

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7105 HOUSE LABOR & COMMERCE

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FISCAL NOTE

Revision Date: 2/18/92 Department Affected: DOT&PF
 Title: "An Act requiring adjustment to certain contract for public BRU: Statewide Engineering & construction when prevailing rates of wages increase." Operations Standards
 Sponsor: Labor & Commerce, State Affairs, Finance Component: Engeer. & Operations Stand.
 Requestor: Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	1,647	1,647	1,647	1,647	1,647	1,647
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	329	329	329	329	329	329
FEDERAL FUNDS	1,318	1,318	1,318	1,318	1,318	1,318
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	1,647	1,647	1,647	1,647	1,647	1,647

POSITIONS

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Loren Rasmussen, Chief, D&C

Phone: 465-2951

Division: Engineering and Operations Standards

Date:

Approved by Commissioner: W. R. Gault

Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date:

Distribution By Preparer:

ANALYSIS (cont. from page 1):

Fiscal Note Analysis for HB 528

Program Description:

The proposed bill would require on all state and its political subdivisions public works constructions projects that they include a contract provisions that the amount owed to the contractor under the contract shall be adjusted if an increase in the wage rates required by AS 36.05 (the little Davis-Bacon Act) causes the wages to paid to a class of workers on the contract to increase; the adjustment must be based on the actual additional cost incurred because of the change of wage rates.

This is a major shift in state policy. Presently by contract provisions the contractor is assigned the risk and the responsibility for the increased costs associated with any wage rate increases.

Background Information which Relates in this Fiscal Note:

In all DOT & PF construction contracts the state prevailing wage rates are made a part of the contract. The prevailing wage rates that are in effect at the time of the bid opening are attached to the advertised contract. The statutes and regulations requires a contractor to pay the prevailing wages that are in effect during each pay period which means the contractor is responsible and bears the risk of any increases in the prevailing wage rates. AS 36.05.010 states in part "The current prevailing rate of wages for each pay period is that contained in the latest determination of prevailing rate of wages issued by the Department of Labor before the end of the pay period."

On a federally assisted construction project the federal prevailing wage are also made on part of the contract along with the state prevailing wage rates. A contractor is required to pay which ever wage rate is the highest. Therefore, even on a federally assisted project if the state prevailing wage rates increase and is therefore higher than a federal prevailing wage rate the contractor is responsible for the higher prevailing wage rate.

Analysis and Assumptions:

- 1) In calendar year 1991 DOT &PF awarded \$228,687,005 in construction contracts by the competitive sealed bidding process. For estimation purposes it will be assumed that the award amount will remaining constant. This is a conservative approach because with the recent passage of the new transportation bill the total award amount of construction contract should rise.
- 2) The labor percent of any construction contract will vary widely depending the type of construction. The labor cost is usually a higher percent for highway "dirt" project and much lower for a building project but for estimating purposes 40% can be used as a good general average for all construction projects
- 3) Determining a good estimate for the annual increase of wage rate and the effect on the project costs is very difficult to predict. Presently a contractor in preparing a bid will account for the possibility of an increase in wage rates. Under the proposed bill the State would assume that risk so theoretically the state should receive lower bids but will require an adjustment at the end of the contract. The adjustment, for estimating purposes only, is assumed to be 50% of the increase (3.6%) that state employee received this is year.

Annual adjustment (costs)

$$\$228,687,005 \times 40\% \times (50\% \times 3.6\%) = \$1,647,000$$

- 4) Although there would be some administrative costs they have not been estimate because they would be adsorbed with the normal construction engineer costs. The administrative cost would be those costs in determining the actual increases and making the contract modifications to make the payments to a contractor.
- 5) For construction projects in calendar year 1991 approximately 80% of the amount awarded by the competitive sealed bidding process were for federally assisted projects.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO : HB 528

Revision Date: _____
Title: "An Act requiring adjustment to ... contracts ... when prevalling ... wages increase."
Sponsor: Representative Donley, et al.
Requestor: House Labor & Commerce

Department Affected: Labor
BRU: Labor Standards & Safety
Component: _____
Wage & Hour
COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Randy Carr, Acting Director *Randy Carr* Phone : 269-4900
Division: Labor Standards & Safety Date : 3/3/92
Approved by Commissioner: C.W. Mahlen *C.W. Mahlen*
Agency: Department of Labor Date: 3/3/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 528

Revision Date: _____
Title: An Act relating to adjustment of certain contracts for public construction when wages increase
Sponsor: Donley
Requestor: House Labor & Commerce

Department Affected: Administration
BRU: General Services
Component: Leases

COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: None.

ANALYSIS: (Attach a separate page if necessary.)

This bill would increase the amount owed a contractor if wage rates increased during the construction of a public works. It has no anticipated impact to the leasing program that can be foreseen at this time.

Prepared by: Anne McCord, Director *Anne McCord*
Division: General Services

Phone: 465-2250
Date: February 28, 1992

Approved by Commissioner: Nancy Bear Usara *Nancy Bear Usara*
Agency: Administration

Date: 3/4/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Cfc., & Impacted Agency(ies).

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN
SEAT A

3111 "C" STREET, SUITE 450
ANCHORAGE, ALASKA 99503
(907) 561-7629 (FAX) 562-4376

ALASKA LANDINGS • BENTZEN • BIRCHWOOD • CHESTER CREEK • HEATHER MEADOWS • LINCOLN PARK • MIDTOWN • NORTHSTAR
NORTHWOOD • ROMIG • ROOSEVELT PARK • SPENARD • THOMPSON • TURNAGAIN • WINDEMERE • WOODLAND PARK



MEMORANDUM

CHAIRMAN
JUDICIARY COMMITTEE
VICE CHAIRMAN
REGULATION REVIEW COMMITTEE
MEMBER
RULES COMMITTEE
LABOR AND COMMERCE COMMITTEE

TO: Members of the House Labor and Commerce Committee

FROM: Representative Dave Donley ^B
Chair, House Judiciary Committee

RE: HB 528, an act to require adjustments to certain contracts for public construction when prevailing rates of wages increase

DATE: March 5, 1992

Thank you for hearing HB 528, an act to require adjustments to certain contracts for public construction when prevailing rates of wages increase.

The intent of HB 528 is to promote fairness to contractors on public works projects and help insure that working Alaskans receive the appropriate prevailing wages.

This bill amends contract requirements for public works projects. Specifically, it requires state and political subdivisions to include a provision that the state will increase the amount it owes a contractor upward if the prevailing wage required to be paid to a class of workers on the project increases. This assures payment of the appropriate wage rate in a manner that is fair to employers.

This legislation has the support of both the AFL-CIO and the Associated General Contractors.

Thank you.

DD/jmn





*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: HB 528

APPROVED:

A handwritten signature in black ink, appearing to read "W. K. Gaudin", written over a horizontal line.

TITLE: Public Works Contracts/Wage
Increases

DATE: March 2, 1992

The department opposes this legislation.

The bill as written would make the state and its political subdivisions responsible for increased labor costs when there is an increase in prevailing wage rates. This is a major shift in state policy. Presently a contractor is assigned the risk and responsibility for any increase in the costs of the construction. These increases may be for materials, fuels, transportation and a variety of other items including labor.

The contractors, individually and collectively through their trade associates, have a great influence on the prevailing wage rates. The contractors also determine the productivity of the labor force by setting the crew size, assignment of equipment, and hiring and firing practices. We do not believe it is appropriate to make the state and its political subdivisions responsible for increases in costs, due to an increased wage rate, which the contractors control in part.


For Further Information contact Katy McHugh at 465-3900.



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

March 4, 1992

TO: David Finkelstein, Chair, and Members
House Labor and Commerce Committee

FROM: Scott A. Burgess, Executive Director 

RE: HB 528 - Requiring adjustment to contracts for public construction when
prevailing rates of wage increase

The Alaska Municipal League is opposed to HB 528, which would extend the burden already placed on local government finances by existing provisions of Title 36 on the application of prevailing wage rates to local government construction projects. The League and its members, 118 municipalities of all sizes around the state, support "amendments to Title 36, the Public Contracts Code, to permit local governments to establish their own notice, reporting, local hire, and prevailing wage requirements and methods for local construction" (1992 Policy Statement, VI.A.8). They do not support any legislation that would put further restrictions on their local autonomy.

The League also "opposes any legislation that unduly restricts local government operations" and repetitive and unnecessary regulation by state agencies because such regulation can result in increased costs to the public (1992 Alaska Municipal League Policy Statement, VI.A.1). The imposition of prevailing wage rates for local government construction projects unnecessarily increases the costs of doing business for Alaska's municipalities, and the provisions of HB 528 would intensify the existing burden placed on municipalities by the provisions of AS 36.

The prevailing wage rates established by the Department of Labor do not adequately reflect prevailing wage rates in the communities. When local governments are forced to pay these (generally higher) wage rates, projects end up costing significantly more than they would have if local wage rates had been applied, as the success of municipal "force account" projects has shown. Requiring urban-based prevailing wages is often a deterrent to local hire.

Local governments are not against paying fair wages, but the wages and reporting requirements should be set by local ordinance and wages agreed to in a contract should hold throughout the course of the project. Requiring an increase in the amount paid to the contractor because the Department of Labor has determined that the prevailing wage in some other part of the state has changed places an unfair burden on public bodies, which budget carefully and depend on the integrity of contracts.

The League opposes HB 528 and any other efforts by the state to impose unfunded mandates, or restrictions on local autonomy, on Alaska's municipalities.

cc: Representative Dave Donley

C92TEST2:HB528.304

HB

531

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill No. HB 531

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to appearances in BRU: Trial Courts
civil actions... Components: _____
 Sponsor: House Judiciary
 Requestor: _____ COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 03/05/92
 Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System Date: 03/05/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Anchorage
Neighborhood
Housing
Services, Inc.
3700 Woodland Drive
Suite 500
Anchorage, AK 99517
(907) 243-1858
FAX (907) 243-3214



DATE: March 4, 1992
TO: House Labor and Commerce Committee
RE: House Bill 531

BILL PURPOSE

Concerning Nonprofit Representation In Court In Certain Civil Procedures

The purpose of this bill would be to allow nonprofit housing providers the ability to represent themselves in court for Forcible Entry and Detainer (FED) action. Presently, under Alaska Statute, private property owners and property managers may represent themselves in civil action taken for the purposes of forcible entry and detainer under the Alaska Landlord Tenant Law. Corporations are specifically required by statute to be represented by an attorney at all times, regardless of the size of the civil action.

A number of housing providers in the state are nonprofit agencies whose purposes are to provide affordable housing for renters and consequently provide attendant property management services.

Although the task of requiring civil action for eviction purposes is oftentimes unpleasant, it is a necessary fact of property management. Oftentimes, the individual with the most background and knowledge concerning this process is the on-site resident manager. Under Alaska Landlord Tenant Law, an FED action is primarily a proforma matter and the requirement for attorney representation in this action is costly and redundant. This measure will provide a more effective means for civil proceedings in this type of action and provide cost savings to consumers.

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HOUSE COMMITTEE REPORT

(7) Date Referred: February 18, 1992 FURTHER REFERRALS: Judiciary

Date of Committee Action: 3-4-92

The LABOR AND COMMERCE Committee considered: HB 532

CS HOUSE BILL NO. 532

LABELING OF ALASKA ARTS/HANDICRAFTS

"An Act relating to the labeling of reproductions of art and handicrafts made by state residents."

RECOMMENDATIONS:
be replaced with CSHB 532 (L+C) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note Commerce

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<i>Ken ...</i>	✓				
<i>Ken ...</i>	✓				
<i>E. ...</i>	✓				
<i>...</i>	✓				
<i>...</i>	✓				
<i>...</i>	✓				

[Signature]
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 532

Revision Date: 3/3/92

Department Affected: Commerce & Econ. Dev.

Title: An Act relating to the labeling of reproduc-

BRU: Economic Development

tions of arts and handicrafts made by state residents

Component: _____

Sponsor: Representative Hanley

Requestor: Representative Hanley

COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND RESOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS (Attach a separate page if necessary.)

Prepared By: Tina L. D. Long, Rural Development Coordinator Phone: 465-2017

Division: Economic Development Date: 3/3/92

Approved by Commissioner: Glenn A. Olds *[Signature]*

Agency: Department of Commerce & Economic Development Date: 3/3/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).



Representative Mark Hanley

Alaska State Legislature

SPONSOR STATEMENT

CS HB 532 ()

by Representative Mark Hanley

CS HB 532 () - "Relating to the Labeling of reproductions of art and handicrafts made by state residents; and providing for an effective date."

Mr. Chairman, members of the committee, Thank you for giving me the opportunity to testify on House Bill 532. I appreciate Representative Finklestein scheduling a hearing on the bill so promptly.

House Bill 532 is a straight forward bill which will help protect the value and integrity of Alaska made arts and crafts. The bill simply requires that reproductions of Alaskan arts be labeled as such and defines the word "reproduction". Section 2 of the bill provides for an effective date.

It's estimated the native art market brings in as much as \$800 million a year. In Alaska, our growing tourism industry has lead to strong market for native art.

The problem is that not all of this art is the authentic work of Alaskan artists. Currently, reproductions of Alaskan arts and crafts are often produced outside the state by non-Alaskans and sold as original Alaska art. The reproductions de-value and compete unfairly with true original Alaskan arts and crafts.

I would appreciate your support of HB 532. I'll be happy to answer any questions you have.

CSHB 532: "An Act relating to the labeling and reproductions of arts and handicrafts made by state residents."

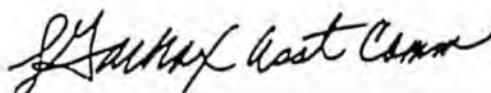
An article dated June 24, 1991, in the Tundra Times entitled "Native Artists Want Fair Dealings" expressed the views of artists and carvers as believing "the counterfeit market is a sizable one." The article's subheading stated: "Native artists want counterfeiting stopped." There have been other informal reports of authentic pieces of arts and handicrafts being reproduced without the artist's permission.

CSHB 532 addresses the problem by requiring reproductions to be clearly labeled by the manufacturers, wholesalers, and/or retailers.

The intent of this legislation is to reduce unauthorized reproductions of pieces of art or handicrafts made by Alaska residents and to ensure consumers know when they are purchasing reproductions rather than authentic originals.

All reproductions, other than those reproduced by the original artist, will have to be clearly labeled prior to wholesale, or retail trade. A penalty of up to one year in jail or \$1,000 fine may be imposed for violations. The legislation is passive in that no active monitoring of compliance is provided. The bill provides a basis for legal action by the original artists or those who believe they have been harmed by the unauthorized duplication of the commercially traded art or handicraft object. Costs of labeling will be borne by the industry.

The Department of Commerce and Economic Development supports CSHB 532.



Glenn A. Olds, Commissioner

Date: 3.2.92



March 2, 1992

Representative Mark Hanley
State Capitol
Juneau, Alaska 99801-1182

Re: House Bill No. 532

Dear Representative Hanley:

Currently you are sponsoring legislation regarding the reproduction of art and/or handicrafts by residents of Alaska. This act would provide protection for many Native and non-Native artists who sell their work at a very low price to a company that then reproduces the work for huge profits - none of course going to the artist(s) involved.

