



# LAWS OF ALASKA

1990

Source

Chapter No.

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## AN ACT

Relating to minimum thermal and lighting energy standards.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 7, 1990  
Actual Effective Date: September 5, 1990

AN ACT

Relating to minimum thermal and lighting energy standards.

\* Section 1. AS 18.56.090 is amended to read:

Sec. 18.56.090. GENERAL POWERS. In addition to other powers granted in this chapter, the corporation may, for the purpose of providing housing for persons of lower and moderate income or persons located in remote, underdeveloped, or blighted areas of the state and for its other corporate purposes,

(1) [REPEALED

(2)] make or participate in the making of mortgage loans to sponsors, developers, builders, and purchasers of residential housing, if the corporation determines that

(A) mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions; and

(B) the residential housing for which the mortgage loans are made complies with applicable provisions of AS 18.56.-096(c) and the applicable thermal and lighting energy standards of AS 46.11.040;

(2) [(3)] purchase or participate in the purchase of mortgage loans made to sponsors, developers, builders, owners, and purchasers of residential housing, if the corporation

(A) has given approval before the initial making of

1 the loan and has determined that mortgage loans were, at the time  
2 the approval was given, not otherwise available, wholly or in  
3 part, from private lenders upon reasonably equivalent terms and  
4 conditions, or

5 (B) has determined that

6 (i) the purchase or participation will result in  
7 additional residential housing, taking into account without  
8 limitation such factors as reinvestment of the proceeds of  
9 the sale in additional mortgage loans, increased avail-  
10 ability of mortgage loans insured by the federal government,  
11 its agencies or departments, the reduction, if any, of  
12 interest payments to be made with respect to mortgage loans,  
13 or such other factors as will tend to increase or improve  
14 the supply of residential housing within the state; and

15 (ii) the residential housing covered by the mort-  
16 gage loan complies with applicable provisions of AS 18.56.-  
17 096(c) and the applicable thermal and lighting energy stan-  
18 dards of AS 46.11.040;

19 (3) [(4)] make partial rental payments and mortgage inter-  
20 est payments under a contract with any housing owner if the payments  
21 will be applied to decrease rental or mortgage interest charges of  
22 persons of lower and moderate income or owners or purchasers of res-  
23 idential housing in remote, underdeveloped, or blighted areas of the  
24 state;

25 (4) [(5)] make loans from the housing development fund;

26 (5) [(6)] collect and pay reasonable fees and charges in  
27 connection with making, purchasing, and servicing its mortgagee,  
28 loans, notes, bonds, certificates, commitments, and other evidences of  
29 indebtedness;

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

(7) [(8)] sell, at public or private sale, to any purchaser, including the Federal National Mortgage Association, all or any part of a mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) [(9)] purchase, in order to meet the requirements of the sale of its mortgages to the Federal National Mortgage Association, stock of the Federal National Mortgage Association;

(9) [(10)] procure insurance against any loss in connection with its operation;

(10) [(11)] consent to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of the mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(11) [(12)] borrow money as provided in this chapter to carry out and effectuate its corporate purposes; and issue its obligations as evidence of borrowing;

(12) [(13)] include in any borrowing the amounts necessary to pay financing charges, interest on the obligations for a period not exceeding one year after the date on which the corporation estimates

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1 funds will otherwise be available to pay the interest, consultant,  
2 advisory and legal fees, and other expenses that are necessary or  
3 incident to this borrowing;

4 (13) [(14)] under AS 18.56.088, adopt and publish regula-  
5 tions respecting its lending programs and other regulations that are  
6 necessary to effectuate its purposes;

7 (14) [(15)] provide technical and advisory services to  
8 sponsors, builders, and developers of residential housing and to  
9 residents of it;

10 (15) [(16)] promote research and development in scientific  
11 methods of constructing low-cost and energy-efficient residential  
12 housing of high durability;

13 (16) [(17)] make and execute agreements, contracts, and  
14 other instruments necessary or convenient in the exercise of the  
15 powers and functions of the corporation under this chapter, including  
16 contracts with any person, firm, corporation, governmental agency, or  
17 other entity;

18 (17) [(18)] receive, administer, and comply with the condi-  
19 tions and requirements respecting any appropriation or gift, grant, or  
20 donation of property or money;

21 (18) [(19)] sue and be sued in its own name;

22 (19) [(20)] adopt an official seal;

23 (20) [(21)] adopt bylaws for the regulation of its affairs  
24 and the conduct of its business and adopt regulations and policies in  
25 connection with the performance of its functions and duties;

