



# LAWS OF ALASKA

2011

**Source**

SCS CSHB 119(FIN)

**Chapter No.**

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**AN ACT**

Relating to the procurement of supplies, services, professional services, and construction for the Alaska Industrial Development and Export Authority; relating to the definition of "own" for the economic development account; relating to the definitions of "development project," "plant," "facility," and "project" for the Alaska Industrial Development and Export Authority; relating to the Alaska Industrial Development and Export Authority creating subsidiaries regarding projects financed under AS 44.88.172; authorizing the Alaska Development and Export Authority to issue bonds to finance the expansion, modification, and upgrading of the Skagway Ore Terminal; relating to the operation and management of public housing projects and housing for low-income households by the Alaska Housing Finance Corporation; relating to subsidiary corporations of the Alaska Housing Finance Corporation; relating to harbor facility grants; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1



**AN ACT**

1 Relating to the procurement of supplies, services, professional services, and construction for  
2 the Alaska Industrial Development and Export Authority; relating to the definition of "own"  
3 for the economic development account; relating to the definitions of "development project,"  
4 "plant," "facility," and "project" for the Alaska Industrial Development and Export Authority;  
5 relating to the Alaska Industrial Development and Export Authority creating subsidiaries  
6 regarding projects financed under AS 44.88.172; authorizing the Alaska Development and  
7 Export Authority to issue bonds to finance the expansion, modification, and upgrading of the  
8 Skagway Ore Terminal; relating to the operation and management of public housing projects  
9 and housing for low-income households by the Alaska Housing Finance Corporation; relating  
10 to subsidiary corporations of the Alaska Housing Finance Corporation; relating to harbor  
11 facility grants; and providing for an effective date.

1  
2 \* **Section 1.** AS 18.55.010 is amended to read:

3           **Sec. 18.55.010. Purpose of AS 18.55.100 - 18.55.290.** The purpose of  
4 AS 18.55.100 - 18.55.290 is to remedy the acute housing shortage that exists in certain  
5 localities of the state by undertaking slum clearance, **housing for low-income**  
6 **households** [LOW-COST HOUSING PROJECTS], housing for persons and their  
7 families engaged in national defense activities in the state, and housing projects and  
8 housing for veterans and other citizens of the state and to remedy the short supply of  
9 necessary public buildings by providing for the financing, construction, and  
10 acquisition of public buildings for lease to the state.

11 \* **Sec. 2.** AS 18.55.120 is repealed and reenacted to read:

12           **Sec. 18.55.120. Housing for low-income households.** For purposes of  
13 AS 18.55.100 - 18.55.290, the corporation shall manage and operate housing for low-  
14 income households with rentals fixed at the lowest rates consistent with decent, safe,  
15 and sanitary dwellings.

16 \* **Sec. 3.** AS 18.55.130(a) is amended to read:

17           (a) In the operation or management of **housing for low-income households**  
18 [LOW-COST HOUSING PROJECTS], the corporation shall, from time to time,  
19 establish rents and requirements for admission of tenants to its **housing** [LOW-COST  
20 HOUSING PROJECTS] in each municipality in which **the housing** [LOW-COST  
21 HOUSING PROJECTS] of the corporation **is** [ARE] located. [THE RENTS AND  
22 REQUIREMENTS FOR ADMISSION ARE SUBJECT TO THE APPROVAL OF  
23 THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN  
24 DEVELOPMENT.]

25 \* **Sec. 4.** AS 18.55.130(b) is amended to read:

26           (b) Except in the case of leased housing as provided in 42 U.S.C. 1437f, the  
27 corporation shall fix the income limits for occupancy **in** [OF] its **housing for low-**  
28 **income households** [LOW-COST HOUSING PROJECTS AND RENTS THAT ARE  
29 APPROVED BY THE UNITED STATES DEPARTMENT OF HOUSING AND  
30 URBAN DEVELOPMENT] after taking into consideration

31                   (1) the family size, composition, age, physical disabilities, and other

1 factors that might affect the rent-paying ability of the family; and

2 (2) the economic factors that affect the financial stability and solvency  
3 of the project.

