondholders. Participation, either through loans or equity, by private lending institutions helps ensure that these institutions will select economically viable projects and will provide extra resources in monitoring and managing projects over the long run. Moreover, AIDA has established the precedent for participation programs through its Umbrella Bond Program.

Assessing the appropriate level of private lender participation does require further analysis to determine the effects on overall project financing costs and the willingness and ability of private lending institutions to fund various levels of participation.

F. Loan to Lender Programs

A major alternative to direct loan participation programs is a loan to lender program. These programs have been increasingly popular in recent months and are fairly easy to implement in a short period of time. Under the loan to lender concept, the agency issues its tax-exempt bonds and relends the proceeds to participating lending institutions. These institutions, in turn, make

construction loans and/or permanent loans to developers of rental housing. The private lenders thus retain the mortgage loan and assume the risks. The loan from the agency to the lender is a general obligation of the lending institution and repayment of the loan is additionally backed by the pledge of acceptable collateral or a letter of credit from a major bank with a high credit rating. Thus, the terms of the agency loan to the lender provide the primary security for the agency's bonds. This effectively insulates the agency and its bondholders from project risks, shifting these risks to the lending institutions that may be best suited to analyze and manage such loans.

Under the loan to lender concept, private lenders and developers function in the same manner as with traditional sources of mortgage capital. For example, developers use private architects to draw up plans and specifications; private attorneys to handle the legal work; private engineering companies to survey the property and do test borings; private suppliers to provide materials; private general and subcontractors to build the development; private marketing firms to advertise and promote the development; private leasing agents to rent the new units; and private management companies to collect rents and maintain the property. Lenders underwrite loan applications using their normal stands. They perform the credit analysis of developers; review the track record of contractors; accept or reject locations, analyze the cost and marketability of the proposed housing; see that codes and other governmental requirements are met; and inspect construction through to completion.

Developers interested in the program may apply to a participating lender for construction and permanent financing. The lender can reserve funds from the prospective bond issue by signing a Commitment Agreement and paying a Commitment Fee to the agency (which fee can be passed on to the developer).

The agency-to-lender loan rate is established after bonds are sold, typically at a level 1/8th % to 5/8th % above the bond interest cost. The lender-to-developer loan rate is set at a level no greater than 150 basis points above the bond interest cost.

While the agency bond maturities and lender loan repayments may be tailored to the normal long-term amortization of the multi-family mortgage loan, recent loan to lender bond issues have resulted in relatively short maturity structures, which require mortgagors to refinance loans in approximately 10 - 13 years. Although this does shift a potentially serious interest rate risk to the mortgagor, this risk is offset somewhat by the lower cost of tax-exempt financing under the shortened bond maturity structure. Moreover, banks as participating lenders have been reluctant to pledge collateral beyond 10 - 13 years.

Lehman Brothers Kuhn Loeb has pioneered the development of recent loan to lender bond programs, meeting the requirements for multi-family loans under the MSBTA of 1980, by working with issuers to develop both collateralized programs and letter-of-credit (LOC) backed programs. Under the collateralized approach, bonds have been structured with serial maturities beginning in the third year and a final balloon payment in the 13th year. Bond maturities and lender loan maturities are matched to mortgage loan maturities, which are, in turn, based on amortization over a 30-year period.

Under this program, to secure an AA bond rating, lenders are required to pledge collateral securing the agency bonds according to the following schedule:

> Direct U.S. Government or U.S. Government guaranteed securities in an amount whose market value equals 125% of the lender loan; FHA/VA single family mortgage loans whose market value equals 140% of the lender loan, and/or conventional, single family mortgage loans whose market value equals 150% of the lender loan.

It should be noted that other underwriters have proposed alternative methods for structuring bond maturities under collateralized loan-to-lender programs.

While no bond issues appear to have been sold under these proposed structures, the basic difference in approach with the type of program developed by Lehman Brothers is in the mismatching of bond principal maturities and mortgage loan maturities. As advanced by this alternative approach, the mortgage loan repayments are scheduled basically identically with the Lehman approach. Bonds, however, are scheduled on a level debt basis over a 13 year period. Thus, lenders repay principal to the agency more rapidly than principal is received from the developer. In effect, then, this approach results in a negative cash flow for the lender.

Generally, the ability and willings of lenders to pledge collateral is of primary importance in developing a successful loan-to-lender program. In order to reduce the collateral requirements, Lehman Brothers has developed a letter of credit (LOC) alternative. Simply, this alternative involves the purchase of a LOC from a triple-A rated bank as additional credit support for the agency's bonds. The principal advantages of the LOC-backed bond are significantly lower interest rates associated with the Aaa rating and the reduced collateral requirements. Under this alternative, the bank issuing the LOC does require originating lenders to secure the LOC with a pledge of collateral based on U.S. Government securities with a market value of 105% of the lender loan, or mortgages with a market value of at least 110% of the lender loan.

III. A PROPOSED STRATEGY FOR THE ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

The discussion in the previous section has pointed out that each of the two principal approaches to multi-family lending has its unique advantages and disadvantages. By way of summary, the principal advantages of direct loan programs are the wide flexibility permitted AIDA in selecting projects and structuring appropriate financing terms, and the centralized focus permitted for targeting State or Federal subsidy programs.

The principal disadvantages are the need for explicit credit support arrangements, the lead time necessary to implement such a program, and the significant operating expenses required to properly administer a direct loan program.

The principal advantages of the loan to lenders approach are that such programs minimize the need for other sources of State support and they may lead to generally higher ratings and lower interest costs. The principal disadvantages include limitations on the ability and/or willingness of domestic financial institutions to pledge sufficient collateral, and the refinancing risk faced by mortgagors.

It is our opinion that AIDA may best serve the long-run interests of Alaska by the development of a direct loan participation program. However, given the lead time necessary to properly implement this program, AIDA may choose to first initiate a modestly-sized loan to lender program utilizing a bank letter of credit. Implementing such a program will establish an immediate presence for AIDA in the multi-family rental development market. Moreover, this initial step can be used to buy additional time and experience for the development of an AIDA direct loan program.

PART 2

I. INTRODUCTION

You have informed us that capital market conditions in recent years have been particularly damaging to housing markets in Alaska. The continuing high level of interest rates and the extreme volatility of the rates have seriously disrupted conventional real estate lending instruments and institutions. Moreover, the pervasive uncertainties surrounding the future course of fiscal policy and monetary policy do not promise a short-term resolution to the problems faced by traditional lenders or borrowers. The restructuring of financial markets that is now underway will last long beyond the next peak in the interest rate cycle and will force new approaches for the financing of basic shelter needs, particularly for low and moderate income families.

The high level of taxable interest rates on conventional mortgage loans has effectively priced new rental housing units beyond the reach of many families. Furthermore, conventional lending institutions, buffeted by the extreme volatility of market interest rates, are increasingly reluctant to provide long-term fixed-rate loans.

At the same time, demand for rental housing is increasing in Alaska. In part, this increased demand can be traced to the cost of credit in the single-family mortgage market. Also, basic social and demographic changes have increased the demand for "affordable" rental housing. Earlier adulthood, later family formations, and more mobile lifestyles have combined to stimulate the need for rental as opposed to owner-occupied housing units.