26 (21) [(22)] employ fiscal consultants, engineers, attorneys,  
27 real estate counselors, appraisers, and other consultants and employ-  
28 ees that may be required in the judgment of the corporation, and fix  
29 and pay their compensation from funds available to the corporation;

(22) [(23)] do all acts and things necessary, convenient, and desirable to carry out the powers expressly granted or necessarily implied in this chapter;

(23) [(24)] invest or reinvest, subject to its contracts with noteholders and bondholders, any money or funds held by the corporation in any obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or any funds not required for immediate disbursement, and in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the state or the United States;

(24) [(25) REPEALED

(26) REPEALED

(27) REPEALED

(28)] purchase a mortgage loan made to refinance an existing mortgage loan, without regard to whether the corporation holds the existing mortgage loan, as long as the interest rate and fees charged to the borrower are sufficient to fully reimburse the corporation for all costs incurred by the corporation in purchasing the mortgage loan and as long as the borrower will be in compliance with AS 18.56.-096(a)(6) after purchase of the mortgage loan by the corporation.

\* Sec. 2. AS 18.56.096 is amended by adding a new subsection to read:

(c) The corporation may not make, participate in the making of, purchase, or participate in the purchase of a loan for a residential building if construction of the building begins after December 31, 1991, unless the building complies with the thermal and lighting energy standards required by AS 46.11.040. The corporation

(1) may adopt regulations to implement this subsection; and

(2) shall, by regulation, establish

(A) procedures by which the person responsible for the

1 construction of the building may demonstrate that the building  
2 complies with the thermal and lighting energy standards, includ-  
3 ing

4 (i) self-certification, if the contractor respon-  
5 sible for the building construction provides satisfactory  
6 evidence that the contractor has completed a training pro-  
7 gram of the Alaska Craftsman Home Program or equivalent  
8 training program and the training program is satisfactory to  
9 the commissioner of community and regional affairs;

10 (ii) submission of the certificate of a registered  
11 architect, registered engineer, or a building inspector, and  
12 the architect, engineer, or building inspector has completed  
13 a training program of the Alaska Craftsman Home Program or  
14 equivalent training program and the training program is  
15 satisfactory to the commissioner of community and regional  
16 affairs;

17 (iii) submission of the certificate of occupancy  
18 issued by the municipality in which the building is located,  
19 if the certificate is issued by a municipality in which the  
20 municipal building code meets or exceeds the thermal and  
21 lighting energy standards, as determined by the commissioner  
22 of community and regional affairs;

23 (iv) another method approved by the commissioner  
24 of community and regional affairs in regulations adopted by  
25 the commissioner after consultation with the executive  
26 director of the corporation; and

27 (B) criteria by which the energy conservation stan-  
28 dards may be met; for purposes of this subparagraph, the residen-  
29 tial building complies with the energy standards if the residence  
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has received a rating under the rating system developed by Energy Rated Homes of Alaska if, in the judgment of the commissioner of community and regional affairs, the rating meets or exceeds the thermal energy standards required by AS 46.11.040.

\* Sec. 3. AS 18.56.105 is amended to read:

Sec. 18.56.105. ALLOCATION OF LENDING ACTIVITIES. The corporation shall designate regions within the state which in the aggregate, encompass the entire state. In participating in the making or purchasing of loans under AS 18.56.090(1) and (2) [AS 18.56.090(2) AND (3)] or under AS 18.56.100, the corporation shall make its money available through the private financial institutions in the state within each region designated by the corporation under this section. The corporation shall allocate its money among the regions on the basis of recent and future anticipated lending activity as well as the potential need for the loans in each region and may reallocate its money among the regions as it considers appropriate to reflect changes in lending activity or need in the regions.

\* Sec. 4. AS 18.56.110(g) is amended to read:

(g) Notwithstanding AS 18.56.090(11) [AS 18.56.090(12)] and (a) of this section, the corporation may not issue bonds in any 12-month period beginning after June 30, 1983, in an amount that exceeds the amount of bonds authorized to be issued during the preceding period, unless a different amount is authorized by the legislature. This subsection does not apply to the issuance by the corporation of re-funding bonds or to the issuance by the corporation of bonds the proceeds of which are intended to be used to refinance mortgage loans held by the corporation.

\* Sec. 5. Section 1, ch. 83, SLA 1980, is amended to read:

Section 1. DECLARATION OF POLICY. It is the policy of the state

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1 to encourage and facilitate the implementation of energy conservation  
2 measures relating to in-state energy use. This policy shall be imple-  
3 mented by

4 (1) the state setting an example of wise and efficient  
5 energy use, by designing and managing public buildings and their  
6 energy systems to meet appropriate standards for energy efficiency;

7 (2) providing incentives for the design and modification of  
8 residential [COMMERCIAL, AND INDUSTRIAL] buildings to accomplish  
9 maximum energy efficiency; and

10 (3) establishing mandatory energy efficiency standards for  
11 buildings purchased or constructed with state financial assistance.

