



# LAWS OF ALASKA

1978

Source

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Chapter No.

167

## AN ACT

Relating to the housing programs of public corporations of the state; and providing for an effective date.

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

\* Section 1. AS 18.56.030 is repealed and re-enacted to read:

Sec. 18.56.030. CORPORATION GOVERNING BODY. (a) The corporation shall be governed by a board of directors. The board of directors of the corporation consists of the commissioner of the Department of Commerce and Economic Development and six members appointed by the governor.

(b) Members appointed by the governor serve for three-year terms. The terms of two members appointed by the governor expire on April 30 annually.

(c) If a vacancy occurs among the public members appointed by the governor, the governor shall make an appointment, to become effective immediately, for the unexpired portion of the term.

(d) Members of the board of directors serve without compensation except that each member may be reimbursed by the corporation for actual and necessary expenses at the same rate as set out in AS 39.20.180.

\* Sec. 2. AS 18.56.050 is amended to read:

Sec. 18.56.050. ADMINISTRATION OF AFFAIRS. The board shall manage the assets and business of the corporation and may prescribe, amend and repeal bylaws and regulations governing the manner in which the business of the corporation is conducted and the manner in which its powers are exercised. The board shall delegate supervision of the

Chapter 167

administration of the corporation to the executive director, appointed in accordance with sec. 52 of this chapter, and may delegate to him other duties it considers proper.

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

Sec. 18.56.052. EXECUTIVE DIRECTOR. The corporation shall employ an executive director, who may not be a member of the board. The executive director shall be appointed by the board of directors and serves at the pleasure of the board.

\* Sec. 4. AS 18.56.060 is repealed and re-enacted to read:

Sec. 18.56.060. EMPLOYMENT OF PERSONNEL. The board may appoint other officers and engage professional and technical advisors as independent contractors. The executive director may hire employees of the corporation and, subject to the approval of the board, engage professional and technical advisors under contract with the corporation. The board shall prescribe the duties and compensation of corporation personnel.

\* Sec. 5. AS 18.56 is amended by adding a new section to read:

Sec. 18.56.088. ADMINISTRATIVE PROCEDURE. (a) Except for AS 44.62.310 and 44.62.312, regarding public meetings, and AS 44.62.320(a) regarding legislative review of regulations, the Administrative Procedure Act (AS 44.62) does not apply to this chapter. The corporation shall make available to members of the public copies of the regulations adopted under (b) - (e) of this section. Within 45 days after adoption, the chairman of the board shall submit a regulation adopted under (b) - (e) of this section to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 - 24.20.460. The provisions of AS 44.62.320(a) apply to regulations adopted under (b) - (e) of this section.

(b) The board may adopt regulations by motion or by resolution or in any other manner permitted by its bylaws.

(c) The board may adopt regulations to carry out the purposes of this chapter, and shall adopt regulations necessary for the following purposes:

(1) determination of borrower eligibility including, but not limited to, income limitations and the determination of remote, underdeveloped or blighted areas of the state;

(2) loan guidelines and terms including but not limited to maximum loan amounts and required loan-to-value ratios, but excluding mortgage loan interest rates;

(3) characteristics of housing eligible for loans or purchase of loans; and

(4) the qualifications of loan originators and servicers and the method of allocating amounts available for the purchase of loans.

(d) Except as provided in (e) of this section, at least 15 days before the adoption, amendment, or repeal of a regulation on a subject specified in (c)(1) - (4) of this section, the board shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the board or the corporation. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and must include an informative summary of the proposed subject of the regulation. On the date and at the time and place designated in the notice, the board shall give each interested person or his authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The board shall consider all relevant matter presented to it before adopting, amending, or repealing a regulation. At a hearing under this subsection, the board may continue or postpone the hearing to a time and place which it determines. A regulation which is adopted, or its amendment or repeal, may vary in content from the informative summary specified in this subsection if the subject matter of the regulation, or its amendment or repeal, remains the same and the original notice was written so as to assure that members of the public are reasonably notified of the proposed subject of the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(e) A regulation or order of repeal on a subject specified in (c) of this section may be adopted as an emergency regulation or order of repeal if the board makes a finding in its order of adoption or repeal, including a statement of the facts which constitute the emergency, that the adoption of the regulation or order of repeal is necessary for the immediate preservation of the orderly operation of the corporation's loan and bonding programs. The requirements of (d) of this section do not apply to the initial adoption of an emergency regulation covering a subject specified in (c)(1) - (4) of this section; however, upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (d) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (d) of this section during the 120-day period.

(f) A regulation adopted under (b) - (e) of this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by the order of adoption.

(g) The provisions of (b) - (e) of this section do not apply to regulations governing interest rates on the corporation's mortgage loan programs.

\* Sec. 6. AS 18.56.090(14) is amended to read:

(14) under sec. 88 of this chapter, adopt and

Chapter 167

publish regulations respecting its lending programs and such other regulations as are necessary to effectuate its purposes;

\* Sec. 7. AS 18.56.090 is amended by adding a new paragraph to read:

(25) establish a rural housing insurance account in the state mortgage insurance fund established by this chapter and administer a rural housing mortgage insurance program in rural areas of the state; in the administration of the program established under this paragraph, the board of directors shall

(A) from sums received from loans from the Department of Revenue, purchase the mortgages or other collateral for rural residential loans issued by a regional housing authority or any other person;

(B) determine the maximum rate of interest which may be charged by a regional housing authority for a rural residential loan; and

(C) borrow from the Department of Revenue for purposes of the rural housing mortgage program; the Department of Revenue may lend surplus state general funds to the corporation for the purpose of the rural housing mortgage loan program.