The Alaska Industrial Development Authority or another public corporation should be positioned to play an important role in meeting these fundamental and lasting changes in multi-family housing finance.

Mortgage lending, multi-family housing finance is essentially a business loan market. A centralized focus for the implementation and management of shared public-private sector roles and responsibilities in multi-family housing exercised by an entity with an understanding of lending to the private business sector would be a particularly efficient and effective way of monitoring housing needs, administering the myriad of federal programs and developing unique programs responsive to the needs of Alaskans.

A central focus would permit cohesive but flexible financing programs, including direct loan or mortgage-purchase programs utilizing FHA insurance under Section 221(d)(4), Section 8 project financings, and FHA-insured construction loan financings with permanent loan takeouts under commitments from GNMA. Moreover, innovative methods of State of Alaska support could be integrated with or developed independent of these traditional methods of financings. Such innovations could include low-rate loans delayed amortization loans or equity participations. Other methods of State support could include direct legislative appropriation of existing State assets to provide supplemental cash flow that could be used to secure bonds issued to further multi-family housing financing.

Fashioning such a role for a public corporation require a thorough assessment of present and future rental housing needs in Alaska, a review of the current roles of the State and its agencies, as well as private lenders and developers in this market, and a strategic plan for effectively targeting the programs that could be developed.

Our discussions with representatives of lending institutions and public officials in Alaska indicate an urgent need to access low-cost funds to stimulate new construction. Vacancy rates are extremely low and new construction is virtually at a standstill.

Most of the traditional financing approaches employed by other states in the past do not appear applicable or feasible for financing multi-family projects today. For example, while a mortgage-purchase program utilizing FHA-insured loans under Section 221 (d)(4) could theoretically be implemented in a reasonable timely fashion, this would require the use of long-term (30 year) bonds. At present yields, the high level of interest rate on long-term bonds in the tax-exempt market effectively foreclose this option as the resulting mortgage loans could not be amortized by the underlying dwelling units.

Moreover, the cutbacks proposed and implemented in other federal programs, such as the GNMA tandem program along with the inevitable delays in developing the necessary interface with these programs and between the appropriate Federal agencies further frustrates moving ahead positively and quickly.

Table 1

Current Market Yields on
Aa-Rated State Agency
Housing Bonds (FHA-VA Insured)

February 9, 1982

Maturity (in Years)	Yield
10	11.25%
20	13.00
30	13.50

Table 1 above points out that yields on 30-year Aa rated housing agency bonds are presently around 13 1/2%. The efective mortgage loan rate on new issues at this yield level would necessarily range between 14 1/2% and 15%. Since our understanding of housing market economics in Alaska indicates that projects may not be feasible at loan rates above 13-13 1/2%, it is clear that long-term financing cannot provide a short-run solutions to prevailing construction demand.

Because of these frustrations inherent in financing along traditional lines, the State must look elsewhere if financing support is to be made available for addressing existing demand given financial market constraints. Building on alternative financing ideas employed in the lower forty-eight, refined to meet the restrictions existing in Alaska, we believe a loan to Master Lender financing approach is the desirable and effective way to proceed. This program - the Master Lender Multi-family Housing Loan Program - is outlined in the next section of this report. We believe that the Master Lender program concept has many advantages. First, it is designed to enable the State of Alaska to quickly channel funds into new construction for the 1982 building season.

- A Master Lender bond sale could be ready for market within 90 days from the date of enabling resolution by the corporation.

Second, the program is designed to enable the bonds issued to carry a high rating (at least double A) and thereby achieve significant interest rate savings.

- Based on present market conditions, we believe that a Master Lender bond issue could be marketed at tax-exempt rates that would permit effective mortgage loan rates within the 13-13 1/2% limit.

This program also is highly efficient in that existing institutional arrangements are utilized to the maximum extent possible.

- The Master Lender program preserves the traditional roles of the local lender and developer, enabling each to share in the risks and returns from private capital investment.

- The Master Lender concept also requires no subsidies or outlays by either the public corporation issuing the bonds or the State.

II. The Master Lender Multi-family Housing Loan Program

The basic structure of the Master Lender program is outlined in Chart 1 and involves important roles for the corporation, the Master Lender, local lenders and developers/owners of multi-family housing developments.

Briefly, the program works as follows:

1. Upon adoption of appropriate resolutions, selection of the Master Lender - which could be a bank, property or casualty firm or any other lending institution or entity - and the development of program loan guidelines, the designated corporation would announce its plan to implement a Multi-family Loan Program and sponsor an information meeting for interested local lenders and developers.

2. Interested local lenders would reserve commitments from the program by undertaking a participation loan commitment agreement and paying a commitment fee to the corporation. We believe that a commitment fee of 1 point is appropriate. This fee, which would be passed through to the developers, provides a contribution to the expenses of the program, and makes possible early amortization of the costs associated with the financing.

3. Local lending institutions, in conjunction with the Master Lender, will apply standard underwriting criteria to select projects and developers for program participation. Local lenders will originate new loans under program guidelines and will provide 100% of the necessary construction loans (at taxable market rates). At the completion of construction, local lenders will retain a participation in the permanent mortgage financing, at market (e.g. taxable) rates. We believe that a 10% local lender participation in the permanent loan allows for a suitable sharing of risks between the Master Lender and the local lenders, insures diligence on the part of local lenders in the origination and servicing of loans, and permits profit making by the local lenders in return for their participation on the permanent financing.

4. Shortly after finalizing local lender commitments, but prior to actual construction of the project, the corporation will issue bonds in the amount necessary to finance 90% of the permanent loans. Based on estimates supplied to us by AIDA, an initial bond issue in the $75-100 million range appears feasible.

5. During the construction period, which should be limited to two years, bond proceeds will be invested in high-grade, short-term securities at a yield substantially in excess of the bond yield. This yield spread will produce net income which will in part offset bond issuance expenses and permit the corporation to pass-through a lower financing rate. We recommend a construction period not longer than two years we believe this to be advisable because it insures that the projects constructed will address discernable and realistically be assessed demand. Further, two years will insure that all proceeds

from the financing will be spent within the traditional IRS-defined temporary period.

6. At the completion of construction, the corporation will loan the bond proceeds to the Master Lender ("Lender Loan"). The Master Lender will provide 90% of the permanent mortgage loan at a rate pegged to the effective interest cost of the bond issue.

7. The Lender Loan will be structured as a general obligation of the Master Lender. The Master Lender should be selected on the basis of it being a nationally recognized institution possessing an AA rating or better on its general obligation debt securities. Structuring the loan as a general obligation insures that the Master Lender's rating can be passed through to the corporation's bonds.

8. Local lenders will act as originating any servicing agents and will commit to make loan repayments on the permanent loan to the Master Lender on a timely basis. In turn, the Master Lender wil undertake repayment of the Lender Loan to the program trustee.

9. Excess cash flows in the program after bond debt service requirements have been satisfied will revert to the corporation.