12 \* Sec. 6. AS 46.11.040 is amended to read:

13 Sec. 46.11.040. APPLICABILITY OF THERMAL AND LIGHTING ENERGY  
14 STANDARDS TO RESIDENTIAL [PRIVATE] BUILDINGS. State financial assis-  
15 tance may not be approved or granted for the construction of or pur-  
16 chase of a loan for a [NEW] residential [OR COMMERCIAL] building if  
17 construction of the building begins after December 31, 1991 [1980],  
18 unless

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

21 (2) the building is in compliance with the building code of  
22 a municipality and the standards for thermal and lighting energy of  
23 the municipal building code meet [MEETS] or exceed [EXCEEDS] the  
24 thermal and lighting energy standards;

25 (3) the building

26 (A) is constructed under an exception to the municipal  
27 building code granted because the exception will result in in-  
28 creased energy efficiency; or

29 (B) is located or is to be located in an area where  
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thermal and lighting energy standards are not justified because of the high cost of implementation of the standards, with specific consideration given to the availability of inexpensive home heating energy sources, as determined under regulations adopted by the commissioner of community and regional affairs; or

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

\* Sec. 7. AS 46.11.900 is amended to read:

Sec. 46.11.900. DEFINITIONS. In this chapter

(1) "alternative energy system"

(A) means a source of thermal, mechanical, or electrical energy that [WHICH] is not dependent on oil or gas or a nuclear fuel for the supply of energy for space heating and cooling, refrigeration and cold storage, electrical power, mechanical power, or the heating of water;

(B) includes

(i) an alternative energy property as defined by [SEC. 48(1)(3)(A) OF THE INTERNAL REVENUE CODE (] 26 U.S.C. 48(1)(3)(A) [)]; and

(ii) a method of architectural design and construction that [WHICH] provides for the collection, storage, and use of direct radiation from the sun; [AND

(iii) REPEALED]

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

(3) "energy audit" means a determination and written summary prepared under 42 U.S.C. 8216(b) [42 U.S.C. 8216(b)(1)(A), (SEC. 215, P.L. 95-619, NATIONAL ENERGY CONSERVATION POLICY ACT)] of

1 (A) the energy consumption characteristics of a build-  
2 ing, including the size, type, and rate of energy consumption of  
3 major energy consuming systems of the building and the climate  
4 characterizing the region where the building is located; and

5 (B) the energy conservation and cost savings likely to  
6 result from appropriate energy-conserving maintenance and operat-  
7 ing procedures and modifications, including the purchase and  
8 installation of energy-related fixtures; for purposes of this  
9 subparagraph when a fossil fuel is the energy source, the energy  
10 cost savings shall be determined with reference to the projected  
11 price of that fossil fuel over a 10-year period;

12 (4) "financial institution" means a bank, trust company,  
13 savings bank, savings and loan association, or credit union;

14 (5) "life-cycle cost" means the total cost of owning,  
15 operating, and maintaining a building over its useful life, including  
16 its energy and fuel costs, determined on a basis of a systematic  
17 evaluation and comparison of alternative building systems, except that  
18 in the case of leased buildings the life-cycle cost shall be calculat-  
19 ed over the effective remaining term of the lease;

20 (6) ["NEW BUILDING" MEANS A BUILDING THE CONSTRUCTION OF  
21 WHICH BEGINS AFTER DECEMBER 31, 1980;

22 (7)] "public building" means a building owned or controlled  
23 and held by the state for government or public use;

24 (7) [(8)] "state financial assistance" means a loan, grant,  
25 guarantee, insurance, payment, rebate, subsidy, or other form of state  
26 assistance other than aid under AS 05.35.010 - 05.35.070, AS 14.11.-  
27 100 - 14.11.135, and AS 29.60, including the purchase by a state  
28 agency of a loan to finance the construction or purchase of a [NEW]  
29 residential [, COMMERCIAL, OR INDUSTRIAL] building;

(8) [(9)] "thermal and lighting energy standards" means the thermal and lighting energy standards

(A) established by the American Society of Heating, Refrigeration, and Air Conditioning Engineers as revised

(i) [(A)] by the commissioner of transportation and public facilities under AS 44.42.020(a) for public facilities; or

(ii) [(B)] by the commissioner of community and regional affairs for buildings and structures that are not public facilities; or

(B) developed in regulations adopted

(i) by the commissioner of transportation and public facilities under AS 44.42.020(a) for public facilities; or

(ii) by the commissioner of community and regional affairs for buildings and structures that are not public facilities.