I whole heartedly support your legislation - House Bill No. 532. I believe this would offer a certain amount of protection, but it also raises the level of awareness of the situation. Your concern over Alaskan artists is to be applauded; thank you for your recognition of this great Alaskan resource and your willingness to protect it.

Sincerely,

A handwritten signature in black ink, appearing to read "Maria Williams". The signature is fluid and cursive, written over a light background.

Maria Williams
Native Arts Director

Alaska State Council on the Arts

411 West 4th Avenue, Suite 1E, Anchorage, Alaska 99501-2343 (907) 279-1558 Fax: (907) 279-4330



2 March 1992

Representative Mark Hanley
Alaska State House of Representatives

Dear Rep. Hanley:

I am so pleased to see that Angie Larson's concern has made such progress. The introduction of your House Bill No. 532 to label reproductions and handicrafts has been a shady area for too long. As the manager of the Anchorage Museum Shop I work everyday with Alaska Native artists, and it's time to protect the wonderful work they are creating.

Last week I sent to Michelle Toohey literature from the Canadian government which protects their Inuit artists. This method also serves as an educational tool which gives further credibility to the work. A viewer or collector now has authenticity of a work they admired.

What is happening is that people are reproducing an artist's work and marking it as the real thing. Often putting back on the work the name of the artist who originated the idea. Most reputable businesses gladly mark reproductions, but there seems to be an influx into Alaska of work that appears to be Alaska Native, but is carved often outside by nonNative folks.

Again, I thank you for moving ahead with this legislation and offer any support you need. Travellers to Alaska come to our Shop knowing that we have integrity and I would like to know that wherever they shop they return with the real spirit of Alaska.

Sincerely,

Georgia Blue
Georgia Blue
Shop Manager

Anchorage Museum Shop

121 West Seventh Avenue • Anchorage, AK 99501
(907) ~~264-4326~~

343-6195 FAX 343-6149

St.Lawrence Island Original Ivory
Co-op,Ltd.
P.O.Box 189
Gambell,Alaska 99742-0189
(907)985-5112

Feb.28,1992

The Honorable Mark Hanley
State Capital
Juneau,Alaska 99804-1182

MAR - 2 1992

Dear Mark:

This letter is in regards to HB#532 which you
Have already introduced in the legislation on 2/18/92.

As a manager of the Ivory Co-op in Gambell,I
am in support of your bill HB#532 in order to protect
the art works of the individual native artist and other
artists here in the State of Alaska.

I have with me on hand a reproduction of an
art work that was reproduced in Kenai,Alaska in a form
of Porcelain material. This piece of art work was reproduced
without permission from the original artist and is now
in mass production. This piece was made by local carver.

I Will look forward for your respond in matter
and again thank for introducing this bill, Good-luck.

Sencereely,

Clement Ungott
Clement Ungott (Manager)

St.Lawrence Island Original Ivory
Co-op,Ltd.

cc; Senator Frank Murkowski
Senator Ted Stevens
Senator Al Adams
Rep. Richard Foster

465-2294

Village Crafts
P. O. Box 141191
Anchorage, Alaska 99514-1191
March 2, 1992

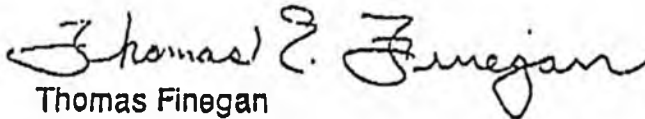
Representative Hanley
Juneau, Alaska

Representative Hanley:

Re: C S H. B. 532

I strongly support C S H B 532. I am in the business of selling Alaska Native made arts and crafts and have been doing so about sixteen years. I am presently concerned with arts and craft items coming into Alaska from Seattle and other areas that duplicate original art work that is produced by Alaskan artists.

Sincerely,



Thomas Finegan
Owner, Village Crafts

Alaskan Treasures

1013 E. Dimond, Ste. 514

Anchorage, AK 99515

(907) 248-2323

March 1, 1992

Ms. Michele Toohey
c/o Rep. Mark Hanley
The State Capitol
Juneau, AK 99801-1182
(907) 465-4939

Dear Michele:

Enclosed is an original and a copy. Note the copy even has the original artist's name (copy is the small owl, original is the large owl).

When purchasing this copy I pretended it was a gift and I needed to know a little about the artist. The sales clerk said it was done by an Eskimo from Alaska that had visited Seattle and carved for her gallery. Note that she didn't spell his name correctly on the paper.

I spoke to Mr. Tom Antagham, Gambell AK, telephone 985-5612, and he verified that he did not carve for these people and hadn't been in Seattle since about 1971. He will testify if you need him.

I would appreciate if you could return these items and documents when you are through with them. Again I thank you for all your help.

Sincerely,

Angie

Angie Larson
Alaskan Treasures

Alaskan Treasures

1013 E. Dimond, Ste. 614
Anchorage, AK 99515

(907) 248-2323
March 2, 1992

Representative Mark Hanley
The State Capitol
Juneau, AK. 99801-1182

Dear Sir:

The purpose of this letter is to let you know we support HB532. We have been Alaskan Native Art Brokers for 13 years and during that time we have witnessed many reproductions being made for resale. In many cases the imitations even carried the name of the original artist. Materials used for these reproductions were the same as the originals or something that looked very similar. Unless the customer was specially trained, it would be easily mistaken for the authentic.

Thousands of dollars are made each year from these reproductions and many are imported from other states and even foreign countries. The business for illegitimate works of art are so lucrative that there is now small factories to meet the demands.

Alaskans need to preserve their integrity, show we appreciate and value our true artisans and certainly not deceive our tourists (From Oct. 90 - Sept. 91, we had 907,000 visitors.).

Plagiarism in other forms is illegal, this kind of piracy is no different! Please let Alaskan Artisans know you care by protecting their rights.

Sincerely,



Fred and Angie Larson
Alaskan Treasures

3/1/92

Rep. Mark Hanley
Juneau, AK. 99801

Dear Mr. Hanley,

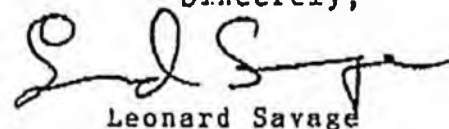
My name is Leonard Savage, I am an artist born and raised in Alaska. I have been in the ivory carving business for seventeen years. My work is sold throughout the U.S. and Alaska.

For many years I have been aware of ivory carvings and other artworks that were manufactured out of our state and being sold in Alaska as "presumed" Alaskan made items. There have been duplications of my artwork and I believe of other persons work also. Some do not have signatures or have fictitious names of non-existent persons.

While I believe in the free enterprize system this type of business practice is very wrong and it should be stopped. The people that visit our state each year need our protection, we must also protect the craftspeople that live and work in Alaska.

I believe that every imported piece of artwork coming into the state should be labeled somehow to show its place of origin. The tourists come to Alaska and look for souvineers that are made by Alaskan artists and they should be able to make an honest choice.

Thank you,
Sincerely,



Leonard Savage

415 2 St

Anchorage AK 99501

NATIVE VILLAGE OF GAMBELL
P.O. BOX 99
GAMBELL, ALASKA 99742-0099
(907) 985-5346 FAX: 985-5014

March 2, 1992

Representative Mark Hanley
State Legislature
Juneau, Alaska 99801

Dear Representative Hanley;

The Native Village of Gambell, IRA Council is in support of the House Bill No. 532 - Sale of Reproductions, which you introduced in February of this year.

Many of the residents of Gambell are solely dependent on handicrafts, and the mass reproduction that is occurring is hurting mostly our ivory and bone carvers.

Therefore, we support House Bill 532, and have all reproduction of handicrafts made by state residents labeled as such. Thank you

Sincerely,

Gerard Koonooka, President



cc: Representative Richard Foster
Senator Al Adams

Transcription of Alaska Public Radio Story on the problem of reproductions of Alaska Native Art: Thursday, October 17, 1991

Native Art Fraud... How wide-spread is it and what can be done to stop it?

Coming up next on Alaska News Nightly, Native Art Fraud, Counterfeit Native Alaska Art, it's a problem sometimes hard to detect and often hard to combat.

It's estimated that the arts and crafts of Native Americans bring in as much as \$800 million dollars a year in this country. Here in Alaska a growing tourism industry has led to a strong market for native art, but how much of it is really native? And how can consumers be sure what they're buying isn't a counterfeit knock-off? Doreen Ransom reports on the problems involved with spotting and fighting native art fraud.

There's a story that's been circulating among dealers of Alaska Native Carvings for the past few years. They say an Asian man and his associate came to the Anchorage area and bought a number of pieces of native carvings. That was taken to Seattle where it's reproduced in a factory. No one knew quite where this so-called factory was, but the work of ivory carver Eddie Stingoff (?) pointed the way.

Anchorage trader Tom Finnegan saw what appeared to be a copy of the work of Inupiat ivory carver, Eugene Tialana, in the display window of the Denali National Park Hotel. He also saw a piece like Tialana's in the Alaska Ivory Exchange in Anchorage. The artist has signed the name Eddie Stingoff, the shop owner acknowledged the piece was by a non-native.

Finnegan didn't know the piece was the work of the Seattle shop where he'd also seen a soapstone carving by a so-called Junior Snooklow of St. Lawrence Island (?). Finnegan says on two occasions at that shop named, Northwest Tribal Art, he was handed a sheet of paper describing the artist. "And I just said you know this is fraudulent, I said I know everybody on St. Lawrence Island, there's no such person there, and it was almost like he would have taken back the sheet, except I withdrew it and put it into my pocket." Finnegan's experiences represent just a few of the wide-spread abuses that are siphoning off the potential earnings of legitimate native artists and duping art collectors. The Snooklow work made its way as far as a well-respected East Coast Gallery where the manager found out to her chagrin that there is no soapstone and there are no soapstone carvers on St. Lawrence Island. With fewer than a thousand people on the island, it seemed obvious to several of those interviewed including Yupik Ivory Carver, Jr. Slokow, that it was Slokow's name that was being exploited.

The Vietnamese owner of the Seattle shop, Knock Lee, declined to take interviews. He did admit, however that the works of Eddie

Singah are created by himself and a team of non-native artists. Lee says he sees nothing wrong with what he's doing, "Does it have to be tribal people to be tribal art, he asks." As for the works of the so-called Jr. Snooklow, Lee says he doesn't know who did them and he doesn't carry the works any more. Jr. Slowkow says he regrets that someone's been treading on his name, particularly because it hurts customers and Eugene Tialana is willing to describe how his work might be distinguished from copies, but nobody is eager to take any action.

Athabascan artist, Leonard Savage might have taken action, but the said his proof slipped away. Savage said he saw a small ivory wolf, which he initially took to be his own work last winter in the Alaska Fur Exchange in Anchorage. "I saw one of my ivory wolves made out of fossil ivory, and I don't carve fossil ivory, I took a closer look at it and it was exactly the same as the one I make, but it wasn't mine, I questioned the people about it and they said they had bought it from some people out of Seattle and they wouldn't tell me who it was.

Today the Anchorage shop still carries Savage's work, but about a 10th of what they did before he saw the apparent copy. Savage said local dealers have told him and other dealers that they can buy soapstone pieces cheaper outside.

When those works are designed by non-natives and sold as such they aren't breaking any law, but what about counterfeiting and fraud. Savage said to take any action, the artist would have to have concrete evidence, and he said the apparent copy of his work wasn't there when he went back.

He says too that many artists have become apathetic about the wide-spread abuses. " People don't really seem to be interested to be interested in it. I guess it's been going on for such a long time that they don't see that there's anything wrong with it. More importantly many artists feel that making a shop-owner made is more of an economic risk than competing with copiers. "Well a lot of people are afraid, because we deal with the shops and if the shops get angry with us than they won't buy anymore and so it's better not to say anything." There are laws and other controls intended to stop native art fraud, and on occasion they work, federal fish and wildlife agent, Wally Saroka in Anchorage, says Seattle shop owner Knock Lee was convicted of violating the marine mammals protection act, with possession of raw ivory by a non-native, and paid a substantial fine while on probation. Saroka says federal agents also busted an in-state gang of counterfeiters in recent years. There was a trail off of Muldoon and there were a number of, it was basically a mobile carving shop that they were carving raw walrus ivory, there were no native carvers in there, but they had rolls of the Alaska Native-made stickers and they were slapping them on the finished products even though they were made by non-natives.

It's against state law for non-natives to use the silver hand

emblem, the sticker Saroka mentioned on their art work. Tina Long with the state Division of Economic Development coordinates the silver hand program. She says the Department of Commerce has access to investigators and attorneys to prosecute if people would only report abuses.

"I don't think that many people have turned in other people." Saroka says fish and wildlife is also eager to investigate fraud cases and ask people to contact them if they know of any violations.

A 1990 Amendment beefing up the Federal Indian Arts and Crafts Act would enable all American Indian Tribes to register their trade-marks. Under that law, any misrepresentation is subject to stiff civil and criminal penalties. But officials say it may be 18 months or more before the machinery is set up to enforce the law. Whether it's the silver hand or a tribal trade-mark, these protections for the artist and the consumers are unlikely to work unless both groups insist upon their use and report any fraud. That calls for more public education and state and federal officials say that's also in their plans. For APRN in Anchorage, I'm Doreen Ransom.

Genuine Alaska Native Arts and Crafts can be seen at the AFN Convention in Anchorage this week, it's the largest congregation of native artists of the year and we asked Phillip Matrecardy to ask some of them what their reaction is to counterfeit native art. He reports that some of them are calling for tougher enforcement of existing federal laws and a real effort by the state to get involved.

Tahita Arts and Cultural group has one of the widest selections of goods for sale at the AFN Convention this year. Chuck Palmer says Tahita sells only authentic native handicrafts. Palmer points out the Silver Hand symbol has had some limited success in helping shoppers identify authentic Alaska Native hand work and in deterring counterfeiters. "They try to copy it and steal different ideas from other people...?" When he heard counterfeiters had been using the silver hand to defraud customers, Palmer concluded more law enforcement is needed. The problem is enforcing it, you can have all the laws you want, but unless you have someone there to enforce the law, it doesn't do no good. So, we just have to get more investigators there checking out and try to arrest these people that are counterfeiting Alaskan native handicrafts. Palmer thinks the Federal Government's efforts to regulate the ivory trade may be sufficient. The state could be more to stop counterfeiting in his opinion, but he doubts it will. "The Federal Government has some control over, but the state of Alaska, there's a lot more people up here and they could do a lot better job of enforcing it if they'd put forth the effort, I can't see the state of Alaska putting forth the effort right now, not with Wally

Hickel in there. Charlotte Doffett originally from Fort Yukon, who now lives in Wasilla does bead work, combined with seal fur and moose skin, lynx and bear claws, and walrus teeth. She says Asian imitation tourist goods have hurt Alaska Native Artists in recent past. "They did a lot of damage, from Hong Kong and all this stuff, they already did a lot of damage to native people and Eskimo people here in Alaska from importing all these different fake stuff and now days you can't even buy ivory because you don't know whether you're buying plastic.

Another bead worker, Salina Alexander from Fort Yukon thinks most counterfeit work could be detected by discerning buyers. To me it's offensive when I see it because they copy, but if you look at it close, you can tell the quality isn't the same, a lot of it is machine-made and you could easily see the thread or something like that. A lot of people do get fooled and that's too bad ya know, I think it, maybe it does cut into our business, but I don't see it personally right now.