In our view, there are a number of important benefits from the strucutre of the Master Loan Multi-family Housing Loan program.

First, the use of the Master Lender provides to the corporation's bonds the security requisite to expedite the marketing and distribution of the bond issue to investors. Moreover, structuring the corporation's loan to the Master Lender as a general obligation obviates the need for cumbersome and costly collateralization.

Second, local lending institutions retain the important function of client maintenance and development with local developers and owners. These local lending institutions are best positioned to evaluate the suitability and marketability of proposed developments and the capabilities of developers. It is appropriate, therefore, that these local institutions provide origination and construction loan financing and shield bondholders and the Master Lender from the inherent risks of the construction period.

Third, the developer/owner, under this program, can maintain a working relationship with local lending institutions and benefit from a low-cost blend of 10% taxable - 90% tax-exempt financing at rates well below (400-600 basis points) conventional mortgage rates. Based on our assessment of preferred local lending practice, we would suggest that the loan-to-value ratio be established at 75%, thus establishing a significant local equity capital contribution to further insure the success of the program.

Fourth, a potential long-term benefit to the corporation and, more generally, the State, stems from the development of a good working relationship with out-of-state capital sources.

While the rates and fees for the various loan components are subject to negotiation and tax-exempt market conditions, terms that appear forseeable are:

Lender Loan:	Rate within 25 basis points of the TIC on the bonds
Construction Loan:	Market rate + 2 points origination fee
Permanent Loan:	90% -Rate at 1% above the Lender Loan + 2 points origination and 1 point Stand By Commitment Fee
	10% -Market Rate + 2 points origination fee
Servicing Fee:	One-fourth of 1% for loans below $1 million; one-sixth of 1% for loans over $1 million

The loan origination fee is paid by the developer on the closing date of the respective loan. The fees are designed to compensate the appropriate lender for closing and adminstrative cost, for the risk of undertaking the loan, and the commitment to subsequently refinance either as a permanent loan or upon maturity of the balloon. The Stand By Commitment Fee is a unique charge assessed by the Master Lender for the use of its credit and the risk assumed by

that institution to make possible the developer's access to low cost tax exempt "balloon" maturity financing.

Bond Maturities and Loan Terms

As noted earlier, present market conditions preclude the issuance of long-term bonds at rates sufficiently low to provide mortgage loans at or below 13 1/2%. Assuming that present market conditions continue for the near-to-mid-term, we recommend that the initial issue of the corporation's Master Lender Multi-family bonds be structured with a 7-12-year final maturity.

The Master Lender Loan and the subsequent mortgage loan should be structured on the basis of a 20-25-year amortization schedule of equal annual debt service payments, with a "balloon" or term maturity in a year consistent with the bond maturity. It must be recognized that this loan maturity structure has the positive feature of small principal amortization in the critical early stages of the project's life. Conversely, the Master Lender assumes the greater risk of refinancing almost the entire principal amount of the mortgage loan.

Based on recent market conditions, this structure would permit a bond interest cost of approximately 11-11 1/2%, a tax-exempt developer loan rate of approximately 12 1/2% and a blended (10% taxable - 90% tax-exempt) permanent loan rate of approximately 13% (assuming a rate of 17% on the 10% local lender permanent loan).

Given current market conditions with very wide differentials between short and long-term yields, this maturity structure represents a compromise between the prohibitively high cost of long-term financing and the refinancing risks inherent in low-cost, short-term financing. The use of this type of maturity structure in recent bond sales indicates that this is an acceptable tradeoff of

cost-risk factors in that is does provide for low-cost permanent financing for at least five to ten years dependent on the final maturity selected. The final maturity schedule, should be tailored to market conditions at the time of sale.

To comply with federal regulations under the MSBTA and to increase the supply of rental housing at the lowest administrative cost, adherence to the following program parameters have varying degrees of importance:

Type of Housing: Newly constructed rental housing developments. All developments required to be used as rental housing for a period equal to that of the outstanding bonds. Both of these requirements are mandated by the MSBTA and govern housing financed with the proceeds from tax-exempt bonds.

Income Restrictions on Tenants: At least 20% of the units in each development financed under the program must be occupied by low income tenants as that term is defined by 167(k)(3)(B) of the Internal Revenue Code. The remaining 80% of the units must be occupied by tenants whose adjusted gross income per household was less than the maximum income limit established by the corporation. Projected adjusted gross income will be used to determine compliance. This information is to be obtained during the tenant application process and sworn to (notarized) by the applicant.

Recertification of Tenant/Income Annual Audit: No recertification of tenant income is necessary following original occupancy. As long as a tenant occupies a unit in the development (not necessarily his or her original unit), the tenant/unit continues to qualify under the development's income restrictions. However, the corporation acting through the trustee bank will conduct an annual compliance audit of each development financed under the program.

Distribution of 20% Income-Restricted Units: The 20% income restricted units must be reasonably interspersed on a pro rata basis throughout the development.

Rent Restrictions on Units: For the 20% of the units set aside for the low income tenants, rents cannot exceed 30% of the maximum monthly income allowed for occupants of such units.

Tenant Acceptance: As long as the same standards applied to the 20% restricted income tenants are applied uniformly throughout the development, the developer may reject any tenant on the basis of bad credit, poor job history, and other reasons evidencing tenant undesireability. For example, the development may be designed and marketed exclusively to the elderly or to childless couples.

Selection of Income and Rent Restricted Units: Specific units meeting income and rent restrictions requirements may be redesigned by the developer from time-to-time (with notice to the corporation and the bond trustee), so long as at

least 20% of the units within the development are so designated for 20 years and further so long as the designated units are reasonably interspersed throughout the development.

Violation of Income Restriction Requirements: Loan documents between the lender and developer will include a variety of mechanisms for enforcing the income restriction requirements. A violation of such requirements would constitute an event of default under the loan, subject to reasonable and standard notice and cure provisions prior to any foreclosure action on the mortgage.

Regulatory Agreements and Deed Restrictions: The developer, the corporation and the bond trustee will enter into a regulatory agreement and the devloper will be required to record certain deed restrictions requiring use of each develoment for 20 years following completion of construction of such development as rental property in which at least 20% of the units are occupied by lower income tenants. The regulatory agreement may be ultimately enforced by default and acceleration of the mortgage note. The deed restrictions, which run with the land, may be enforced by any available judicial proceedings.

Equity Joint Ventures: Any qualified lender may, in its name or through a subsidiary, establish an equity joint venture with a developer, with such joint venture then borrowing from the lender under the program. (It must be noted that national banks are prohibited from taking an equity interest in projects they finance.) In such cases the lender must make an actual cash, property or in-kind contribution of equity. This requirement will give comfort to the program that any ventures are, in fact, bona fide. Further, the lender's percentage share in ownership return may not exceed the lender's pro rata share of equity contribution. In addition to insuring that ventures formed are legitimately what they represent to be, this requirement protects the financing from possible accusation that a disproportionate return is simply a device for circumventing IRS-imposed arbitrage restrictions existing on tax-exempt financing. Finally, it should be the policy of the corporation that a lender's percentage share in ownership of the equity joint venture not exceed 50%. This protects against lender's program participation being simply self-serving to the exclusion of intended program beneficiaries.