\* Sec. 8. APPLICATION OF THERMAL AND LIGHTING ENERGY STANDARDS TO PROGRAMS FOR RESIDENTIAL HOUSING THAT IS CONSTRUCTED OR PURCHASED WITH STATE FINANCIAL ASSISTANCE. Persons responsible for administration and management of programs in which state assistance is provided for the purchase or construction of residential buildings are encouraged to adopt and enforce the compliance standards and methods of AS 18.56.096(c)(2), added by sec. 2 of this Act, within the housing programs for which they are responsible.

\* Sec. 9. ELIGIBILITY OF PERSONS FOR STATE INCENTIVE PAYMENT. (a) A person who initiates and completes construction of a residential building after the effective date of this Act and before January 1, 1992, qualifies for payment of not more than \$1,500 from the Department of Community and

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1 Regional Affairs if the person demonstrates, to the satisfaction of the  
2 commissioner, that

3 (1) the residential building meets or exceeds the thermal and  
4 lighting energy standards; or

5 (2) the residential building meets or exceeds the building code  
6 of a municipality and the standards for thermal and lighting energy of the  
7 municipal building code meet or exceed the thermal and lighting energy  
8 standards.

9 (b) The Department of Community and Regional Affairs shall

10 (1) adopt regulations to implement this section;

11 (2) from legislative appropriations made for the purpose, make  
12 the payments required to persons who qualify under (a) of this section.

13 (c) In this section,

14 (1) "commissioner" means the commissioner of community and  
15 regional affairs;

16 (2) "thermal and lighting energy standards" has the meaning  
17 given in AS 46.11.900(8), as amended by sec. 7 of this Act.

18 \* Sec. 10. RESIDENTIAL ENERGY STANDARDS TECHNICAL ADVISORY COMMITTEE  
19 FOR INITIAL REGULATIONS. (a) Before adopting the initial regulations  
20 under AS 46.11.040(3)(B), as amended by sec. 6 of this Act, the commis-  
21 sioner of community and regional affairs shall consult with the Residential  
22 Energy Standards Technical Advisory Committee established under (b) of this  
23 section.

24 (b) To assist with the development and review of the thermal stan-  
25 dards developed under AS 46.11.040, the commissioner of community and  
26 regional affairs shall establish a Residential Energy Standards Technical  
27 Advisory Committee and appoint its members. The advisory committee is  
28 composed of 18 members and must include

29 (1) a homebuilder, residential building contractor, or other  
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person who is actively engaged in the construction or sale of residential homes from each of the following regions of the state:

- (A) Anchorage;
- (B) Matanuska-Susitna Borough;
- (C) Kenai Peninsula Borough;
- (D) Bristol Bay-Kodiak-Aleutian Islands;
- (E) Fairbanks and Interior Alaska;
- (F) Southeast Alaska;
- (G) Southwest Alaska;
- (H) Northwest Alaska;
- (I) the Arctic Slope;

(2) a representative of the Department of Housing and Urban Development;

- (3) a representative of the Alaska Housing Finance Corporation;
- (4) a representative of the Alaska Craftsman Home Program;
- (5) a representative of the Energy Rated Homes of Alaska Program;

(6) a residential real estate appraiser;

(7) a building official employed by a municipality;

(8) a registered architect or engineer with experience in energy efficient building design and construction techniques;

- (9) a representative of a utility; and
- (10) a public member to represent consumer interests.

(c) Before making appointments to the advisory committee, the commissioner shall solicit nominations from the Alaska State Homebuilders Association for those regions in which the association has an active local association or chapter.

(d) In developing the thermal and lighting standards under AS 46.11-.040, the commissioner of community and regional affairs, in consultation

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1 with the technical advisory committee established under (b) of this sec-  
2 tion, shall ensure that incremental costs attributable to meeting the  
3 standards bear a reasonable relationship to the energy cost savings result-  
4 ing from the energy efficiency investments.

5 \* Sec. 11. Section 9 of this Act is repealed January 1, 1992.

6 \* Sec. 12. Section 10 of this Act is repealed on the effective date of  
7 the initial regulations adopted under AS 46.11.040(3)(B), as amended by  
8 sec. 6 of this Act. The commissioner of community and regional affairs  
9 shall notify the lieutenant governor and the revisor of statutes of the  
10 effective date of those regulations.  
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