Most other artists at the AFN Convention either had not heard about counterfeiting or did not think it affected them personally. Those who had an opinion felt like the people of Tahita that existing laws could handle the problem if there was more law enforcement.

I'm Phillip Matricardi.

Transcription from National Native News, Gary Fife (?)

This is National Native News, I'm Gary Fife, Native Art means big bucks these days, it's estimated that the native art market brings in as much as 800-million dollars a year, but studies indicate that as much as 1/5 of that is being siphoned off by imported imitations.

There's no shortage of domestic counterfeiters either. As Doreen Manson reports from Anchorage, Alaska some dealers find the profit margin is fatter when they cut the natives out of native arts.

There's more money than ever before to be made from the arts and crafts of native Americans Ann Millalowmakema of the Hopi arts and crafts coop in Second Mesa, Arizona says that means temptation. "It's really popular and everybody wants to get a bit of that pie, so people are really making a lot of fake stuff to get into this market. That counterfeiting can involve the illegal use of materials restricted to natives. It can also involve mass-producing someone else's artistic idea. The deception cheats both native artists and art buyers. It also infuriates those in the business of marketing the art. Dealers often note who the major counterfeiters are but they're reluctant to talk for fear of legal action and damage to their reputations. One dealer who didn't want to be identified was willing to tell how she found out some fakes had made their way into her old and well respected east coast

gallery. She says a trader came in who was familiar with the work of native carvers on St. Lawrence Island in the Bering Sea off the Coast of Alaska. The man was puzzled by the name he saw on a sculpture alleged to be from the island, "and he said the spelling of Jr. Slooknow's name was incorrect, and also he'd never seen Jr. working in soap-stone before, he'd only worked in ivory. A little research convinced them both that Jr. Snooklow was an invention patterned after Jr. Sloko, the St. Lawrence ivory carver. The dealer who had brought the work in subsequently denied any fraud but offered no proof of authenticity.

The gallery manager returned all his pieces to him and refuses to do business with him again. It's hard to believe the similarity in these artists names is coincidental, there are fewer than a thousand people on the island. The artists there are well known to visiting traders and to each other. Besides says Yupik carver Jr. Sloko, there's no soapstone and no soapstone carver on St. Lawrence Island. Sloko says he thinks it's a shame that art buyers are being deceived. "I'm sorry for the customers mostly that they're getting ripped off." Alaska ivory trader Tom Finnegan was also angered by the work of so-called Jr. Snooklow. He spotted it last year in a Seattle shop, Northwest tribal art owned by a Vietnamese named Knock Lee, in that shop and in two other shops in Alaska, Finnegan says he also saw a small ivory mask he took to be the work of Inupiat carver Eugene Tialana of Anchorage, but Finnegan says even before he saw the name on the mask, he realized they weren't authentic.

"When you get up close there's two things that separate it. For one thing the work is not as good, another thing instead of using little ivory rods to attach these masks to the baleen post, they use what appears to be brass. The carvers name was Eddie Singhok, and it's no wonder that he didn't use ivory as Tialana does, Singhok is really the shop owner Knock Lee. U.S. Fish and Wildlife officials say he was convicted in 1987 for possession of raw ivory by a non-native. Lee wouldn't agree to a taped interview, but when asked how the large amount of Eddie Singhok work seen in his shop could possibly be produced by one artist, he admitted it was the work of a team. That team rarely includes natives says Lee because they don't stay long. Lee says he can't get enough native art to feel his shop. He says he understands tribal art and sees nothing wrong with what he's doing. Does it have to be tribal people to be tribal art he asks? The misrepresentation of work as being Indian produced is against federal law, but regulations to implement the 1990 law have yet to be published. In the meantime, legitimate dealers recommend that buyers ask the seller to write the name of the artist and the tribe on the sales slip. Some who love native art may also develop the kind of instinct that serves Alaska trader Tom Finnegan. In his opinion the fakes all have one thing in common. Every piece that I've seen, they are not as good as the originals. I think probably because it lacks what you would call the spirit.

For National Native News in Anchorage, Alaska, I'm Doreen Ransom.

H B

5 3 6

(7)
Date Referred: March 18, 1992

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Finance

Date of Committee Action: 4/16/92

The LABOR AND COMMERCE Committee considered:

SSHB 536

SPONSOR SUB. FOR HOUSE BILL NO. 536 LOANS: BUSINESS/INDUSTRIAL DEVELOP CORPS

"An Act relating to business and industrial development corporations; and providing for an effective date."

RECOMMENDATIONS: be replaced with CSHB 536 (L+C) [] the same title [] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

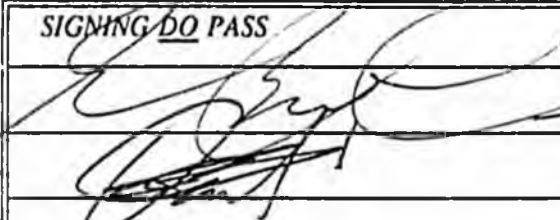
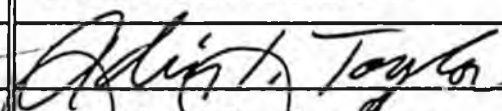

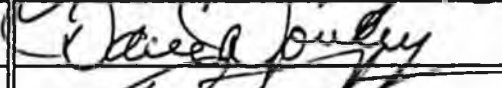
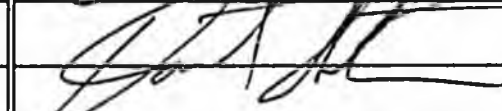
APPROVES PREVIOUS: _____ (Dept/Date)

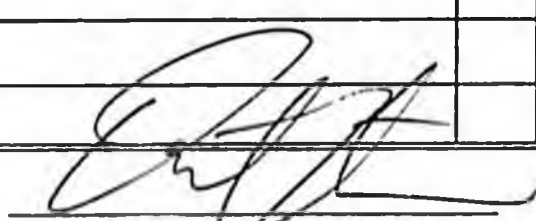
[] fiscal impact _____

[] fiscal note(s) _____

zero fiscal note DCED

[] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
				X	
				X	
				X	


CHAIRMAN'S SIGNATURE

ALASKA STATE LEGISLATURE

Office of Majority Whip

3111 C STREET, SUITE 508
ANCHORAGE AK 99503
(907) 581-2039

PO BOX V
JUNEAU AK 99811
(907) 465-3875/4894



VICE CHAIR
HEALTH, EDUCATION
& SOCIAL SERVICES

COMMUNITY AND
REGIONAL AFFAIRS
INTERNATIONAL TRADE
AND TOURISM

CHAIR
CHILDREN'S CAUCUS

REPRESENTATIVE BETTYE DAVIS
DISTRICT 14 SEAT B • EAST ANCHORAGE • MULDOON

M E M O R A N D U M

TO: REPRESENTATIVE DAVID FINKELSTEIN
FROM: REPRESENTATIVE BETTYE DAVIS *BD*
RE: HB 536 - BUSINESS AND INDUSTRIAL DEVELOPMENT
CORPORATIONS (BIDCO)
DATE: MARCH 4, 1992

I respectfully request that HB 536, a bill "to promote economic development by providing for the licensing and regulation of business and industrial development corporations," be scheduled for hearing before the House Labor & Commerce Committee, at your earliest convenience. I have attached, for your review, a copy of HB 536 and a sectional summary.

Your prompt response is appreciated. If you have any questions, please feel free to contact me, or Caren Robinson of my staff, at X3875.



7-LS1804J
Bannister
4/15/92

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 536 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE B.DAVIS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to certain business development corporations; and providing for an
2 effective date."

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

4 * Section 1. AS 10 is amended by adding a new chapter to read:

5 CHAPTER 13. BIDCOS.

6 ARTICLE 1. PURPOSES AND LICENSING.

7 Sec. 10.13.010. PURPOSES. The purposes of this chapter are to

8 (1) promote economic development by encouraging the formation of BIDCOS to
9 help meet the financing assistance and management assistance needs of businesses in the state;

10 (2) establish a system of licensing, regulation, and enforcement to enable a
11 BIDCO to satisfy the eligibility requirements for participating in programs that further the
12 purposes of the BIDCO;

13 (3) encourage capital sources to invest in and lend money to BIDCOS by
14 providing for BIDCOS a system of licensing, regulation, and enforcement designed to prevent

1 fraud, conflict of interest, and mismanagement, and to promote competent management, accurate
2 record keeping, and appropriate communication with shareholders;

3 (4) safeguard the general reputation of BIDCOS in order to increase the
4 confidence of prospective equity investors in and prospective debt sources for BIDCOS.

5 Sec. 10.13.020. QUALIFICATIONS FOR BIDCO LICENSE. The department shall issue
6 a license to operate as a BIDCO to a corporation that is incorporated under AS 10.06, or that has
7 been issued a certificate of authority under AS 10.06 to transact business in the state, and that
8 submits an application to the department, if the department determines that

9 (1) the applicant has the net worth required under AS 10.13.040;

10 (2) the directors, officers, and controlling persons of the applicant satisfy the
11 criteria under AS 10.13.050;

12 (3) it is reasonable to believe that the corporation will comply with this chapter;

13 (4) the applicant has a reasonable promise of being a viable, ongoing BIDCO
14 satisfying the basic objectives of the corporation's business plans, and achieving long-term
15 financial success.

16 Sec. 10.13.030. APPLICATION PROCEDURE. When applying for a license, an
17 applicant shall provide the information in the form required by the department. The information
18 must include information on the directors, officers, and controlling persons of the applicant, the
19 applicant's business plan, including at least 10 years of detailed financial projections and other
20 relevant information, and additional information considered relevant by the department.

21 Sec. 10.13.040. REQUISITE NET WORTH. (a) In order to receive a license, an
22 applicant must demonstrate to the satisfaction of the department that the applicant has raised
23 sufficient capital so that

24 (1) the net worth of the BIDCO is expected to be adequate, in the context of its
25 business plan, to support the BIDCO's management team and to achieve an appropriate spreading
26 of the risk involved in the BIDCO's providing of financing assistance; and

27 (2) the BIDCO has a reasonable promise of being a viable, ongoing BIDCO,
28 satisfying the basic objectives of its business plan and achieving long-term financial success.

29 (b) Unless the BIDCO receives a loan under AS 37.17.200 - 37.17.390, the department
30 may not establish a minimum net worth for a BIDCO under this section of less than \$1,500,000.
31 If the BIDCO, as part of its initial capitalization, receives a loan under AS 37.17.200 - 37.17.390,

1 the minimum net worth of the BIDCO may be \$500,000, excluding organization costs paid for
2 or owed by the BIDCO.

3 Sec. 10.13.050. CRITERIA FOR DIRECTORS, OFFICERS, AND CONTROLLING
4 PERSONS. (a) A license may only be issued if the department determines that each director,
5 officer, and controlling person of the applicant is

6 (1) of good character and sound financial standing;

7 (2) competent to perform the director's or officer's functions for the applicant;

8 and

9 (3) when considered collectively with the other directors, officers, and controlling
10 persons, adequate to manage the business of the applicant as a BIDCO.

11 (b) The department may determine that a director, officer, or controlling person of an
12 applicant is not of good character. Bases the department may use to make that determination
13 include proof that the director, officer, or controlling person, or a director or officer of a
14 controlling person has

15 (1) had an administrative sanction imposed under 31 U.S.C. 3801 - 3812 (Program
16 Fraud Civil Remedies Act of 1986) for an offense under 15 U.S.C. 645; or

17 (2) been convicted of a crime involving fraud or dishonesty, including a
18 conviction for an offense under 15 U.S.C. 645; in this paragraph, "conviction" includes a
19 conviction based on a guilty plea or plea of nolo contendere.

20 Sec. 10.13.060. DETERMINATION OF FUTURE NONCOMPLIANCE. The department
21 may determine that it is not reasonable to believe that an applicant would comply with this
22 chapter if licensed. Bases the department may use to make that determination include proof that
23 the applicant has been convicted of a crime involving fraud or dishonesty, including a conviction
24 based on a guilty plea or plea of nolo contendere.

25 Sec. 10.13.070. DENIAL OF APPLICATION. If the department denies a license the
26 department shall provide the applicant with a written statement explaining the reasons for the
27 denial.

28 Sec. 10.13.080. DISPLAY OF LICENSE. A licensee shall post the license in a
29 conspicuous place in the licensee's principal office.

30 Sec. 10.13.090. TRANSFER OR ASSIGNMENT OF LICENSE PROHIBITED. A
31 licensee may not transfer or assign its license.

1 Sec. 10.13.100. SURRENDER OF LICENSE. (a) Upon approval by a two-thirds vote
2 of its board of directors and after complying with (b) and (c) of this section, a licensee may apply
3 to the department to have the department accept the surrender of the licensee's license. If the
4 department determines that the requirements of this section have been satisfied, the department
5 shall approve the application unless the department determines that the purpose of the application
6 is to evade a current or prospective action by the department under AS 10.13.700 - 10.13.830.

7 (b) Not less than 60 days before filing an application under (a) of this section, a licensee
8 shall notify all of its shareholders and creditors of its intention to file the application. Each
9 creditor shall be notified of the right to comment to the department. Each shareholder shall be
10 notified of the right to file with the licensee an objection to the proposed surrender of the license
11 within the 60-day period and shall be advised that, if the shareholder files an objection, the
12 shareholder may also send a copy of the objection to the department.

13 (c) If shareholders representing 20 percent of the outstanding voting securities of the
14 licensee file an objection with the licensee, the licensee may not proceed with the application
15 unless the application is approved by a vote of shareholders representing two-thirds of the
16 outstanding voting securities of the licensee.

17 ARTICLE 2. CORPORATE MATTERS.

18 Sec. 10.13.120. CORPORATE NAME. (a) The corporate name of a licensee must
19 include the word "BIDCO." A licensee may not transact business under a name other than its
20 corporate name.

21 (b) Before being issued a license, a corporation that proposes to apply for a license or
22 that applies for a license may perform, under a name that indicates that the corporation is a
23 corporation licensed under this chapter, the acts necessary to apply for and obtain a license and
24 otherwise prepare to begin business as a licensee. The corporation may not represent that it is
25 a licensee until after the license has been obtained.

26 Sec. 10.13.130. BOARD OF DIRECTORS. (a) The board of directors of a licensee
27 must have at least seven directors.

28 (b) The board of directors shall hold at least one meeting each calendar quarter.

29 Sec. 10.13.140. NOTICE OF OFFICER AND DIRECTOR CHANGES. Within 30 days
30 of each of the following events, the licensee shall notify the department in writing of the event
31 and provide any additional information that the department requires:

- 1 (1) the death, resignation, or removal of a director or officer;
- 2 (2) the election of a director; or
- 3 (3) the appointment of an officer.

4 Sec. 10.13.150. DIVIDENDS. (a) A licensee may not pay or obligate itself to pay a
5 cash dividend or dividend in kind to the licensee's shareholders unless the payment is consistent
6 with a dividend policy that has been adopted by the licensee and approved by the department.