The key details of the Master Lender Mult. family Housing Loan Program outlined above have been tested and are acceptable in the bond market. It should be noted however, that the basic financing structure can and should be adapted to be responsive to the needs or interests of the corporation.

Collateralized Loan to Lender Programs

One option, that obviates the need for a Master Lender, is the use of a collateralized lender loan program with a standby letter of credit from an A or AA Rated national lending institution. Discussions with representatives of the Alaskan financial community, evidence that the capacity of local lenders to pledge acceptable collateral may be limited.

We understand, however, that the State owns a substantial portfolio of mortgages loans. The corporation, along with appropriate levels of State government, may wish to explore whether these loans could be placed in trust with a bond trustee such that the cash flow from this portfolio could serve as added security for local lender loans.

A version of this approach is outlined in Chart 2. Briefly, the key differences are:

1) The Master Lender Loan is replaced by a 90% participation in the permanent loan by the corporation, and

2) The corporation's bonds are backstopped by a pledge of the cash flow from the pledged collateral.

The key to this approach lies in how acceptable is the collateral to the rating agencies. An outline of the criteria used by these agencies is included in Exhibit A. While we do not have sufficient information to express any judgements regarding the pledging of these loans, we can indicate that an additional tier of protection could be obtained by supplementing the collateral pledge with a letter of credit from a nationally-recognized lending institution with a AA or AAA rating, or through collateral insurance from a mortgage insurance Company. This variant, outlined in Chart 3, permits the rating on the national lending insitution to be passed through to the corporation's bonds.

In the event that the trustee is required to draw on the third party security to meet bond debt service requirements, the corporation will agree to reimburse such drawings. The corporation's commitment would be secured by the collateral pool.

Either approach could be developed into a workable bonding program. The key steps in this approach are:

1) Legislative appropriation of the loan portfolio to be placed in trust.

2) Valuation of the loan portfolio and its cash flow.

3) Securing the requisite enhancement to insure the highest possible bond rating with the resulting lowest borrowing cost.

Because of the likely time delays in undertaking these steps, it is our opinion that the Master Lender Multi-family Housing Loan Program is the most promising alternative for an immediate lending program.

EXHIBIT A

Collateral:

For non-rated or less than AA rated institutions, approximate collateral requirements are as follows: The lender loan must be secured by (i) direct U.S. Government or U.S. Government guaranteed securities in an amount whose market value equals 125% of the lender loan, (ii) letter of credit from an eligible bank in an amount equal to 100% of the lender loan, (iii) FHA insured, VA guaranteed or conventional single family mortgage loans whose market value equals 150% of the lender loan. Single family mortgage loans used as collateral must (a) have a fixed interest rate and substantially equal monthly installments of principal and interest, (b) have an original term of 25 to 30 years, (c) have a remaining term at least equal to 15 years, (d) qualify as legal investments for federally chartered savings and loan associations (if lender is a savings and loan association), (e) be of the type which have been generally eligible for purchase by FNMA or FHLMC, (f) not have more than 90 days in arrears at any time during the preceding 12 months and remain in a current status while on deposit in the Collateral pool, (g) be serviced by the lender or the lender's qualified agent, (h) if a condominium mortgage loan, have a principal amount such that the aggregate amount of all such pledged condominium loans are not in excess of 10% of the collateral requirement, and (i) possess generally acceptable insurance based on loan-to-value ratios if a conventional loan and FHA flood insurance if in a flood zone. Government securities used as collateral must be (a) direct obligations of the United States of America or any agency or instrumentality thereof, or obligations fully guaranteed by the United States of America or any agency or

instrumentality thereof (including, without limitation, mortgage loan pool participation certificates issued by GNMA), provided that such direct obligations or guarantees, as the case may be, are entitled to the full faith and credit of the United States of America; or (b) mortgage loan pool participation certificates issued by the Federal Home Loan Mortgage Corporation.

Collateral Valuation and Maintenance:

Collateral must be valued at market and must be revaluated no less frequently than quarterly and brought back to required levels within 30 days (i.e., by pledge of additional collateral to make up a deficiency or by release of excess collateral). FHLMC and FNMA auction yields are to be used for valuing the collateral pool using the "mortgage yield" defined as yield-to standard prepayment date. The standard prepayment is normally 12 years or half of the remaining life of the mortgage, whichever is shorter.

Collateral Substitution:

Free and unlimited substitution of permitted collateral in required amounts at each established valuation date. More frequent substitutionis permitted in the event of early payoffs of loans in the collateral pool or to conform to regulatory requirements.

Chart 1
Key Funds Flow for a
Master Lender Multi-Family Housing Loan Program

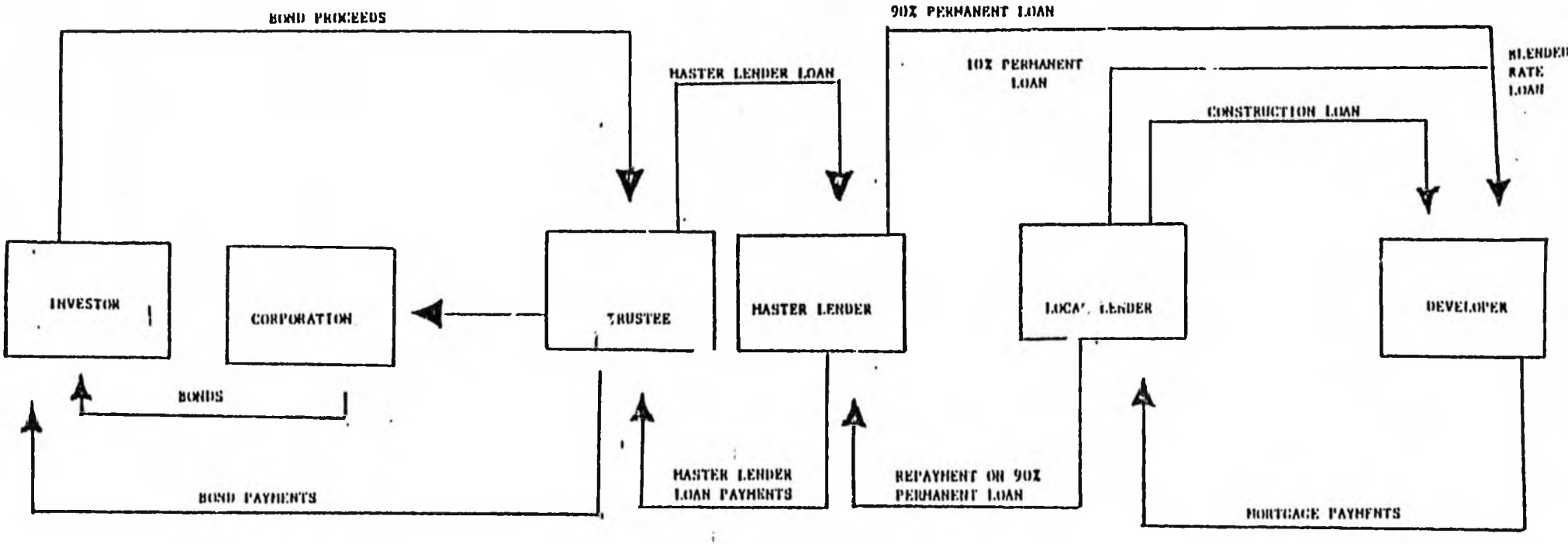


Chart 2
Key Funds Flow for a
Multi-Family Housing Loan Program
Collateralized by State Portfolio of Loans