\* Sec. 8. AS 18.56.210(11) is amended to read:

(11) "residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations without limitation as to form of lawful occupancy, whether rental, under contract, fee ownership, cooperative housing, condominium, mobile home, or other lawful form of ownership, for persons of lower and moderate income, or in remote, underdeveloped or blighted areas, including the acquisition, construction or rehabilitation of land, buildings and improvements to them, and such other nonhousing facilities as may be incidental or appurtenant to the land or buildings;

\* Sec. 9. AS 39.50.200(9) is amended by adding a new subparagraph to read:

(NN) Alaska Housing Finance Corporation (AS 18.-  
56)

\* Sec. 10. Section 1 of this Act affects the terms of the public members of the board of directors of the Alaska Housing Finance Corporation who are serving on the effective date of this Act. Not later than 30 days after the effective date of this Act, the governor shall determine the length of the term of the members of the board of directors of the corporation serving on the effective date of this Act and, by letter directed to the president of the Alaska Legislative Council, designate the members whose terms shall end on the date provided in sec. 1 of this Act during 1979, 1980, and 1981. The terms of the members of the board of directors serving on the effective date of this Act shall terminate on the date designated by the governor in his letter, and, thereafter, members of the board shall be appointed in accordance with the provisions of this Act.

\* Sec. 11. AS 18.55 is amended by adding a new section to read:

Sec. 18.55.997. RESIDENTIAL LOANS. (a) In addition to the powers authorized to a regional housing authority under sec. 996 of this chapter, a regional housing authority may, in accordance with procedures and policies adopted and approved by the board of directors of the Alaska Housing Finance Corporation, make loans for the purchase or development of residential housing in rural areas of the state. A loan shall be secured by collateral in an amount acceptable to the board of directors of the Alaska Housing Finance Corporation. The rate of interest on a loan authorized by this section may not exceed an interest rate approved by the board of directors of the Alaska Housing Finance Corporation.

(b) In this section,

(1) "development" means the construction of a new residence or the repair, remodeling, rehabilitation or expansion of an existing home;

(2) "rural" means any community of the state with a population of 4,500 or less that is not connected by road or rail to Anchorage or Fairbanks.

\* Sec. 12. LEGISLATIVE FINDINGS. The legislature finds that

(1) owners and occupants of housing constructed from the proceeds of the general fund appropriation made under ch. 250, SLA 1970 have instituted a class action alleging defects in the design and construction of the housing units;

(2) owners and occupants of housing constructed from the proceeds of the state general obligation bond authorized and issued under ch. 180, SLA 1970 have instituted similar proceedings alleging defects in the design and construction of the housing units;

(3) the determination of the liability of the state and the Alaska State Housing Authority, if any, through the judicial process will not provide early opportunity for settlement of the claims and prospective claims; and

(4) it is in the interests of the owners and occupants of the housing and the state to provide for the settlement of the claims on a class-settlement basis without need for further litigation, in a manner which limits the liability of the state and provides owners and occupants opportunity to obtain title to the housing units clear of debts, liens and encumbrances owed to the state or the authority.

\* Sec. 13. SETTLEMENT OF CLAIMS. Upon approval of this settlement by the court as provided in sec. 15 of this Act, the Board of Directors of the Alaska State Housing Authority, through its executive director, shall

(1) pay to home buyers possessing homes constructed under one of the programs described in sec. 12 of this Act the amount provided by legislative appropriation for this purpose; the amount appropriated shall be divided by the number of home buyers, and payments will be equal for each home buyer;

Chapter 167

(2) refund to the home buyers the amount of money paid by each of them to the Alaska State Housing Authority; this refund shall not include the cash value of labor provided by the home buyers;

(3) order the cancellation of the entire outstanding indebtedness of the home buyers with respect to their houses; and

(4) convey and quitclaim to each of the home buyers, without additional consideration, the interests of the authority in the houses and the property on which the houses are located.

\* Sec. 14. WAIVER OF CLAIMS. Upon approval of this settlement by the court as provided in sec. 15 of this Act and in return for the settlement provided in sec. 13 of this Act, the home buyers covered by this Act and by the settlement forfeit and waive all legal claims, existing or potential, which the home buyers have against the Alaska State Housing Authority, its employees, or the state which arise out of the home buyers' relationship with the authority with regard to the houses which are the subject of this Act.

\* Sec. 15. SETTLEMENT APPROVAL. The settlement provided in secs. 12 - 14 of this Act may not take effect as to any home buyers until it is approved by the court as required by Rule 23(e) of the Alaska Rules of Civil Procedure. If approval is withheld for the home buyers in one of the two housing programs, the settlement will go into effect as to the home buyers in the other housing program if that settlement is approved, and those home buyers who are members of the class for which a settlement is approved will receive a pro rata share of the funds made available for the settlement.

\* Sec. 16. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).