7 (b) When approving dividend policies under this section, the department shall consider
8 the special characteristics of BIDCOS and the diverse range of dividend policies that are
9 potentially appropriate for a BIDCO and that would protect the licensee against unsafe or
10 unsound acts that could threaten the viability of the licensee as an ongoing BIDCO by eroding
11 its capital base.

12 (c) The department may at any time withdraw a previous approval of a dividend policy
13 if the department determines that the withdrawal is necessary to prevent unsafe or unsound acts.

14 Sec. 10.13.160. STOCK BUY-BACK. A licensee may not buy back or obligate itself
15 to buy back a share of equity interest from a shareholder without the prior approval of the
16 department.

17 ARTICLE 3. TRANSACTION OF BUSINESS.

18 Sec. 10.13.170. OFFICES. (a) A licensee shall maintain at least one office in this state.

19 (b) A licensee may not maintain an office outside this state.

20 (c) The location of each office of a licensee shall be reasonably accessible to the public.

21 (d) A licensee shall post in a conspicuous place at each of the licensee's offices a sign
22 that bears the corporate name of the licensee.

23 (e) If a licensee establishes, relocates, or closes an office, the licensee shall give the
24 department written notice within 30 days of the event.

25 Sec. 10.13.180. BUSINESS OF LICENSEE. A licensee may not engage in a business
26 other than providing financing assistance and management assistance to businesses.

27 Sec. 10.13.190. GENERAL POWERS. In addition to the other powers given by this
28 chapter and the powers conferred on the licensee by the laws under which it is incorporated that
29 are not inconsistent with this chapter, a licensee may

30 (1) borrow money and otherwise incur indebtedness for the licensee's purposes,
31 including the issuing of corporate bonds, debentures, notes, and other evidence of indebtedness;

1 a licensee's indebtedness may be secured or unsecured, and may involve equity features,
2 including provisions for conversion to stock and warrants to purchase stock;

3 (2) make contracts;

4 (3) incur and pay necessary and incidental operating expenses;

5 (4) purchase, receive, hold, lease, acquire, sell, convey, mortgage, pledge, or
6 otherwise acquire or dispose of real or personal property, and the rights and privileges that are
7 incidental and appurtenant to the transactions, if the real or personal property is for the licensee's
8 use in operating the licensee's business or if the real or personal property is acquired by the
9 licensee from time to time in satisfaction of debts or the enforcement of obligations;

10 (5) make donations for charitable, educational, research, or similar purposes;

11 (6) provide financing assistance and management assistance to businesses and
12 establish the terms and conditions of the assistance;

13 (7) implement a reasonable and prudent policy for conserving and investing the
14 licensee's money before the money is used to provide financing assistance to business or to pay
15 the expenses of the licensee;

16 (8) exercise the incidental powers that are necessary, convenient, or reasonably
17 related to providing financing assistance and management assistance to businesses.

18 : Sec. 10.13.200. FINANCING ASSISTANCE FORM, TERMS, AND CONDITIONS. A
19 licensee may determine the form, terms, and conditions for the financing assistance that it will
20 provide.

21 Sec. 10.13.210. FINANCING ASSISTANCE ALLOWED. The financing assistance that
22 a licensee may provide includes

23 (1) loans;

24 (2) purchase of debt instruments;

25 (3) straight equity investments including the purchase of common stock or
26 preferred stock;

27 (4) debt with equity features including warrants to purchase stock, convertible
28 debentures, or receipt of a percent of net income or sales;

29 (5) royalty-based financing;

30 (6) debt guarantees;

31 (7) property leasing.

1 Sec. 10.13.220. PARTICIPATION IN GOVERNMENTAL PROGRAMS. (a) A licensee
2 may participate in a federal, state, or local government program for which the licensee is eligible
3 and that has as the program's function the provision or facilitation of financing assistance or
4 management assistance to businesses.

5 (b) If a licensee participates in a program referred to in (a) of this section, the licensee
6 shall comply with the requirements of the program.

7 Sec. 10.13.230. SCOPE OF MANAGEMENT ASSISTANCE. When providing
8 management assistance, a licensee may provide management advice, management services,
9 technical advice, and technical services.

10 Sec. 10.13.240. LIMITATION TO PURPOSES OF BUSINESS. Financing assistance
11 and management assistance provided by a licensee to a business may only be for the business
12 purposes of the business.

13 Sec. 10.13.250. CONTROL OF OTHER BUSINESSES. A licensee may not hold control
14 of another business, except as provided under AS 10.13.260 - 10.13.280. In this section,
15 "licensee" includes the licensee in concert with a director, officer, controlling person, or affiliate
16 of the licensee.

17 Sec. 10.13.260. CONTROL OF ASSISTED BUSINESS. (a) A licensee that has
18 provided financing assistance to a business may acquire and hold control of the business to the
19 extent it becomes necessary to protect the licensee's interest as a creditor of, or investor in, the
20 business.

21 (b) Unless the department approves a longer period, a licensee holding control of a
22 business under this section shall divest itself of the control as soon as practicable, or within five
23 years after acquiring the interest, whichever is sooner.

24 (c) Within 30 days after a licensee exercises its authority to acquire and hold control of
25 a business under this section, the licensee shall notify the department of the action. The
26 notification must include the reasons why it is necessary for the licensee to acquire and hold
27 control of the business and the length of time the licensee anticipates that it may be necessary
28 to hold control of the business.

29 Sec. 10.13.270. CONTROL OF BUSINESS PROVIDING FINANCING ASSISTANCE
30 AND MANAGEMENT ASSISTANCE. With the approval of the department, a licensee may
31 acquire and hold control of another business that is engaged only in the business of providing

1 financing assistance and management assistance to businesses.

2 Sec. 10.13.280. CONTROL OF OTHER BUSINESSES. (a) With the approval of the
3 department, a licensee may acquire and hold control of a business not otherwise allowed under
4 AS 10.13.250 - 10.13.270.

5 (b) The department may not approve an application under (a) of this section unless the
6 department determines that

7 (1) the acquisition and control will not cause the amount of the licensee's
8 investments in businesses covered by this section to exceed 15 percent of the assets of the
9 licensee; and

10 (2) in the department's judgment the approval will promote the purposes of this
11 chapter.

12 (c) An approval under (a) of this section may not be for a period of more than three
13 years, unless the department determines that a longer period is necessary and consistent with the
14 purposes of this chapter.

15 Sec. 10.13.285. "HOLD CONTROL" DEFINED. In AS 10.13.250 - 10.13.280, "hold
16 control" means to directly or indirectly own, of record or beneficially, 50 percent or more of a
17 business's outstanding voting equity interests.

18 Sec. 10.13.290. BUSINESS PRACTICE STANDARD. (a) A licensee shall transact its
19 business in a safe and sound manner and shall maintain itself in a safe and sound condition.

20 (b) In determining whether a licensee is transacting business in a safe and sound manner,
21 the department may not consider the risk of providing financing assistance to a business, unless
22 the department determines that the risk is great enough to demonstrate gross mismanagement
23 when compared with the return that can be realistically expected.

24 (c) Notwithstanding the other provisions of this section, the department may ---

25 (1) if the amount of the financing assistance is unduly large in relation to the total
26 assets or the total shareholder equity of the licensee, determine that a licensee's financing
27 assistance to a single business or group of affiliated businesses violates (a) of this section or
28 constitutes an unsafe or unsound act;

29 (2) require that a licensee maintain a reserve in the amount of anticipated losses;

30 (3) require that a licensee have in effect a written financing assistance policy
31 approved by the licensee's board of directors, including credit evaluation and other matters; the

1 department may not require that a licensee adopt a financing assistance policy that contains
2 standards that prevent the licensee from exercising needed flexibility in evaluating and structuring
3 financing assistance to businesses on an individual basis.

4 Sec. 10.13.300. DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST. A person
5 shall disclose a potential conflict of interest that occurs in a transaction in the financing
6 documents of the transaction or, if the transaction does not involve financing assistance, in
7 another appropriate document, if the person

8 (1) participates in a decision of a licensee relating to the transaction; and

9 (2) knows of a potential conflict of interest involving the transaction.

10 Sec. 10.13.310. POTENTIAL CONFLICTS OF INTEREST DEFINED. (a) In
11 AS 10.13.300, licensee transactions that involve a potential conflict of interest include

12 (1) providing financing assistance to a principal shareholder of the licensee, to a
13 person controlled by a principal shareholder of the licensee, or to a director, officer, partner,
14 relative, controlling person, or affiliate of a principal shareholder of the licensee;

15 (2) providing financing assistance to a business to which one or more of the
16 following provides or plans to provide contemporaneous financing assistance:

17 (A) a principal shareholder of the licensee;

18 (B) a director, officer, partner, relative, controlling person, or affiliate of
19 a principal shareholder of a licensee;

20 (C) an affiliate of a principal shareholder of a licensee; or

21 (D) a person controlled by a principal shareholder of the licensee;

22 (3) providing financing assistance to a business that has or is expected to have
23 a substantial business relationship with another business that has a director, officer, or controlling
24 person who is also

25 (A) a director, officer, or controlling person of the licensee; or

26 (B) the spouse of a director, officer, or controlling person of the licensee;

27 (4) providing financing assistance to a business if the business, or a director,
28 officer, or controlling person of the business contemporaneously has lent or will lend money to
29 an associate of the licensee;

30 (5) providing financing assistance for the purchase of property of an associate or
31 principal shareholder of the licensee;

1 (6) selling or otherwise transferring an asset of the licensee to an associate or
2 principal shareholder of the licensee.

3 (b) In this section, "relative" means a parent, child, sibling, spouse, grandparent,
4 grandchild, nephew, niece, aunt, or uncle, or a relative of the same degree through marriage.

5 Sec. 10.13.320. AUTHORITY OF DEPARTMENT. AS 10.13.310 does not limit the
6 authority of the department to determine that an act involves a conflict of interest and is therefore
7 an unsafe or unsound act.

8 ARTICLE 4. MERGERS AND ACQUISITIONS.

9 Sec. 10.13.400. ACQUIRING CONTROL OF A LICENSEE. Except as otherwise
10 provided under AS 10.13.250 - 10.13.280, a person may not acquire control of a licensee without
11 the prior approval of the department.

12 Sec. 10.13.410. APPLICATION TO ACQUIRE CONTROL. (a) The department shall
13 approve an application to acquire control of a licensee under AS 10.13.400 if the department
14 determines that

15 (1) the applicant and the directors and officers of the applicant are of good
16 character and sound financial standing;

17 (2) it is reasonable to believe that the applicant will comply with this chapter; and

18 (3) the plans, if any, of the applicant to make a major change in the business,
19 corporate structure, or management of the licensee are not detrimental to the safety and soundness
20 of the licensee.

21 (b) If, after notice and a hearing, the department determines that the criteria for approval
22 in (a) of this section have not been satisfied, the department shall deny the application.

23 Sec. 10.13.420. DETERMINATIONS. (a) When the department is reviewing an
24 application under AS 10.13.410, the department may determine that an

25 (1) applicant or a director or officer of an applicant is not of good character if the
26 person has been convicted of a crime involving fraud or dishonesty, including a conviction based
27 on a guilty plea or plea of nolo contendere;

28 (2) applicant's plan to make a major change in the management of a licensee is
29 detrimental to the safety and soundness of the licensee if the plan provides for a person to
30 become a director or officer of the licensee and the person has been convicted of a crime
31 involving fraud or dishonesty, including a conviction based on a guilty plea or plea of nolo

1 contendere.

2 (b) The conditions described in (a) of this section are not the only conditions upon which
3 the department may determine that an applicant or a director or an officer of an applicant is not
4 of good character or that an applicant's plan to make a major change in the management of a
5 licensee is detrimental to the safety and soundness of the licensee.

6 Sec. 10.13.430. MERGER. A licensee may not merge with another corporation unless
7 the merger is approved by the department, and, if the licensee is not the surviving corporation,
8 the surviving corporation is a licensee.

9 Sec. 10.13.440. PURCHASE. A licensee may not purchase all or substantially all of the
10 business of another person unless the purchase is approved by the department.

11 Sec. 10.13.450. SALE. A licensee may not sell all or substantially all of the licensee's
12 business or of the business of an office of the licensee to another person unless the purchaser is
13 a licensee and the sale is approved by the department.

14 Sec. 10.13.460. DEPARTMENT APPROVAL. The department may not approve a
15 merger, purchase, or sale under AS 10.13.430 - 10.13.450 unless the department determines that

16 (1) the merger, purchase, or sale will be safe and sound with respect to the
17 acquiring licensee;

18 (2) upon consummation of the merger, purchase, or sale, it is reasonable to
19 believe that the acquiring licensee will comply with this chapter,

20 (3) the merger, purchase, or sale will not have a major detrimental effect on
21 competition in the providing of financial assistance or management assistance to businesses, or,
22 if there will be a detrimental effect, the merger, purchase, or sale is necessary in the interests of
23 the safety and soundness of a party to the merger, purchase, or sale, or is otherwise, on balance,
24 in the public interest.

25 ARTICLE 5. REGULATION, REPORTING, AND EXAMINATION.

26 Sec. 10.13.470. ADMINISTRATION. The department shall administer this chapter. The
27 department may issue orders and may adopt regulations that, in the opinion of the department,
28 are necessary to execute, enforce, and achieve the purposes of this chapter. Adoption of
29 regulations under this chapter is subject to the AS 44.62 (Administrative Procedure Act).

30 Sec. 10.13.480. CONDITIONS OF ORDER OR LICENSE. When the department issues
31 an order or license under this chapter, the department may impose conditions that the department

1 determines are necessary to carry out the purposes of this chapter.

2 Sec. 10.13.490. DECLARATORY RULINGS. The department may provide to an
3 interested person a declaratory ruling on a provision of this chapter.

4 Sec. 10.13.500. JUDICIAL REVIEW. A final order, decision, license, or other official
5 act of the department under this chapter is subject to judicial review by the superior court under
6 the applicable rules of court.

7 Sec. 10.13.510. INVESTIGATIONS. The department may make public or private
8 investigations inside or outside the state that the department considers necessary to determine
9 whether to approve an application for a license, to determine whether a person has violated or
10 is about to violate this chapter, to aid in the enforcement of this chapter, or to aid in issuing an
11 order or adopting a regulation under this chapter.

12 Sec. 10.13.520. INVESTIGATIVE POWERS. For the purposes of an investigation,
13 examination, or other proceeding under this chapter, the department may administer oaths and
14 affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require
15 the production of books, papers, correspondence, memoranda, agreements, and other documents
16 or records that the department considers relevant or material to the proceeding.

17 Sec. 10.13.530. FAILURE TO COMPLY. If a person fails to comply with a subpoena
18 issued by the department under this chapter or to testify with respect to a matter covered by this
19 chapter, the superior court may issue an order requiring the attendance of the person and the
20 giving of testimony or production of evidence.

21 Sec. 10.13.540. SERVICE OF PROCESS. If the department is authorized to make
22 service of process in connection with a noncriminal administrative proceeding under this chapter,
23 the department may make the service by registered or certified mail.