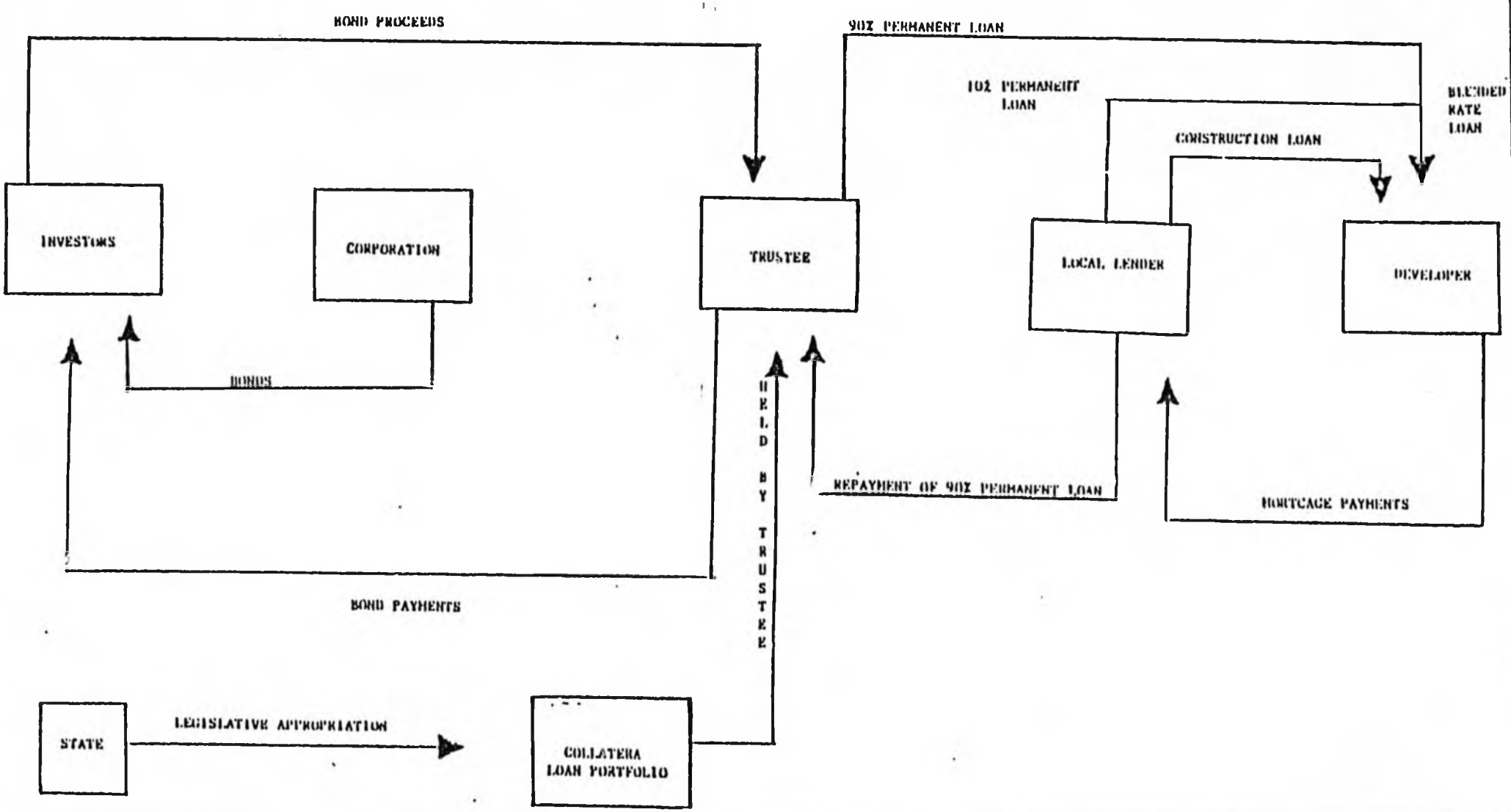
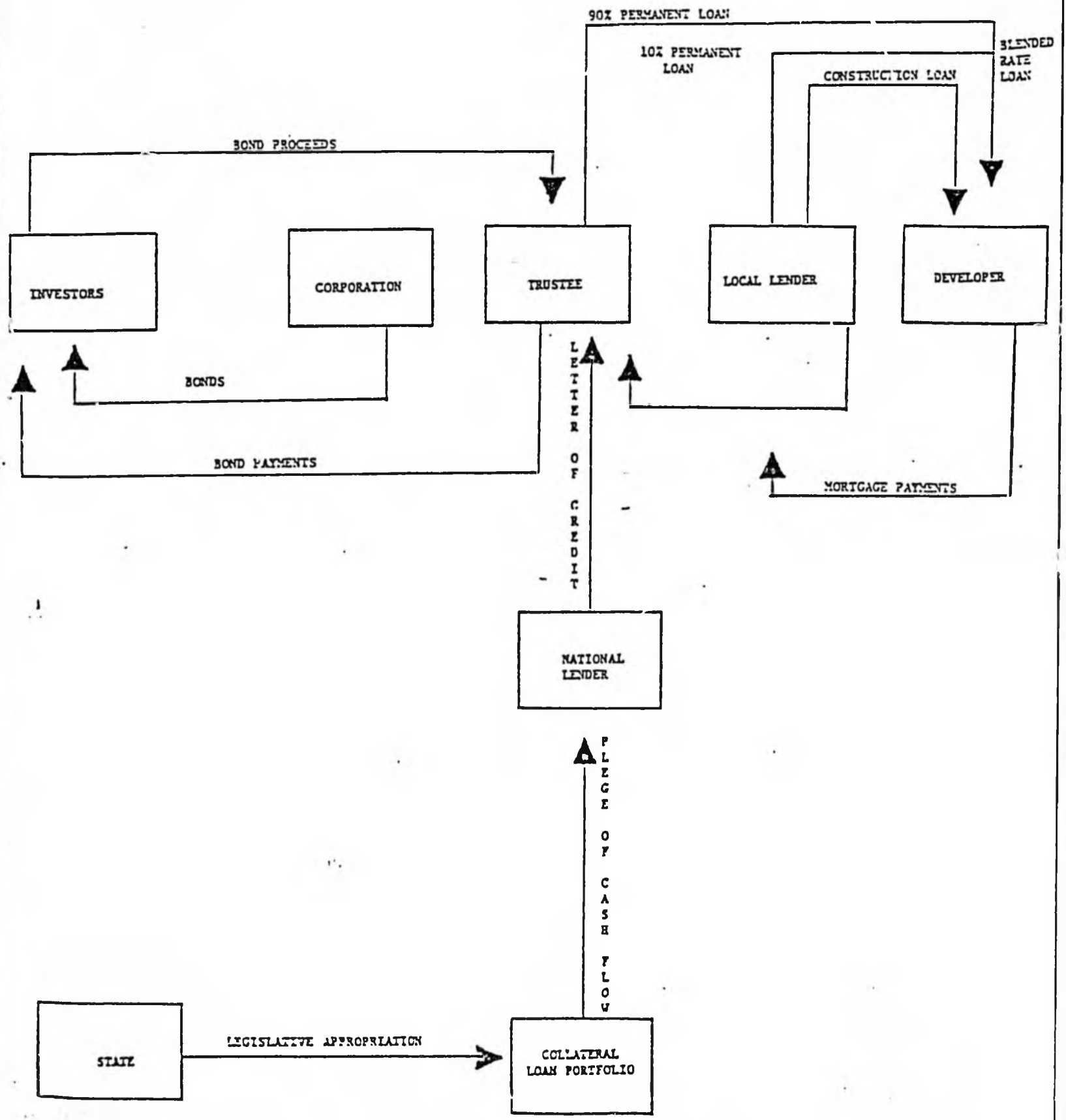