24 Sec. 10.13.550. FEES. A person shall pay the department

25 (1) \$2,500 for filing an application for a license;

26 (2) \$1,250 for filing an application for approval to acquire control of a licensee;

27 (3) \$1,250 for filing an application for approval for a merger, purchase, or sale

28 under AS 10.13.430 - 10.13.460; if two or more applications relating to the same merger,

29 purchase, or sale are filed, the fee for filing each application is the figure resulting from dividing

30 \$1,250 by the number of the applications;

31 (4) \$2,500 each calendar year at the time established by the department, if the

1 person is a licensee;

2 (5) a fee established by the department for the examination of a licensee or a
3 subsidiary of a licensee; the department shall base the fee on the number of examiner hours used
4 for the examination and the travel expenses involved; the department shall bill examiner time at
5 a rate between \$25 and \$40 an hour; the fee shall be paid within 10 days after receiving a
6 statement from the department.

7 Sec. 10.13.560. FEE PAYMENT AND REFUNDS. A fee for filing an application with
8 the department shall be paid at the time the application is filed with the department and is not
9 refundable.

10 Sec. 10.13.570. RECORD AND REPORT REQUIREMENTS. (a) A licensee shall make
11 and keep books, accounts and other records in the form and manner, at the place, and for the
12 period of time that the department establishes by regulation.

13 (b) A licensee, affiliate of a licensee, and a subsidiary of a licensee shall file with the
14 department the reports that the department requires. A report must be in the form and contain
15 the information that the department requires.

16 (c) The department may require by order that a licensee include an asset on the licensee's
17 books and records at a valuation that represents the current value of the asset.

18 (d) Not later than 90 days after the close of the calendar year, or a longer period if
19 established by the department, a licensee shall file with the department an audit report containing

20 (1) financial statements, including a balance sheet, statement of income or loss,
21 statement of changes in capital accounts, and statement of changes in financial position for, or
22 as of the end of, the calendar year, prepared with an audit by an independent certified public
23 accountant in accordance with generally accepted accounting principles;

24 (2) a report, certificate, or opinion of the independent certified public accountant
25 who performs the audit, stating that the financial statements were prepared in accordance with
26 generally accepted accounting principles; and

27 (3) other information that the department may require.

28 Sec. 10.13.580. RECORDS AND REPORTS KEPT BY OTHERS. (a) If a person other
29 than a licensee makes or keeps all or part of the books, accounts, or other records of the licensee,
30 this chapter applies to the person with respect to the books, accounts, and other records to the
31 same extent as if the person were the licensee.

1 (b) If a person other than an affiliate or subsidiary of a licensee makes or keeps all or
2 part of the books, accounts, or other records of the affiliate or subsidiary, this chapter applies to
3 the person with respect to the books, accounts, and other records to the same extent as if the
4 person were the affiliate or subsidiary.

5 (c) If the department considers it expedient, the department may require a licensee to
6 obtain the approval of the department before permitting another person to make or keep all or
7 part of the books, accounts, or other records of the licensee.

8 Sec. 10.13.590. INFORMATION ON ECONOMIC DEVELOPMENT EFFECT. Each
9 year the department shall publish and provide to the legislature information on the effect of this
10 chapter on promoting economic development in the state. The information must include
11 aggregate statistics on

12 (1) the number and dollar amount of the financing assistance made by licensees
13 to businesses;

14 (2) the number and dollar amount of the financing assistance made by licensees
15 to businesses; the amounts shall be organized into broad categories based on the types of industry
16 involved; the standard industrial classification manual may be used for the categories;

17 (3) the number and dollar amount of the financing assistance made by licensees
18 to minority-owned businesses and to businesses owned by women; and

19 (4) estimates of the number of jobs created or retained.

20 Sec. 10.13.600. EXAMINATION OF LICENSEES AND SUBSIDIARIES. (a) The
21 department may at any time examine a licensee or a subsidiary of a licensee. Licensure under
22 this chapter constitutes implied consent to examination by the department.

23 (b) The department shall examine a licensee at least once during each calendar year.

24 (c) At the department's request the following persons shall provide to the department the
25 books, accounts, and records of a licensee or a licensee's subsidiary and shall otherwise facilitate
26 the department's examination of the licensee to the fullest extent possible:

27 (1) a director, officer, or employee of a licensee being examined by the
28 department;

29 (2) a director, officer, or employee of a subsidiary of a licensee being examined
30 by the department;

31 (3) a person having custody of the books, accounts, or records of a licensee being

1 examined by the department;

2 (4) a person having custody of the books, accounts, or records of a subsidiary of
3 a licensee being examined by the department.

4 (d) The department may retain a certified public accountant, attorney, appraiser, or other
5 person to assist the department in the examination of a licensee or a subsidiary of a licensee if
6 the department determines that the assistance is necessary. Within 10 days after receipt of a
7 statement from the department, the licensee being examined shall pay the fees of a person
8 retained by the department under this subsection.

9 ARTICLE 6. PROHIBITED ACTIVITIES.

10 Sec. 10.13.610. MISREPRESENTATION. (a) Except as otherwise provided in
11 AS 10.13.120, a person transacting business in the state who is not a licensee may not knowingly
12 use a name or title that indicates that the person is a BIDCO or otherwise represent that the
13 person is a BIDCO or a licensee.

14 (b) A licensee may not knowingly misrepresent the meaning or effect of its license.

15 Sec. 10.13.620. INSPECTION OR COPYING REFUSAL. A person having custody of
16 all or part of the books, accounts, or other records of a licensee may not knowingly refuse to
17 allow the department, upon request, to inspect or make copies of the records.

18 Sec. 10.13.630. FINANCING ASSISTANCE TO ASSOCIATES OF LICENSEE. A
19 licensee may not directly or indirectly provide financing assistance to an associate of the licensee.

20 Sec. 10.13.640. FINANCING ASSISTANCE TO DISCHARGE OBLIGATION TO
21 ASSOCIATE OF LICENSEE. A licensee may not directly or indirectly provide financing
22 assistance to discharge, or to free money for use in discharging, part or all of an obligation to
23 an associate of the licensee. This section does not apply to a transaction of an associate of a
24 licensee in the normal course of the associate's business involving a line of credit or financing
25 assistance with a term of not more than five years.

26 Sec. 10.13.650. CONTEMPORANEOUS FINANCING ASSISTANCE. (a) If the terms
27 on which a licensee provides financing assistance to a business are less favorable to the licensee
28 than the terms on which an associate of the licensee provides financing assistance to the business,
29 the licensee may not directly or indirectly provide the assistance to the business within one year
30 before or after the associate provides assistance.

31 (b) If the financing assistance provided by the licensee's associate is of a different kind

1 from the financing assistance provided by the licensee, the burden is on the licensee to prove that
2 the terms on which the licensee provided the financing assistance were at least as favorable to
3 the licensee as the terms on which the associate provided the assistance.

4 (c) This section does not apply

5 (1) if the associate is a controlling person of the licensee and is also the only
6 shareholder of the licensee;

7 (2) if the associate is a subsidiary of the licensee;

8 (3) to a transaction of an associate of a licensee in the normal course of the
9 associate's business involving either a line of credit or financing assistance with a term of not
10 more than five years.

11 Sec. 10.13.660. COMPENSATION OF ASSOCIATE. (a) An associate of a licensee
12 may not directly or indirectly receive from a person to whom the licensee provides financing
13 assistance

14 (1) compensation in connection with the providing of the financing assistance; or

15 (2) other things of value for procuring, influencing, or attempting to procure or
16 influence the licensee's action with respect to providing the financing assistance.

17 (b) This section does not apply to the receipt of fees by an associate of a licensee for
18 bona fide services performed by the associate if

19 (1) the associate, with the consent and knowledge of the person to whom the
20 financing assistance is provided, is designated by the licensee to perform the services;

21 (2) the services are appropriate and necessary under the circumstances;

22 (3) the fees for the services are approved as reasonable by the licensee; and

23 (4) the fees for the services are collected by the licensee, and the licensee pays
24 the associate.

25 Sec. 10.13.670. EXEMPTIONS. (a) If the department finds that the exemption is in the
26 public interest and that the regulation of the person, transaction, or class is not necessary for the
27 purposes of this chapter, the department may exempt a person or transaction or class of persons
28 or transactions from AS 10.13.630 - 10.13.660.

29 (b) The department may make an exemption under (a) of this section by order or
30 regulation. The exemption may be unconditional or upon specified terms and conditions and for
31 specified periods.

1 ARTICLE 7. ENFORCEMENT.

2 Sec. 10.13.700. INJUNCTION AND ENFORCED COMPLIANCE. If, in the opinion
3 of the department, a person has violated this chapter, or if there is reasonable cause to believe
4 that a person is about to violate this chapter, the department may bring an action in superior court
5 to enjoin the violation or to enforce compliance with this chapter. Upon a proper showing, a
6 restraining order, preliminary or permanent injunction, or writ of mandamus shall be granted, and
7 a receiver or a conservator may be appointed for the defendant or the defendant's assets.

8 Sec. 10.13.710. CEASE AND DESIST ORDERS FOR UNLICENSED PERSONS. If
9 the department finds that a person has violated or that there is reasonable cause to believe that
10 the person is about to violate AS 10.13.120(b) or 10.13.610(a), the department may order the
11 person to cease and desist from the violation unless and until the person is issued a license under
12 this chapter.

13 Sec. 10.13.720. CEASE AND DESIST ORDERS FOR VIOLATIONS BY LICENSEES.
14 After notice and a hearing, if the department determines that a licensee or a subject person of a
15 licensee has violated or is violating, or that there is reasonable cause to believe that the licensee
16 or subject person is about to violate this chapter, the department may order the licensee or subject
17 person to cease and desist from the action. The order may require the licensee or subject person
18 to take affirmative action to correct a condition resulting from the action.

19 Sec. 10.13.730. CEASE AND DESIST ORDERS FOR UNSAFE AND UNSOUND
20 ACTS. After notice and a hearing, if the department determines that a licensee or subject person
21 of a licensee has engaged in or that there is a reasonable cause to believe that the licensee or
22 subject person is about to engage in an unsafe or unsound act with respect to the business of the
23 licensee, the department may order the licensee or subject person to cease and desist from the
24 action. The order may require the licensee or subject person to take affirmative action to correct
25 a condition resulting from the action.

26 Sec. 10.13.740. OTHER CEASE AND DESIST ORDERS. If the department determines
27 that a factor set out in AS 10.13.720 - 10.13.730 is true with respect to a licensee or subject
28 person of a licensee and that the action or violation is likely to cause the insolvency or
29 substantial dissipation of the assets or earnings of the licensee, is likely to seriously weaken the
30 condition of the licensee, or is likely to otherwise seriously prejudice the interests of the licensee
31 before the completion of proceedings conducted under AS 10.13.720 - 10.13.730, the department

1 may order the licensee or subject person to cease and desist from the action or violation. The
2 order may require the licensee or subject person to take affirmative action to correct a condition
3 resulting from the action or violation.

4 Sec. 10.13.750. REMOVAL AND SUSPENSION ORDERS IN CASES OF VIOLATION
5 OR BREACH OF DUTY. (a) The department may issue an order removing a subject person
6 of a licensee from office with the licensee and prohibiting the subject person from further
7 participating in any manner in the conduct of the business of the licensee if the department
8 determines after notice and a hearing that

9 (1) the person has violated this chapter or another applicable law, has engaged
10 in an unsafe or unsound act with respect to the business of the licensee, or has engaged in an act
11 that constitutes a breach of the person's fiduciary duty;

12 (2) the act, violation, or breach of fiduciary duty has caused or is likely to cause
13 substantial financial loss or other damage to the licensee, has seriously prejudiced or is likely to
14 seriously prejudice the interest of the licensee, or the person has received financial gain by reason
15 of the act, violation, or breach of fiduciary duty; and

16 (3) the act, violation, or breach of fiduciary duty involves dishonesty on the part
17 of the person, demonstrates the person's gross negligence with respect to the business of the
18 licensee, or demonstrates the person's wilful disregard for the safety and soundness of the
19 licensee.

20 (b) The department may issue an order removing a subject person of the licensee from
21 office with the licensee and prohibiting the subject person from further participating in any
22 manner in the conduct of the business of the licensee, except with the prior consent of the
23 department if, after notice and a hearing, the department determines that, by engaging or
24 participating in an act with respect to a financial or other business institution that resulted in
25 substantial financial loss or other damage, the subject person of a licensee demonstrated

26 (1) dishonesty or a wilful or continuing disregard for the safety and soundness
27 of the financial or other business institution; and

28 (2) unfitness to continue as a subject person of the licensee or to participate in
29 conducting the business of the licensee.

30 (c) The department may immediately issue an order suspending a subject person of a
31 licensee from the person's office, if any, with the licensee and prohibiting the subject person

1 from further participating in any manner in the conduct of the business of the licensee except
2 with the consent of the department, if the department determines that

3 (1) the factors in (a) or (b) of this section are true with respect to the person; and

4 (2) an immediate order is necessary to protect the interests of the licensee or the
5 public.

6 (d) In this section, "office" means, when used with respect to a licensee, the position of
7 director, officer, or employee of the licensee or of a subsidiary of the licensee.

8 Sec. 10.13.760. REMOVAL AND SUSPENSION ORDERS IN CASES OF
9 INDICTMENT OR CONVICTION. (a) If the department determines that a subject person of
10 a licensee has been indicted by a grand jury or has been bound over for trial by a court for a
11 crime involving dishonesty or breach of trust, and that the continuation of the person as a subject
12 person of the licensee may threaten the interests of the licensee or may threaten to impair public
13 confidence in the licensee, the department may issue an order suspending the person from the
14 person's office, if any, with the licensee and prohibiting the person from further participating in
15 any manner in the conduct of the business of the licensee until the person's charge has been
16 disposed of.

17 (b) If the department determines that a subject person or former subject person of a
18 licensee to whom an order was issued under (a) of this section, or another subject person of a
19 licensee, has been convicted of a crime involving dishonesty or breach of trust, and that the
20 continuation or resumption of the person as a subject person of the licensee may threaten the
21 interests of the licensee, the department may issue an order suspending or removing the person
22 from the person's office, if any, with the licensee and prohibiting the person from further
23 participating in any manner in the conduct of the business of the licensee, except with the prior
24 consent of the department.

25 (c) The failure to convict a subject person who is charged with a crime involving
26 dishonesty or breach of trust does not prevent the department from issuing an order to the person
27 under another provision of this chapter.

28 (d) In this section, "office" has the meaning given in AS 10.13.750.

29 Sec. 10.13.770. HEARINGS ON ORDERS. (a) Within 30 days after an order is issued
30 under AS 10.13.710, 10.13.740, 10.13.750(c), or 10.13.760, the licensee or subject person of a
31 licensee to whom the order is directed may file with the department an application for a hearing

1 on the order.

2 (b) If the department fails to begin a hearing within 15 business days after the application
3 is filed or within a longer period to which the licensee or subject person consents, the order shall
4 be considered rescinded.

5 (c) After the hearing, the department shall affirm, modify, or rescind the order.

6 (d) A person to whom an order is issued under this section may apply to the department
7 to modify or rescind the order. The department may not modify or rescind the order unless the
8 department determines that it is in the public interest to do so and that it is reasonable to believe
9 that the person will comply with this chapter.

10 (e) The right of a licensee or subject person to whom an order is issued under
11 AS 10.13.710, 10.13.740, 10.13.750(c), or 10.13.760 to an interlocutory review of the order is
12 not affected by the failure of the licensee or subject person to apply to the department for a
13 hearing on the order issued under this section.