Chart 3
Key Funds Flows for a
Multi-Family Housing Loan Program
Utilizing Collateral Pledge and Letter of Credit



Effective dates. — Section 52, ch. 115, SLA 1981, provided that this section take effect July 28, 1981, in accordance with AS 01.10.070(c).

Article 4. General Provisions.

Section
165. Delinquent loans
212. Fees charged by authority
220. Definitions

Sec. 44.88.165. Delinquent loans. If more than two percent of the total outstanding balance of loans purchased from a financial institution under AS 44.88.010 — 44.88.220 becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than two percent. (§ 42 ch 115 SLA 1981)

Effective dates. — Section 52, ch. 115, SLA 1981, provided that this section take effect July 28, 1981, in accordance with AS 01.10.070(c).

Sec. 44.88.212. Fees charged by authority. (a) An application fee may not be charged for an application for authority participation in a loan under AS 44.88.158.

(b) The commitment fee for a loan commitment by the authority may not exceed two percent of the principal amount of the loan. (AS 44.88.085; § 34 ch 115 SLA 1981)

Effective dates. — Section 52, ch. 115, SLA 1981, provided that this section take effect July 28, 1981, in accordance with AS 01.10.070(c).

Editor's notes. — This section was originally enacted as AS 44.88.085 and was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 44.88.220. Definitions. In AS 44.88.010 — 44.88.220

(1) "authority" means the Alaska Industrial Development Authority created by AS 44.88.010 — 44.88.220;

(2) "business enterprise" means a single proprietorship, corporation, firm, partnership, or other association of persons organized in any manner, for any business purpose, other than on a nonprofit basis;

(3) "federal agency" means the United States and any officer, department, agency or instrumentality of the United States;

(4) "governing body of a political subdivision" means, when used with respect to the location of a project, the council of a city if the project is to be located in a city in the unorganized borough, or the assembly if the project is to be located in an organized borough or a unified municipality;

(5) "project" means

(A) a plant or facility used or intended for use in connection with making, processing, preparing, or producing in any manner, goods, products or substances of any kind or nature or in connection with

developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature, any plant or facility used or intended for use as an industrial park or in connection with air and water transportation, or any plant or facility for the prevention, limitation or control of air or water pollution, for the disposal of sewage or solid waste, for the local furnishing of gas, or for the furnishing of water;

(B) a plant or facility used or intended for use in connection with a business enterprise;

(C) commercial activity by a small enterprise;

(6) "plant" or "facility" means real property, whether above or below mean high water, or an interest in it, and the buildings, improvements and structures constructed or to be constructed on or in it, and may include fixtures, machinery, and equipment on it or in it, and tangible personal property, regardless of whether the tangible personal property is attached to or connected with real property, if the owner has agreed not to remove the tangible personal property permanently from the state for the period the authority sets; "plant" or "facility" does not include work in process or stock in trade;

(7) Repealed by § 70 ch 106 SLA 1980;

(8) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by the authority to be necessary to finance the construction, expansion, or acquisition of a project, including without limitation the cost of acquiring real or tangible personal property, and, in connection with real property, the cost of constructing buildings and improvements, the cost of constructing means of access to and from the project, the cost of constructing extensions of utility systems to the site of the project; the cost of a project includes, without limitation, the cost of financing the project, interest charges before, during or after construction, expansion, or acquisition of the project, costs related to the determination of the feasibility, planning, design or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation of the project and expenses of installation, replacement or rehabilitation, and all other costs, charges, fees and expenses which may be determined by the authority to be necessary to finance the construction, expansion, or acquisition;

(9) "project applicant" means a business enterprise or enterprises proposing to

(A) use or occupy a project; or

(B) agree to permit others to use or occupy a project;

(10) "real property" means land and rights and interests in land, including, without limitation, interests less than full title such as easements, uses, leases, and licenses;

(11) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;

(12) "small enterprise" means a business enterprise which is a project applicant with gross income of $10,000,000 or less for its annual reporting period ending immediately before the application to the authority for a loan;

(13) Repealed by § 51 ch 115 SLA 1981.

(14) Repealed by § 51 ch 115 SLA 1981.

(15) Repealed by § 51 ch 115 SLA 1981.

(16) "commercial activity" includes work in process or activity involving stock in trade, accounts receivable, or the refinancing of existing indebtedness, subject to the provisions of AS 44.88.158. (§ 1 ch 64 SLA 1967; am §§ 4, 5 ch 64 SLA 1977; am § 70 ch 106 SLA 1980; am §§ 43 — 47, 51 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, substituted "for any business purpose, other than" for "which is not organized" in paragraph (2). The amendment rewrote paragraphs (5) and (12). In paragraph (8), the amendment added "expansion" following "construction" in three places. The amendment also added paragraph (16) and repealed paragraph (13) which defined "tourism enterprise," repealed paragraph (14) which defined "commercial fishing enterprise" and repealed paragraph (15) which defined "mining enterprise."

SB
784

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 784:

Would require A.P.A. to provide 10 days notice to the State Bond Committee and the Legislative Budget and Audit committee, if it decides to issue bonds secured by a capital reserve fund. The notification would have to include the amount of the capital reserve fund to be established, the amount of bonds to be issued, and the total cost of the project for which bonds are issued. Also must be accompanied by an estimate (by A.P.A) of the need to withdraw money from the fund during the term of the bond issue, the amount necessary to withdraw, and an estimate of the time at which withdrawals are to be needed. Each year the A.P.A. would be required to submit a revised estimate, considering the same factors, and a statement of all withdrawals from the date of bond issuance to the end of the calendar year. The revised estimate would have to be submitted to the bond committee and the Legislative Budget and Audit Committee by January 30th of the following year.

Effect of amendment. — The 1978 amendment so changed this section as to make a detailed comparison impracticable. Among other things, however, it designated the former provisions of this section as subsection (a) and added subsection (b).

Article 3. Financial Provisions.

Sec. 44.83.100. Bonds of the authority. (a) The authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable (1) exclusively from the income and receipts or other money derived from the project financed with the proceeds of the bonds; (2) exclusively from the income and receipts or other money derived from designated projects whether or not they are financed in whole or in part with the proceeds of the bonds; (3) from its income and receipts or other assets generally, or a designated part or parts of them; or (4) from one or more revenue-producing contracts including a contract providing for the security of the bonds made by the authority with any person. The authority may issue bonds to pay, fund or refund the principal of, or interest or redemption premiums on, bonds issued by it, whether or not the bonds or interest to be funded or refunded have become due.

(b) Bonds shall be authorized by resolution of the authority, and shall be dated and shall mature as the resolution may provide, except that no bond may mature more than 50 years from the date of its issue. Bonds shall bear interest at the rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

(d) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the authority may determine. (§ 1 ch 278 SLA 1976)

Sec. 44.83.110. Trust indentures and trust agreements. (a) In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the authority may

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to a project or to generated power;

(C) the assignment by the authority of its rights in contracts with respect to a project or to generated power or in a mortgage or other security interest created with respect to a project or generated power to a trustee for the benefit of bondholders;

(D) the terms and conditions upon which additional bonds of the authority may be issued;

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance, and all other rights of the authority or of the bondholders, under a lease, power of contract, contract of sale, mortgage, security agreement, or trust agreement with respect to a project by injunction or other proceeding or by taking possession of by agent or otherwise and operating a project and collecting rents or other consideration and applying the same in accordance with the trust agreement;

(2) pledge, mortgage or assign money, leases, agreements, property or other rights or assets of the authority either presently in hand or to be received in the future, or both; and

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds.

(b) Notwithstanding any other provisions of this chapter, the trust agreement shall contain a covenant by the authority that it will at all times maintain rates, fees or charges sufficient to pay, and that a contract entered into by the authority for the sale, transmission or distribution of power shall contain rates, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on bonds issued under the trust agreement as the same severally become due and payable, to provide for debt service coverage as considered necessary by the authority for the marketing of its bonds and to provide for renewals, replacements and improvements of the project, and to maintain reserves required by the terms of the trust agreement.

(c) For the purpose of securing any one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and any other money which may be

made available to the authority for the purposes of those funds from any other source. The funds shall be established only if the authority determines that the establishment would enhance the marketability of the bonds. All money held in a capital reserve fund, except as provided in this section, shall be used as required, solely for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds, (2) the purchase or redemption of bonds, or (3) the payment of a redemption premium required to be paid when those bonds are redeemed before maturity; however, money in a fund may not be withdrawn from it at any time in an amount which would reduce the amount of that fund to less than the capital reserve requirement set out in (2) of this subsection, except for the purpose of making, with respect to those bonds, payment, when due, of principal, interest, redemption premiums and the sinking fund payments for the payment of which other money of the authority is not available. Income or interest earned by, or increment to, a capital reserve fund, due to the investment of the fund or any other amounts in it, may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(d) If the authority decides to issue bonds secured by such a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than such an amount as may be established by resolution of the authority (called the "capital reserve fund requirement"), unless the authority, at the time of issuance of the obligations, deposits in the capital reserve fund from the proceeds of the obligations to be issued or from other sources, an amount which, together with the amount then in the fund, will not be less than the capital reserve fund requirement.

(e) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the funds are invested shall be valued by some reasonable method established by the authority by resolution. Valuation on a particular date shall include the amount of any interest earned or accrued to that date.

(f) The chairman of the authority shall annually, no later than January 2, make and deliver to the governor and the legislature his certificate stating the sum, if any, required to restore any capital reserve fund to the capital reserve fund requirement. The legislature may appropriate such a sum, and all sums appropriated during the then current fiscal year by the legislature for such restoration shall be deposited by the authority in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

(g) When the authority has created and established a capital reserve fund, the commissioner of revenue may lend surplus money in the general fund to the authority for deposit in a capital reserve fund in an amount equal to the capital reserve fund requirement. The loans shall

be made on such terms and conditions as may be agreed upon by the commissioner of revenue and the authority, including without limitation terms and conditions providing that the loans need not be repaid until the obligations of the authority secured and to be secured by the capital reserve fund are no longer outstanding. (§ 1 ch 278 SLA 1976; am §§ 13, 14 ch 156 SLA 1978)

Effect of amendment. — The 1978 amendment in paragraph (1) of subsection (a), added "or to generated power" to the end of subparagraph (B), inserted "or to generated power" and "or generated power" in subparagraph (C), and substituted "by injunction" for "by mandamus" in subparagraph (E). In subsection (d), the amendment substituted "an amount" for "a per cent, not exceeding 10 per cent of the principal amount of all of those bonds secured by that capital reserve fund then to be issued and then outstanding in accordance with their terms."

Sec. 44.83.120. Validity of pledge. It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties. (§ 1 ch 278 SLA 1976)

Sec. 44.83.130. Nonliability on bonds. (a) Neither the members of the authority nor a person executing the bonds is liable personally on the bonds or is subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state, except the authority, to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 278 SLA 1976)

Sec. 44.83.140. Pledge of the state. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the

SB
798

COMMITTEE REPORT

SENATE

2/16/82

FURTHER: None

Date: 10 MARCH 1982

Mr. President:

The Committee on LABOR & COMMERCE has had SB 798

relating to title insurance rating organizations

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for [X] 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)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

LEGISLATIVE POSITION PAPER
SB 798 and HB 846
March 8, 1982

SB 798 and HB 846 are identical proposals relating to title insurance rating organizations. The proposal would permit the use of a title insurance rating organization by title insurance companies doing business in this state. Current Alaska law regulating title insurance (AS 21.66) derives from a model law drafted by the American Land Title Association which includes a provision for title insurance rating organizations. This provision was not included when the current Alaska title insurance law was adopted in 1974. This was due primarily to the objections of this division. It was felt that rating organizations for title insurance would not be in the best interest of the Alaska insuring public.

Rating organizations typically develop anf file rates, rules, rating plans, statistical plans, contract forms and endorsements on behalf of member and subscriber companies. They enable companies to act together in these issues and provide a broader base of experience and credibility for the rates used as well as reduce insurance company expenses by avoiding duplication of some rate development functions. Insurers are able to act in this fashion because of enabling Federal legislation, namely, the McCarran-Ferguson Act (Public Law No. 15, 79th Congress, 1st Session 1945, 59 Stat. 33, 15 U.S.C. Secs. 1011-1015). This approach has been used in property, casualty, surety and marine lines of insurance for most of this century. Rating organizations have been viewed as anti-competitive devices in the property, casualty, surety and marine field and indeed some modification of their role in those markets should be and is being considered.