14 Sec. 10.13.780. DISCLOSURE TO SHAREHOLDERS. If the department determines
15 that the results of a department communication or order addressed to the licensee or to a subject
16 person of the licensee should be disclosed to the licensee's shareholders, the department may
17 require the licensee to make the disclosure in the form and manner determined by the department.

18 Sec. 10.13.790. MEETINGS OF DIRECTORS AND SHAREHOLDERS CALLED BY
19 DEPARTMENT. (a) If the department considers it expedient, the department may call a
20 meeting of the board of directors or of the shareholders of a licensee.

21 (b) The department shall send notification of the time, place, and purpose of the meeting
22 not less than five days before the meeting to each director, if a directors' meeting, or to each
23 shareholder, if a shareholders' meeting, either by personal service or by registered or certified
24 mail sent to the person's last known address as shown in the records of the department.

25 (c) The licensee shall pay the notice and meeting expenses for a meeting of shareholders
26 called under (a) of this section.

27 Sec. 10.13.800. ORDERS RESTRICTING ADDITIONAL FINANCING ASSISTANCE.

28 (a) The department may issue an order directing a licensee to refrain from providing additional
29 financing assistance to businesses if, in the opinion of the department, the order is necessary to
30 protect the interests of the licensee or the public, and if, after notice and a hearing, the
31 department determines that

1 (1) the licensee or a controlling person, subsidiary, or affiliate of the licensee has
2 violated this chapter or another applicable law;

3 (2) the licensee is conducting the licensee's business in an unsafe and unsound
4 manner;

5 (3) the licensee is in a condition that makes it unsafe or unsound for the licensee
6 to transact business;

7 (4) the licensee has ceased to transact business as a BIDCO;

8 (5) the licensee is insolvent;

9 (6) the licensee has suspended payment of the licensee's obligations, has made
10 an assignment for the benefit of the licensee's creditors, or has admitted in writing the licensee's
11 inability to pay the licensee's debts as the debts become due;

12 (7) the licensee has applied for an adjudication of bankruptcy, reorganization,
13 arrangement, or other relief under a bankruptcy, reorganization, insolvency, or moratorium law,
14 an involuntary petition in bankruptcy against the person has not been dismissed in 90 days, or
15 a person has applied for the relief under the law against a licensee and the relief has been granted
16 or the licensee has by an affirmative act approved of or consented to the action; or

17 (8) a fact or condition exists that would have been grounds for denying the
18 licensee a license if the fact or condition had existed when the licensee applied for the license.

19 (b) If the department determines that a factor in (a) of this section is true with respect
20 to a licensee and that it is necessary for the protection of the interests of the licensee or the
21 public that the department immediately prevent the licensee from providing additional financing
22 assistance to businesses, the department may issue the order without a hearing.

23 (c) If the department consents, a licensee that has been the subject of an order under (a)
24 or (b) of this section may resume providing financing assistance to businesses under the
25 conditions that the department prescribes.

26 (d) A person to whom an order is issued under (a) or (b) of this section may apply to
27 the department to modify or rescind the order. The department may not grant the application
28 unless the department determines that it is in the interest of the public to do so and that it is
29 reasonable to believe that the person will comply with this chapter.

30 Sec. 10.13.810. TAKING POSSESSION OF LICENSEE. (a) If the department finds
31 that a factor in AS 10.13.800 is true with respect to a licensee and that it is necessary for the

1 protection of the interests of the licensee or of the public, the department may take immediate
2 possession of the property and business of the licensee and appoint a conservator for the licensee.

3 (b) The department may appoint as conservator one of the employees of the division of
4 banking, securities, and corporations of the department or another competent and disinterested
5 person. The division shall be reimbursed out of the assets of the conservatorship for all money
6 expended by the division in connection with the conservatorship. Upon the approval of the
7 department, the expenses of the conservatorship paid for by the division shall be paid out of the
8 assets of the licensee. Payment of the division expenses shall take priority over other payments
9 from the assets and shall be fully paid before a final distribution is made.

10 (c) Under the direction of the department, the conservator shall take possession of the
11 books, records, and assets of the licensee and shall take other action that is necessary to conserve
12 the assets of the licensee or to ensure payment of obligations of the licensee pending further
13 disposition of the licensee's business.

14 (d) At an appropriate time, the department may terminate the conservatorship and permit
15 the licensee to resume the transaction of the licensee's business subject to the terms, conditions,
16 restrictions, and limitations the department prescribes.

17 Sec. 10.13.820. RECEIVERSHIP. (a) The department may apply to the superior court
18 for the appointment of a receiver for a licensee, if the department determines that the licensee
19 should be liquidated because

20 (1) the licensee is insolvent;

21 (2) the licensee has suspended payment of the licensee's obligations, has made
22 an assignment for the benefit of the licensee's creditors, or has admitted in writing the licensee's
23 inability to pay the licensee's debts as the debts become due;

24 (3) the licensee has applied for an adjudication of bankruptcy, reorganization,
25 arrangement, or other relief under a bankruptcy, reorganization, insolvency, or moratorium law;

26 (4) a person has applied for the relief described under (3) of this subsection
27 against a licensee and the licensee has by an affirmative act approved of or consented to the
28 action or the relief has been granted; or

29 (5) the licensee is in a condition that makes it unsafe or unsound for the licensee
30 to transact business.

31 (b) If a receiver is appointed under (a) of this section, the receiver shall liquidate the

1 property and business of the licensee.

2 Sec. 10.13.830. CIVIL PENALTY. (a) If after notice and a hearing the department finds
3 that a person has violated this chapter, the department may order the person to pay to the
4 department a civil penalty in the amount the department specifies. The civil penalty may not
5 exceed \$1,000 for each violation, or in the case of a continuing violation, \$1,000 for each day
6 the violation continues.

7 (b) This section does not apply to an act committed or omitted in good faith in
8 conformity with an order, regulation, declaratory ruling, or written interpretative opinion of the
9 department, even if the order, regulation, declaratory ruling, or written interpretative opinion is
10 later amended, rescinded, or repealed, or determined by judicial or other authority to be invalid.

11 (c) The provisions of (a) of this section are in addition to, and not alternative to, the
12 other provisions of this chapter that authorize the department to issue orders or to take other
13 action on account of a violation of this chapter.

14 ARTICLE 8. GENERAL PROVISIONS.

15 Sec. 10.13.850. CONSTRUCTION OF CHAPTER. This chapter shall be liberally
16 construed to accomplish its purposes.

17 Sec. 10.13.860. APPLICATION OF ADMINISTRATIVE PROCEDURES ACT TO
18 PROCEEDINGS. A proceeding under AS 10.13.830 is subject to AS 44.62 (Administrative
19 Procedure Act). Except as otherwise provided in this chapter, other proceedings and actions
20 under this chapter are exempt from AS 44.62.

21 Sec. 10.13.870. APPEALS. A final order of an administrative proceeding under
22 AS 10.13.710 - 10.13.760, 10.13.800, 10.13.810, or 10.13.830 may be appealed to the superior
23 court.

24 Sec. 10.13.880. PROVISIONS OF LICENSEE'S INCORPORATION. Except as
25 otherwise provided in this section, the provisions of the law under which a licensee is
26 incorporated apply to the licensee. If a provision of the licensee's incorporating law conflicts
27 with a provision of this chapter, this chapter controls.

28 Sec. 10.13.890. ASSOCIATES. (a) In AS 10.13.300 - 10.13.310 and 10.13.630 -
29 10.13.660, a person who is an associate within six months before or after a licensee provides
30 financing assistance shall be considered to be an associate as of the date the licensee provides
31 the assistance.

1 (b) If a licensee, in order to protect the licensee's interests, designates a person to serve
 2 as a director of, officer of, or in a management capacity of a business to which the licensee
 3 provides financial assistance, the person may not, on that account, be considered to be an
 4 associate under AS 10.13.300 - 10.13.310 or 10.13.630 - 10.13.660. This subsection does not
 5 apply if the person has, directly or indirectly, another financial interest in the business or if the
 6 person, at any time before the licensee provides the financing assistance, served as a director of,
 7 officer of, or in another capacity in the management of the business for a period of 30 days or
 8 more.

9 Sec. 10.13.900. OTHER LICENSES. A corporation that is licensed under this chapter
 10 may apply for and be issued a license under another law of the state, federal government, or of
 11 another state in the United States unless the transaction of business by the corporation as a
 12 licensee under the other license would violate this chapter or would be contrary to the purposes
 13 of this chapter.

14 Sec. 10.13.910. EXEMPTION. A licensee is not subject to the other provisions of this
 15 title.

16 Sec. 10.13.990. DEFINITIONS. In this chapter,

17 (1) "affiliate" means, if used with respect to a nonnatural person, a person who
 18 controls the nonnatural person, who is controlled by the nonnatural person, or who is controlled
 19 by a person who also controls the nonnatural person;

20 (2) "associate" means, if used with respect to a licensee,

21 (A) a controlling person, director, or officer of the licensee;

22 (B) a director, officer, or partner of a person referred to in (A) of this
 23 paragraph;

24 (C) a person who controls, is controlled by, or is under common control
 25 with a person referred to in (A) of this paragraph, directly or indirectly through an
 26 intermediary;

27 (D) a close relative of a person referred to in (A) of this paragraph; in this
 28 subparagraph, "close relative" means a parent, child, sibling, or spouse, or a relative of
 29 the same degree through marriage;

30 (E) a person of which a person referred to in (A) - (D) of this paragraph
 31 is a director or officer,

1 (F) a person in which a person referred to in (A) - (D) of this paragraph,
2 or a combination of the persons acting in concert, owns or controls, directly or indirectly,
3 a 20 percent or greater equity interest;

4 (3) "BIDCO" means a corporation that is licensed under this chapter to provide
5 financial and management assistance to businesses;

6 (4) "business" means a person who transacts or proposes to transact business on
7 a regular and continual basis;

8 (5) "control" means, if used with respect to a specific person, the power to direct
9 or cause the direction of, directly or indirectly through an intermediary, the management and
10 policies of the person, through the ownership of voting interests, by contract other than a
11 commercial contract for goods or nonmanagement services, or by other means; a natural person
12 is not considered to control another person solely because the natural person is a director, officer,
13 or employee of the other person; a person is rebuttably presumed to control a corporation if the
14 person directly or indirectly owns of record, holds beneficially with power to vote, or holds
15 proxies with discretionary authority to vote, 20 percent or more of the then outstanding voting
16 securities issued by a corporation;

17 (6) "controlling person" means, if used with respect to a specific person, a person
18 who controls the specific person, directly or indirectly through an intermediary;

19 (7) "corporate name" means the name of a corporation in its articles of
20 incorporation;

21 (8) "department" means the Department of Commerce and Economic
22 Development;

23 (9) "insolvent" means not paying debts in the ordinary course of business, not
24 paying debts as they become due, or liabilities exceeding assets;

25 (10) "interests of the licensee" includes the interests of the shareholders of the
26 licensee;

27 (11) "license" means a license issued under this chapter;

28 (12) "licensee" means a corporation that is licensed under this chapter;

29 (13) "officer" means

30 (A) with respect to a corporation, a person appointed or designated as an
31 officer of the corporation by or under applicable law or the corporation's articles of

1 incorporation or bylaws, or a person who performs with respect to the corporation the
2 functions usually performed by an officer of a corporation;

3 (B) with respect to a specific person other than a natural person or a
4 corporation, a person who performs for the specific person the functions usually
5 performed by an officer of a corporation for a corporation;

6 (14) "order" means an approval, consent, authorization, exemption, denial,
7 prohibition, or requirement applicable to a specific case and issued by the department, including
8 a license condition and an agreement made by a person with the department under this chapter;

9 (15) "person" includes a government and an agency of a government; when used
10 with respect to acquiring control of or controlling a specific person, "person" includes a
11 combination of two or more persons acting in concert;

12 (16) "principal shareholder" means a person who owns, directly or indirectly, of
13 record or beneficially, securities representing 10 percent or more of the outstanding voting
14 securities of a corporation;

15 (17) "subject person" means

16 (A) a controlling person, subsidiary, or affiliate of a licensee;

17 (B) a director, officer, or employee of a licensee or of a controlling
18 person, subsidiary, or affiliate of a licensee;

19 (C) another person who participates in the conduct of the business of a
20 licensee; or

21 (D) if used with respect to a licensee, a company or business of which the
22 licensee holds control under AS 10.13.260 - 10.13.280.

23 Sec. 10.13.995. SHORT TITLE. This chapter may be cited as the Alaska BIDCO Act.

24 * Sec. 2. AS 37.17 is amended by adding new sections to read:

25 ARTICLE 2. BIDCO ASSISTANCE PROGRAM.

26 Sec. 37.17.200. PURPOSES OF BIDCO ASSISTANCE PROGRAM. The purposes of
27 AS 37.17.200 - 37.17.390 include

28 (1) assisting in the formation, capitalization, and operation of BIDCOS that
29 operate as licensed and regulated private financial institutions, with a highly qualified
30 management team and a good business plan, and that are designed to operate in a profit-oriented,
31 market-disciplined manner, with excellent prospects for long-term financial success and viability;

1 (2) promoting economic development by providing a new source of risk capital
2 and management assistance for businesses, especially small and medium sized businesses, in
3 geographic areas throughout the state, including businesses in rural areas and distressed areas,
4 and including minority owned businesses; and

5 (3) using state resources to attract other capital resources.

6 Sec. 37.17.210. BIDCO FUND. The BIDCO fund is established in the Alaska Science
7 and Technology Foundation. The fund consists of appropriations made to the fund by the
8 legislature, money or other assets transferred to the fund by the foundation, and repayments of
9 loans made under AS 37.17.200 - 37.17.390.

10 Sec. 37.17.220. USE OF MONEY IN BIDCO FUND. From the money in the BIDCO
11 fund, the foundation may make loans or grants, as authorized under AS 37.17.220 - 37.17.390,
12 to assist in the formation, capitalization, and operation of corporations that are licensed under
13 AS 10.13.

14 Sec. 37.17.230. BIDCO CAPITALIZATION LOANS. A loan for the initial capitalization
15 of a BIDCO, except for a closing assistance loan under AS 37.17.340, shall be made under the
16 terms and conditions that the foundation determines to be appropriate and that are consistent with
17 AS 37.17.200 - 37.17.390.

18 Sec. 37.17.240. LOAN COMMITMENT CONDITIONS. (a) When issuing a
19 commitment to make a BIDCO capitalization loan, the foundation shall make the loan closing
20 contingent on

21 (1) the BIDCO receiving a license under AS 10.13, which may occur
22 simultaneously with the loan closing;

23 (2) the BIDCO satisfying the capitalization requirements of AS 37.17.250; and

24 (3) other conditions that the foundation may impose.