The marketing of title insurance is distinctly different from property, casualty, surety and marine kinds of insurance. Competition is structured differently. This is due in part to the fact that title insurance is almost always an incidental part of a transaction involving real estate. It is also due in part to the fact that while most other kinds of insurance are based on a rate making methodology that reflects

risk assumption and distribution, title insurance is based on a methodology that looks to risk avoidance or risk elimination. There is no one way to establish and support rates for title insurance in this state. In fact the principal method currently is to follow the leader. We have concluded that the best way to develop a rate-making methodology with all that is needed to support such a system is to enable a rating organization for title insurance. It would admittedly provide a rating system with uniform rates, but we have rates that are uniform now. It would provide a vehicle for developing supportive statistics and distributing information to the public. We believe that a title insurance rating organization could provide a positive and favorable force in this state and assist the division to effectively meet its responsibilities under the insurance law of Alaska.

We have one principal concern with the bill. That concern is that current problems with the divisions procedures for disapproving a filing relating to title insurance would be compounded with passage of this proposal. AS 21.66.400 now provides that the division can only disapprove a filing after a hearing has been held. We would propose that the authority to disapprove a filing without first holding a hearing be granted. Our proposal would still provide for a hearing when it is requested by the person which made the disapproved filing. This approach is currently incorporated in the property, casualty, surety and marine rate law (AS 21.39.120). Given this change (proposed language attached) we support the enabling authority for a title insurance rating organization proposed in SB 798 and HB 846.

Suggested amentments to SB 798 and HB 846

In both bills, remove the material on page 3, lines 5 through 29 and page 4, lines 1 through 15 and replace with the following:

CURRENT LAW	PROPOSED LAW	COMMENTS
Sec. 21.66.400. Disapproval of filings. (a) Upon the review at any time by the director of a filing, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of the hearing shall be given to each title insurance company which made a filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective, if the filing or a part of it has become effective under the provisions of sec. 370 of this chapter. A title insurance company has the right at any time to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	Sec. 21.66.400. DISAPPROVAL OF FILINGS. (a) If within the waiting period provided for in sec. 370(c) of this chapter, the directdr finds that a filing does not meet the requirements of this chapter, he shall send to the title insurance company or title insurance rating organization which made the filing, written notice of disapproval of the filing specifying in what respects he finds the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective. (b) If at any time subsequent to the applicable review period provided for in sec. 370(c) of this chapter, the director finds that a filing does not meet the requirements of this chapter, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall be given to each title insurance company or title insurance rating organization which made the filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective. A title insurance company of title insurance rating organization has the right to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company and title insurance rating organization affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	The proposed law splits the current subsection (a). The new subsection (a) allows disapproval of a title filing, when done within the waiting period, without a hearing. The new subsection (d) provides for a hearing in such cases when requested. This procedure is the same as is now being used for property, casualty, surety and marine insurance regulated under AS 21.39. The new subsection (b) is the same procedure applied to filings to be disapproved after the filing has become effective. The only difference basically is the added language for title insurance rating organizations.

CURRENT LAW	PROPOSED LAW	COMMENTS
(b) A person or organization aggrieved with respect to a filing which is in effect, may make written application to the director for a hearing on the filing. The title insurance company that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding such a hearing, he shall within 30 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every such title insurance company. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	(c) A person or organization aggrieved with respect to a filing which is in effect may make a written application to the director for a hearing on the filing. The title insurance company or title insurance rating organization that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding a hearing, he shall, within 60 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company or title insurance rating organization which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every affected title insurance company or title insurance rating organization. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	Current subsection (b) is the same as proposed subsection (c) except that title insurance rating organizations have been reflected and the period for granting a hearing under the subsection has been extended from 30 days to 60 days. The real effect is to require notice of hearing within 50 days rather than 20 days.

CURRENT LAW	PROPOSED LAW	COMMENTS
NONE	(d) A title insurance company or title insurance rating organization to which the director has issued an order made without a hearing may, within 30 days after notice to it of the order, make a written request to the director for a hearing. The director shall hear the party or parties within 60 days after receipt of the request and shall give not less than 10 days written notice of the time and place of the hearing. Within 15 days after the hearing the director shall affirm, reverse or modify his previous action, specifying his reasons. Pending the hearing and decision the director may suspend or postpone the effective date of his previous action.	This subsection has been noted in the discussion relating to the splitting of current subsection (a).
NONE	(e) A hearing under this section is not required to observe formal rules of pleading or evidence.	This is a new subsection and is selfexplanatory.
(c) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of this chapter.	(f) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of this chapter.	Current subsection is identical to proposed subsection (f).

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SB 798 Sectional Analysis:

Section 1) Amends As 21.66.370(a) relating to title insurance rate filings; new language provides that a title insurance company may make rate filings by becoming a mamber, or a subscriber, to a licensed title insurance rating organization that makes such filings, and by authorizing the commissioner to accept filings on its behalf.

Section 2) Amends As 21.66.370(c) relating to 30 day waiting periods and extensions for review of rate filings by the director of insurance. Inserts the words "or rating organization" following title insurance company throughout the section.

Section 3) Amends AS 21.66.380(a) relating to justification of rates by inserting the words or title rating organization throughout the section.

Section 4) Amends section dealing with rate making; inserting words title insurance rating organization throughout the section.

Section 5) and 6): relating to disapproval of filings inserting the words title insurance rating organization throughout the section.

Section 7)A.adds new section relating to licensing title insurance rating organizations and specifies criteria to be addressed as part of the application:

(1) a copy of its constitution, its articles of agreement, or its certificate of incorporation and a copy of its bylaws and rules governing the the conduct of its business;
(2) A list of its members and subscribers;
(3) the name and address of a resident of the state upon whom notices or orders of the director or process affecting the rating organization may be served; and
(4) A statement of its qualifications as a title insurance rating organization

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SB 798 continued:

Section 7 (b): If the director finds the applicant to be qualified as a title insurance rating organization, and its rules governing the conduct of its business conform to the requirements of the law, the director shall issue to the title insurance rating organization a license. Each application shall be granted or denied in whole or in part within 60 days after the date of filing with the Director of Insurance.

(c): The fee for a license is $100, and the license remains in effect for three years unless it is withdrawn by the licensee, or suspended or revoked by the director.

(d): a title insurance rating organization license may be suspended or revoked by the director, after a hearing and upon notice, if the organization fails to meet the requirements of this subsection. Each title insurance rating organization shall notify the director of a change in:

(1) its constitution, articles of agreement, or its certificate of incorporation, and its bylaws and rules governing the conduct of its business.

(2) its list of members and subscribers

(3) the name and address of a resident of the state designated by it and to whom notices or orders of the director may be sent.

(e): Subject to rules that have been approved by the director, each title insurance rating organization shall permit any title insurance company to be a member without discrimination, or to withdraw as a member, and rating services shall be at a reasonable cost.

(f) Notice of a rpoposed change in rules of the tile insurance rating organization must be given to members and subscribers. The reasonableness of a rule or the refusal of a rating organization to admit a title insurance company as a subscriber shall, at the request of a subscriber or a title insurance company, be reviewed by the director, at a hearing held at least 10 days after written notice to the rating organization and to the subscriber. If the director finds that the rule is unreasonable, he shall order that the rule may not apply to subscribers. If the title insurance