25 (b) The foundation may not issue a loan commitment under this section unless the
26 foundation determines that the prospective BIDCO satisfies high quality evaluation standards as
27 determined by the foundation. The evaluation standards must include the following findings:

28 (1) the loan is likely to substantially promote the purposes of AS 37.17.200 -
29 37.17.390;

30 (2) the BIDCO's prospective management team is highly qualified to manage the
31 BIDCO;

1 (3) the BIDCO's business plan is a good business plan that, together with the
2 management team, promotes confidence in the prospects for the long-term financial success and
3 viability of the BIDCO; and

4 (4) if the foundation issues a loan commitment to the BIDCO, it is probable that
5 the BIDCO will be able to satisfy the capitalization requirements of AS 37.17.250.

6 Sec. 37.17.250. INITIAL CAPITALIZATION OF BIDCO. (a) The initial capitalization
7 of a BIDCO to which the foundation makes a BIDCO capitalization loan must include

8 (1) at least \$500,000 in equity investment in the BIDCO, in addition to any
9 organization costs paid for or owed by the BIDCO;

10 (2) the BIDCO capitalization loan; and

11 (3) additional capital in an amount required by the foundation and on terms and
12 conditions acceptable to the foundation; the additional capital may be in the form of debt, grants,
13 equity investment in addition to the minimum equity investment requirement of \$500,000 under
14 (1) of this subsection, or a combination of debt, grants, and the equity investment.

15 (b) The minimum equity investment under (a)(1) of this section must be fully received
16 by the BIDCO before or at closing of the BIDCO capitalization loan. The BIDCO capitalization
17 loan shall be fully disbursed to the BIDCO at closing. The additional capital shall also be fully
18 disbursed at closing; however, if the foundation is satisfied that there is a firm commitment for
19 the additional capital, that the source for the additional capital will deliver on the firm
20 commitment, and that the documents evidencing the additional capital have been executed on
21 terms acceptable to the foundation, the additional capital may be disbursed to the BIDCO on a
22 phased-in basis on terms acceptable to the foundation.

23 Sec. 37.17.260. SUBORDINATION OF BIDCO CAPITALIZATION LOAN. A BIDCO
24 capitalization loan may be subordinated to the additional capital required under
25 AS 37.17.250(a)(3).

26 Sec. 37.17.270. BIDCO CAPITALIZATION LOAN PAYMENT AND INTEREST. (a)
27 A BIDCO capitalization loan must be structured so that the full amount of the principal is due
28 in a lump sum at the end of the loan term.

29 (b) Interest on a BIDCO capitalization loan accrues during the loan term and is due at
30 the end of the loan term.

31 Sec. 37.17.280. BIDCO CAPITALIZATION LOAN CREDITS. (a) A BIDCO

1 capitalization loan must include a formula that allows the BIDCO to earn credits to reduce the
 2 interest and principal owed on the loan. The formula shall be based on increasing jobs and sales
 3 in some or all of the businesses financed by the BIDCO and on sustaining the increases. To the
 4 extent the foundation determines appropriate, the foundation may also provide credits in situations
 5 where the foundation is satisfied that financing assistance provided by the BIDCO prevented the
 6 loss of jobs.

Credits
for
job
maintenance
increased
sales?

(b) The foundation shall establish procedures for the certification of credits earned by a BIDCO under this section, including the circumstances under which credits may be denied.

7 Sec. 37.17.290. IMPLEMENTATION OF BIDCO LOAN CAPITALIZATION

8 PROGRAM. (a) The foundation shall implement the program for making BIDCO capitalization
 9 loans under AS 37.17.200 - 37.17.390 in a manner designed to encourage financing assistance
 10 by BIDCOS to businesses throughout the state. Through the use of the formulas designed under
 11 AS 37.17.280, the foundation shall provide special incentives to encourage the financing of
 12 businesses located in distressed areas, including distressed rural areas, and the financing of
 13 minority owned businesses. In this subsection, "minority owned business" means a business that
 14 is owned, controlled, and operated by an individual who is a member of a minority and in which
 15 more than 50 percent of the net profit or loss attributable to the business accrues to a member
 16 of a minority; in this paragraph, "member of a minority" includes a person who is black,
 17 Hispanic, or Alaska Native.

18 (b) When determining under (a) of this section whether an area is distressed or how
 19 distressed an area is, the foundation may use, individually or in combination, factors that include
 20 unemployment, poverty, lack of access to the state highway system, lack of access to a marine
 21 transportation system, and other factors the foundation determines to be appropriate.

22 Sec. 37.17.300. TERMS OF BIDCO CAPITALIZATION LOANS. When determining
 23 the amount or range of amount for a BIDCO capitalization loan, the term to maturity of the loan,
 24 the interest rate for the loan, the additional capital requirements for the loan, and the formula for
 25 earning credits under the loan, the foundation shall consider the following objectives:

26 (1) that the BIDCO will have adequate capitalization to support a highly qualified
 27 management team, to implement a business plan that, when combined with the management team,
 28 will promote confidence in the prospects of the BIDCO for long-term financial success and
 29 viability, and to otherwise promote the purposes of AS 37.17.200 - 37.17.390;
 30
 31

1 (2) that the additional capital requirement is in an amount that encourages the
 2 BIDCO to raise as much capital as feasible from sources other than the BIDCO capitalization
 loan, without unduly hindering the ability of the BIDCO to become operational;

*STP
 Not
 getting
 paid
 back?*

(3) that the formula for earning credits under AS 37.17.280, combined with the
 other terms and conditions of the loan, will be designed so that with a reasonable performance
 by the BIDCO, the BIDCO will be able to earn sufficient credits to reduce the amount of
 principal and interest owed on the loan to zero by or before the end of the loan term; and

(4) that the formula for earning credits under AS 37.17.280, combined with the
 other terms and conditions of the loan, is sufficiently challenging that the special incentives
 provided by the credits allowed under AS 37.17.28C remain in effect for the longest feasible time
 during the loan term as is consistent with meeting the other objectives identified in this section.

10 Sec. 37.17.310. ACCESS TO MEETINGS AND INFORMATION. While a BIDCO
 11 capitalization loan is outstanding and the obligations of the BIDCO to the foundation remain
 12 undischarged, the BIDCO shall allow the foundation to have a representative present at all
 13 meetings of the BIDCO's board of directors and of the BIDCO's shareholders, to receive all
 14 notices and information sent to the board of directors or the shareholders, to have the same access
 15 to information about the BIDCO as the directors have and as the shareholders have, and to
 16 receive additional reports or information from the BIDCO that the foundation reasonably requests.

17 Sec. 37.17.320. BIDCO OPERATION LIMITATION. While a BIDCO capitalization
 18 loan is outstanding and the obligations of the BIDCO to the foundation remain undischarged, the
 19 BIDCO may not provide financing assistance to businesses located outside the state. If a
 20 business assisted by the BIDCO has multi-state or multi-national operations, the location of the
 21 business is where the largest economic benefit of the financing assistance transaction made by
 22 the BIDCO to the business is likely to occur.

23 Sec. 37.17.330. SURRENDER OF BIDCO LICENSE. While a BIDCO capitalization
 24 loan is outstanding and the obligations of the BIDCO to the foundation are not discharged, the
 25 BIDCO may not surrender its license under AS 10.13 without the written consent of the
 26 foundation.

27 Sec. 37.17.340. CLOSING ASSISTANCE. If determined by the foundation to be
 28 advisable, the foundation may use revenue in the BIDCO fund to provide assistance to a person
 29 to complete the tasks necessary for the person to achieve a closing on a BIDCO capitalization
 30
 31

1 loan. The foundation may provide the assistance on the terms and conditions that the foundation
2 determines appropriate.

3 Sec. 37.17.350. CONFIDENTIALITY. In order to promote the purposes of
4 AS 37.17.200 - 37.17.390, the foundation may establish policies under which it will keep
5 confidential certain types of information submitted to the foundation by an applicant for a
6 BIDCO loan or other assistance under AS 37.17.200 - 37.17.390 and by a BIDCO that has
7 received a BIDCO loan or other assistance under AS 37.17.200 - 37.17.390. The information
8 that is determined to be confidential under this section is not a public record under
9 AS 09.25.110 - 09.25.220.

10 Sec. 37.17.360. SUBSEQUENT LOANS. If the foundation determines that a BIDCO,
11 after receiving a BIDCO capitalization loan, has performed well financially and in promoting the
12 purposes of AS 37.17.200 - 37.17.390, and if more than four years have elapsed since the loan
13 was made, the foundation may make an additional loan to the BIDCO, on the terms and
14 conditions that the foundation considers appropriate.

15 Sec. 37.17.390. DEFINITIONS. In AS 37.17.200 - 37.17.390,

16 (1) "additional capital" means the additional capital required under
17 AS 37.17.250(a)(3);

18 (2) "BIDCO" means a corporation licensed under AS 10.13;

19 (3) "BIDCO capitalization loan" means a BIDCO loan made for the initial
20 capitalization of a BIDCO, but does not include a BIDCO loan made under AS 37.17.340;

21 (4) "BIDCO loan" means a loan made under AS 37.17.200 - 37.17.390;

22 (5) "foundation" means the Alaska Science and Technology Foundation
23 established under AS 37.17.010.

24 * Sec. 3. AS 06.05.270(a) is amended to read:

25 (a) In addition to loans and acquisitions expressly authorized by this chapter, a state bank
26 may deal in, underwrite, and invest in for its own account

27 (1) direct or guaranteed obligations of the United States, either directly or in the
28 form of securities of, or other interests in, an open-end management type investment company
29 or investment trust registered under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of
30 1940), if

31 (A) the portfolio of the investment company or investment trust is limited

1 to obligations of the United States government and repurchase agreements fully
2 collateralized by the obligations; and

3 (B) the investment company or investment trust takes delivery of the
4 collateral directly or through an authorized custodian;

5 (2) general obligations of the State of Alaska and its political subdivisions;

6 (3) general obligations of a state of the United States or its political subdivisions;

7 (4) revenue obligations of the State of Alaska or its political subdivisions subject
8 to the limitation of (b) of this section;

9 (5) revenue obligations of a state of the United States or its political subdivisions
10 subject to the limitation of (b) of this section;

11 (6) obligations of instrumentalities of the United States government including, but
12 not limited to Federal Intermediate Credit Banks, Federal Land Banks, the Federal National
13 Mortgage Association, and Banks for Cooperatives;

14 (7) commercial paper of prime or equivalent quality as rated by a recognized
15 national rating service subject to the limitation of (b) of this section;

16 (8) secured corporate obligations rated within the three highest grades of a
17 national rating service subject to the limitation of (b) of this section;

18 (9) obligations of the International Bank for Reconstruction and Development, the
19 Inter-American Development Bank, or the African Development Bank, subject to the limitation
20 of (b) of this section;

21 (10) stock in the Federal National Mortgage Association, a Federal Reserve Bank,
22 or a Federal Home Loan Bank;

23 (11) in the stocks and bonds of a BIDCO licensed under AS 10.13; the
24 investment may be for the initial capitalization of a corporation licensed under AS-10.13,
25 if the finalization of the investment occurs contemporaneously with the licensing.

26 * Sec. 4. AS 06.05.270(b) is amended to read:

27 (b) A state bank may not underwrite or invest for its own account an amount exceeding
28 15 percent of its combined capital, surplus and undivided profits in any one issue of securities
29 authorized in (a)(4) and (5) of this section or with any one obligor of the securities authorized
30 in (a)(7), (8), [AND] (9), and (11) of this section.

31 * Sec. 5. AS 06.15.240 is amended to read:

1 Sec. 06.15.240. INVESTMENTS AUTHORIZED. Subject to the provisions of this
2 chapter and regulations under this chapter, a mutual bank may invest in

3 (1) obligations of the United States and those for which the faith of the United
4 States is pledged to provide for the payment of the interest and principal, obligations for which
5 annual contributions to be paid under [PURSUANT TO] contract by the United States
6 government or any of its instrumentalities in accordance with an Act of Congress entitled the
7 "Housing Act of 1949," are pledged as security for the payment of the interest and principal, and
8 obligations of any agency of the United States;

9 (2) obligations of any state of the United States and those for which the faith of
10 any state of the United States is pledged to provide for the payment of the interest and principal;

11 (3) obligations of a city, village, town, county, department, agency, district,
12 authority, commission or other public body of any state of the United States, subject to the
13 exercise of the same degree of care and prudence that persons prompted by self-interest generally
14 exercise in their own affairs;

15 (4) any property improvement note issued under the provisions of Title I of the
16 National Housing Act and any other real property improvement note in a principal amount not
17 in excess of \$15,000, not including interest;

18 (5) obligations of the Dominion of Canada or provinces of the Dominion of
19 Canada payable in United States funds;

20 (6) in the stocks and bonds of a BIDCO licensed under AS 10.13; the
21 investment may be for the initial capitalization of a corporation licensed under AS 10.13.
22 if the finalization of the investment occurs contemporaneously with the licensing.

23 * Sec. 6. AS 06.25.170 is amended to read:

24 Sec. 06.25.170. PURCHASE AND SALE OF SECURITIES. A trust company may
25 purchase, invest in and sell stocks, bills of exchange, bonds and mortgages and other securities.
26 When money or security for money is borrowed or received on deposit, or for investment, the
27 bonds or obligations of the trust company may be given, but it may not issue bills to circulate
28 as money. In this section, "bonds" and "stocks" include bonds and stocks of a BIDCO
29 licensed under AS 10.13, including stocks for the initial capitalization of a corporation
30 licensed under AS 10.13, if the trust company stock purchase occurs contemporaneously
31 with the licensing.

1 * Sec. 7. AS 06.30.610 is amended to read:

2 Sec. 06.30.610. INVESTMENTS IN SECURITIES. An association may invest in the
3 following securities:

4 (1) obligations of, or guaranteed as to principal and interest by, the United States
5 or this state without limitation;

6 (2) stock of a Federal Home Loan Bank of which it is eligible to be a member
7 and in obligations or consolidated obligations of any Federal Home Loan Bank;

8 (3) stock or obligations of the Federal Savings and Loan Insurance Corporation;

9 (4) stock or obligations of a national mortgage association or its successor;

10 (5) demand, time, or savings deposits with a bank or trust company whose
11 deposits are insured by the Federal Deposit Insurance Corporation;

12 (6) stock or obligations of any corporation or agency of the United States or this
13 state, or in deposits of the corporation or agency [THEREWITH] to the extent that the
14 corporation or agency assists in furthering or facilitating the association's purposes or powers;

15 (7) savings accounts of an association operating under this chapter and of a
16 federal savings and loan association;

17 (8) evidence of indebtedness that is a general obligation of a city, town, village,
18 school district, or other municipal or political subdivision of this state;

19 (9) other stocks, securities, or obligations that the commissioner approves and
20 places on a published list; an association investing in securities listed by the commissioner is not
21 required to dispose of the securities if at a later time the commissioner removes the securities
22 from the list;

23 (10) the stocks and bonds of a BIDCO licensed under AS 10.13; the
24 investment may be for the initial capitalization of a corporation licensed under AS-10.13,
25 if the finalization of the investment occurs contemporaneously with the licensing.

26 * Sec. 8. AS 06.45.060(7) is amended to read:

27 (7) invest its funds

28 (A) in loans exclusively to members;

29 (B) in obligations of the United States or securities fully guaranteed as to
30 principal and interest by the United States;

31 (C) in loans to other credit unions in the total amount not exceeding 25

1 percent of its paid-in and unimpaired capital and surplus in accordance with regulations
2 adopted by the commissioner;

3 (D) in shares or accounts of savings and loan associations or mutual
4 savings banks that are insured by the Federal Savings and Loan Insurance Corporation
5 or the Federal Deposit Insurance Corporation;

6 (E) in obligations issued by banks for cooperatives, federal land banks,
7 federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank
8 Board, or a corporation designated in 31 U.S.C. 9101 as a wholly owned federal
9 government corporation; in obligations, participations, or other instruments of or issued
10 by or fully guaranteed as to principal and interest by the Federal National Mortgage
11 Association or the Government National Mortgage Association; in mortgages, obligations,
12 or other securities that [WHICH] are or have been sold by the Federal Home Loan
13 Mortgage Corporation under 12 U.S.C. 1454 or 12 U.S.C. 1455 (Federal Home Loan
14 Mortgage Corporation Act) [SECS. 305 OR 306 OF THE FEDERAL HOME LOAN
15 MORTGAGE CORPORATION ACT]; or in obligations or other instruments or securities
16 of the Student Loan Marketing Association;

17 (F) in participation certificates evidencing beneficial interests in
18 obligations, or in the right to receive interest and principal collections from obligations,
19 that [WHICH] have been subjected by one or more federal agencies to a trust or trusts
20 for which an executive department, agency, or instrumentality of the United States or its
21 head has been named to act as trustee;

22 (G) in shares or deposits of a central credit union in which such
23 investments are authorized by the board of directors of the credit union making the
24 investment;

25 (H) in shares, share certificates, or share deposits of federally insured
26 credit unions;

27 (I) in the shares, stocks, or obligations of another organization providing
28 services that are associated with the routine operations of credit unions, up to one percent
29 of the total paid-in and unimpaired capital and surplus of the credit union with the
30 approval of the commissioner; [AND]

31 (J) in the capital stock of the National Credit Union Central Liquidity

1 Facility; and

2 (K) in the stocks and bonds of a BIDCO licensed under AS 10.13: the
3 investment may be for the initial capitalization of a corporation licensed under
4 AS 10.13, if the finalization of the investment occurs contemporaneously with the
5 licensing;

6 * Sec. 9. AS 37.17.010(b) is amended to read:

7 (b) The purposes [PURPOSE] of the foundation are [IS] to

8 . (1) promote and enhance through basic and applied research: economic
9 development and technological innovation in Alaska; public health; telecommunications; and
10 sustained growth and development of Alaskan scientific and engineering capabilities;

11 (2) implement the BIDCO assistance program under AS 37.17.200 - 37.17.390.

12 * Sec. 10. This Act takes effect January 1, 1993.

DIVISION OF LEGAL SERVICES

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(907) 465-3867 or 465-2450
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Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

April 15, 1992

SUBJECT: Revised BIDCO provisions in draft CSSSHB 536 () (Work Order No. 7LS-1804J, dated 4-15-92)

TO: Representative Bettye Davis
Attn: Caren

FROM: Theresa L. Bannister *tb*
Legislative Counsel

This memo accompanies the draft CSSSHB 536 () that you requested.

Per your instructions, the definition of "member of a minority" in AS 37.17.290(a) was changed to read "includes" a person who is black, Hispanic, or Alaska Native", rather than "means".

You may wish to review the definition of "BIDCO" at AS 10.13.990(3).

In addition to technical changes and those changes directly necessary to implement the changes that you requested, certain other drafting changes were made. They are listed below.

1. The basic licensing chapter has been placed in the corporations and associations title and is now AS 10.13, not AS 06.50.
2. The language in AS 10.13.120(b) has been rewritten slightly to delete the reference to "business and industrial development corporation."
3. AS 10.13.320, "Authority of Department," now begins with "AS 10.13.310" instead of "This chapter", because AS 10.13.310 appears to be the provision being discussed.
4. The term "state corporation" was deleted from AS 10.13 because it did not appear to be necessary to the bill. Only corporations organized under AS 10.06 or authorized under AS 10.06 to transact business in the state can be licensed under the chapter, and the definition of "state corporation" merely repeated the AS 10.06 organization and authority requirements.

Representative Bettye Davis
April 15, 1992
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You may wish to consider rewriting AS 10.13.410 and 10.13.420 to simplify the requirements for approval of applications to acquire control. You could simply state that the applicant must qualify as a licensee under the chapter, thus eliminating AS 10.13.410(a)(1)-(2), and require the department to make the determination in AS 10.13.410(a)(3). In AS 10.13.420, the requirement in AS 10.13.420(a)(1) could then be deleted, leaving the essential item in AS 10.13.420(a)(2). These changes would reduce the duplication that appears to exist in the sections at the present time.

Finally, as mentioned earlier, the use of the term "BIDCO" does not fit into the legislative drafting style, since it is not used in the bill as an acronym for a description of the particular type of corporation it represents and since it is not a word in the English language. We recommend against using the term under these circumstances. Our preference would be to use the full designation of "business and industrial development corporation." We would then change the heading of AS 10.10 to "State Development Companies."

If I may be of further assistance, please advise.

TLB:lmb
92-085.lmb

DIVISION OF LEGAL SERVICES

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MEMORANDUM

March 9, 1992

SUBJECT: Sectional Summary (CSHB 536 (), 7LS1804\D, dated 3/2/92)

TO: Representative Bettye Davis
Attn: Caren

FROM: Terry Bannister *TB*
Legislative Counsel

You have requested a sectional summary of the above described bill draft.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 adds a new chapter relating to business and industrial development corporations.

Sec. 06.50.010 states the purposes of the bill.

Sec. 06.50.015 directs the department to issue a BIDCO license to corporations that submit an application and have the qualifications listed in the section.

Sec. 06.50.020 directs the department to establish by regulation the information and forms to be used for the BIDCO application. Establishes what information must be included.

Sec. 06.50.030 requires a BIDCO license applicant to demonstrate that it has a net worth of at least \$1,000,000 in certain securities in order to receive a license. Allows the department to lower the net worth requirement in specified situations, including where the applicant has applied for and is likely to receive a loan under AS 44.88.600 - 44.88.690.

Sec. 06.50.040 provides the department with certain guidelines for determining the net worth of an applicant. Allows the net worth requirement to be satisfied by firm

financing commitments that demonstrate that the applicant will have the required net worth when the applicant begins transacting business as a BIDCO licensee.

Sec. 06.50.045 prohibits the assets used by an applicant to fund a BIDCO from exceeding 3% of the assets of the parent corporations, if the applicant is a subsidiary. Allows a higher percentage if the parent is an insurer regulated under AS 21.

Sec. 06.50.050 lists the criteria that the directors, officers, and controlling persons of the BIDCO applicant must satisfy. Authorizes the department to determine that a director, officer, or controlling person does not meet the criterion of good character if certain circumstances exist.

Sec. 06.50.060 authorizes the department to determine that it is not reasonable to believe that a BIDCO applicant would comply with this chapter if licensed, if the applicant has been convicted of a crime involving fraud or dishonesty.

Sec. 06.50.070 allows the department to grant preliminary approval of a license before the applicant has obtained the necessary equity investment commitments or has identified the applicant's directors and officers. Requires the department, when granting preliminary approval, to indicate that final approval is conditioned on the department's review of the applicant's completed fund-raising and roster of directors and officers. Allows the department to request an updated balance sheet and other relevant information before granting final approval.

Sec. 06.50.080 requires the department, if it denies a license, to provide the applicant with a written statement explaining the basis for the denial.

Sec. 06.50.090 requires a licensee to post the BIDCO license in a conspicuous place in the licensee's principal office.

Sec. 06.50.100 prohibits a BIDCO licensee from transferring or assigning its license.

Sec. 06.50.110(a) allows a BIDCO licensee to apply to the department to accept the surrender of the license if the licensee meets certain conditions. Requires the department to approve the surrender application if the requirements of this section are satisfied, unless the department determines that the purpose of the surrender application is to evade action by the department under secs. 06.50.730 - 06.50.860.

Sec. 06.50.110(b) establishes certain shareholder and creditor notice requirements that the BIDCO licensee must meet before applying for a license surrender, and describes certain shareholder and creditor rights.

Sec. 06.50.110(c) prohibits a BIDCO licensee from proceeding with a surrender application if a certain percentage of its shareholders file an objection to the

Representative Bettye Davis

March 9, 1992

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surrender with the licensee, unless the surrender application receives a specified shareholder voter approval.

Sec. 06.50.120(a) requires the corporate name of a licensee to include the word "BIDCO" and prohibits a licensee from transacting business under a name other than its corporate name.

Sec. 06.50.120(b) allows a state corporation that proposes to apply, or that applies, for a BIDCO license, to perform under a BIDCO name the acts necessary to apply for and obtain the license and to prepare to begin business as a licensee. Prohibits the licensee from representing that it is licensed until after the license has been obtained.

Sec. 06.50.130 sets the number of directors for a BIDCO and requires the board to hold at least one meeting each calendar quarter.

Sec. 06.50.140 requires a licensee to notify the department within 30 days of certain events and to provide additional information required by the department. These events are the death, resignation or removal of a director or officer, the election of a director, and the appointment of an officer.

Sec. 06.50.150(a) prohibits a licensee from paying or obligating itself to pay a cash dividend or a dividend in kind unless the payment is consistent with the licensee's dividend policy as approved by the department.

Sec. 06.50.150(b) requires the department, when considering a dividend policy, to consider the special characteristics of a BIDCO and what is necessary to protect the licensee against unsafe or unsound acts that could threaten the viability of the licensee as an ongoing BIDCO.

Sec. 06.50.150(c) allows the department to withdraw at any time its approval of a dividend policy if the department determines that the withdrawal is necessary to prevent unsafe or unsound acts.

Sec. 06.50.160 prohibits a licensee from buying back or obligating itself to buy back a share of stock from a shareholder without the prior approval of the department.

Sec. 06.50.170 requires a licensee to maintain at least one office in the state. Prohibits a licensee from maintaining an office outside the state. Requires that each office location be reasonably accessible to the public. Requires a licensee to post in a conspicuous place at each office a sign that gives the corporate name of the licensee. Requires a licensee to maintain at each office personnel who are competent to conduct the business of the office. Prohibits a licensee from establishing,

relocating or closing an office unless the licensee has given the department written notice.

Sec. 06.50.180 prohibits a licensee from engaging in a business other than providing financing assistance and management assistance to businesses.

Sec. 06.50.190 identifies the general powers of a BIDCO.

Sec. 06.50.200 allows a licensee to determine the form, terms, and conditions for the financing assistance that it will provide.

Sec. 06.50.210 lists some of the types of financing assistance that a licensee may provide.

Sec. 06.50.220 allows a licensee to purchase the securities of a business either directly, or indirectly through an underwriter.

Sec. 06.50.230 allows a licensee to participate in the program of the Small Business Administration under 15 U.S.C. 636(a) or in another government program for which the licensee is eligible and that has as the program's function the provision or facilitation of financing assistance or management assistance to businesses. Requires a licensee that participates in the program to comply with the program's requirements.

Sec. 06.50.240 allows a licensee to provide management advice, management services, technical advice, and technical services when providing management assistance.

Sec. 06.50.250 limits the financing assistance and management assistance provided by a licensee to the business purposes of the business.

Sec. 06.50.270 prohibits a licensee from holding control of another business, except under AS 06.50.280 - 06.50.330.

Sec. 06.50.280(a) allows a licensee to acquire and hold control of a business to which it is providing financing assistance to the extent necessary to protect the licensee's interest as a creditor of, or investor in, the business.

Sec. 06.50.280(b) requires a licensee holding control of a business under this section to divest itself of the control within a certain period, unless the department approves a longer period.

Sec. 06.50.280(c) requires a licensee that anticipates acquiring and holding control of a business under this section to file with the department its plan for doing so. Lists what the plan must include.

Representative Bettye Davis
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Sec. 06.50.290 authorizes a licensee to acquire and hold control of a corporation that is licensed as a small business investment company under 15 U.S.C. 662 - 697c if the department approves.

Sec. 06.50.300 authorizes a licensee with the approval of the department to acquire and hold control of a business that is a local development company under 15 U.S.C. 662 - 697c.

Sec. 06.50.310 allows a licensee with the approval of the department to acquire and hold control of another business that is engaged only in the business of providing financing assistance and management assistance to businesses.

Sec. 06.50.320(a) allows a licensee with the approval of the department to acquire and hold control of a business not otherwise allowed under sec. 06.50.270 - 06.50.310.

Sec. 06.50.320(b) prohibits the department from approving an application under (a) unless the department makes certain determinations.

Sec. 06.50.320(c) limits an approval under this section to three years, unless the department determines that a longer period is necessary and consistent with this chapter.

Sec. 06.50.330 considers an application under AS 06.50.280, 06.50.290, or 06.50.300 to be approved if the department fails to issue an order approving or denying the application within 60 days of receipt.

Sec. 06.50.340(a) requires a licensee to transact its business in a safe and sound manner and maintain itself in a safe and sound condition.

Sec. 06.50.340(b) prohibits the department from considering, when determining whether a licensee is transacting business in a safe and sound manner, the risk of providing financing assistance to a business, unless the department determines that the risk is great enough to demonstrate gross mismanagement when compared with the return that can be realistically expected.

Sec. 06.50.340(c) authorizes the department to determine that a licensee's financing assistance violates (a) or is an unsafe or unsound act if the amount of the financing assistance is unduly large in relation to the total assets or the total shareholder equity of the licensee. Authorizes the department to require a licensee to maintain a reserve in the amount of anticipated losses. Authorizes the department under certain conditions to require the licensee to have in effect a written financing assistance policy approved by the licensee's board.

Sec. 06.60.350 prohibits certain conflicts of interest.

Sec. 06.50.360 requires a person to disclose in the financing documents of a transaction or in another document the existence of a potential conflict of interest that occurs in a transaction.

Sec. 06.50.370 identifies certain licensee transactions that involve a potential conflict of interest.

Sec. 06.50.380 prohibits, except with department approval, a licensee from providing a lien or security interest in the licensee's property for the purpose of securing an obligation of another person or an obligation incurred for the benefit of another person.

Sec. 06.50.400 prohibits a person, except as provided under sec. 06.50.270 - 06.50.330, from acquiring control of a licensee without the prior approval of the department.

Sec. 06.50.410(a) requires the department to approve an application to acquire control of a licensee under AS 06.50.400 if the department makes certain determinations.

Sec. 06.50.410(b) requires the department to deny an application to acquire control if, after notice and a hearing, the department determines that the criteria for approval in (a) have not been satisfied.

Sec. 06.50.420(a) authorizes the department to make certain determinations when reviewing an application under AS 06.50.410.

Sec. 06.50.420(b) clarifies that the conditions under (a) are not the only circumstances when the department may determine that an applicant or a director or officer of an applicant is not of good character or that an applicant's plan to make a major change in the management of a licensee is detrimental to the safety and soundness of the licensee.

Sec. 06.50.430 prohibits a merger of the licensee with another corporation unless approved by the department and, if the licensee is not the surviving corporation, the surviving corporation is a licensee.

Sec. 06.50.440 prohibits a licensee from purchasing the business of another person without department approval.

Sec. 06.50.450 prohibits a licensee from selling all or substantially all of the licensee's business or the business of an office of the licensee unless the purchaser is a licensee and the department approves.