4 \* **Sec. 5.** AS 18.56.086 is amended to read:

5 **Sec. 18.56.086. Creation of subsidiaries.** The corporation may create  
6 subsidiary corporations for the purpose of financing or facilitating the financing of  
7 school construction, facilities for the University of Alaska, facilities for ports and  
8 harbors, **the acquisition, development, management, or operation of affordable**  
9 **housing**, prepayment of all or a portion of a governmental employer's share of  
10 unfunded accrued actuarial liability of retirement systems, or other capital projects. A  
11 subsidiary corporation may also be created for the purpose of planning, constructing,  
12 and financing in-state natural gas pipeline projects or for the purpose of aiding in the  
13 planning, construction, and financing of in-state natural gas pipeline projects. A  
14 subsidiary corporation created under this section may be incorporated under  
15 AS 10.20.146 - 10.20.166. The corporation may transfer assets of the corporation to a  
16 subsidiary created under this section. A subsidiary created under this section may  
17 borrow money and issue bonds as evidence of that borrowing, and has all the powers  
18 of the corporation that the corporation grants to it. However, a subsidiary created for  
19 the purpose of financing or facilitating the financing of prepayment of a governmental  
20 employer's share of unfunded accrued actuarial liability of retirement systems may  
21 borrow money and issue bonds only if the state bond rating is the equivalent of AA- or  
22 better and subject to AS 37.15.903. A subsidiary corporation created for the purpose  
23 of planning, constructing, and financing in-state natural gas pipeline projects or for the  
24 purpose of aiding in the planning, construction, or financing of in-state natural gas  
25 pipeline projects is exempt from AS 36.30, including AS 36.30.015(d) and (f). Unless  
26 otherwise provided by the corporation, the debts, liabilities, and obligations of a  
27 subsidiary corporation created under this section are not the debts, liabilities, or  
28 obligations of the corporation.

29 \* **Sec. 6.** AS 29.60.810 is amended to read:

30 **Sec. 29.60.810. Grant applications.** A municipality **or regional housing**  
31 **authority** that owns a harbor facility may submit to the Department of Transportation

1 and Public Facilities an application for a [MUNICIPAL] harbor facility grant to be  
2 used for construction, expansion, major repair, or major maintenance of a harbor  
3 facility. The application must include information about the project requested by the  
4 department. For a proposed project to be eligible for a grant, the municipality **or**  
5 **regional housing authority** must provide evidence acceptable to the department that  
6 the

7 (1) proposed project is a capital improvement project and not part of a  
8 preventive maintenance program or regular custodial care program;

9 (2) municipality **or regional housing authority** will provide 50  
10 percent of the total project cost as matching funds for the state grant and that money  
11 received by the municipality **or regional housing authority** from the state will not be  
12 used for the matching funds except money received under

13 (A) AS 29.60.850 - 29.60.879 (community revenue sharing  
14 program); [AND]

15 (B) AS 29.60.450, AS 43.75.130, and 43.75.137 (shared  
16 fisheries business taxes);

17 **(C) AS 43.52.200 - 43.52.295 (excise tax on overnight**  
18 **accommodations on commercial passenger vessels); and**

19 **(D) a transfer agreement between the state and a**  
20 **municipality pursuant to a sale under AS 35.10.120;**

21 (3) municipality **or regional housing authority** has secured and will  
22 maintain adequate property loss insurance for the replacement cost of the harbor  
23 facility or has an adequate program of insurance;

24 (4) municipality **or regional housing authority** has a preventive  
25 maintenance plan for the harbor facility and will be adequately adhering to the  
26 preventive maintenance plan after completion of the proposed project.

27 \* **Sec. 7.** AS 29.60.820 is amended to read:

28 **Sec. 29.60.820. Award of grants.** (a) The Department of Transportation and  
29 Public Facilities may award a [MUNICIPAL] harbor facility grant during a fiscal year  
30 only for a proposed project eligible under AS 29.60.810 based on a grant application  
31 filed during the immediately preceding fiscal year before February 1. The total amount

1 of grant money made available to a municipality **or regional housing authority**  
2 during a fiscal year may not exceed \$5,000,000.

3 (b) The Department of Transportation and Public Facilities shall award a grant  
4 for every proposed project eligible under AS 29.60.810 that is for repair and major  
5 maintenance of a harbor facility that was transferred by the state to a municipality **or**  
6 **regional housing authority** before grants may be made for other proposed harbor  
7 facility projects during a fiscal year. However, after the department makes a grant for  
8 the repair and major maintenance of a harbor facility under this subsection, no other  
9 grants for the repair and major maintenance of that facility may be made during the  
10 same or any other fiscal year.

11 (c) The Department of Transportation and Public Facilities shall establish  
12 priorities for the award of grants for proposed [MUNICIPAL] harbor facility projects  
13 under (b) of this section and priorities for the award of grants for other proposed  
14 harbor facility projects, with new construction projects having the lowest priority. The  
15 department shall award grants in the order of priority established. In establishing  
16 priorities, the department shall include at least the following, in the order listed:

17 (1) the extent to which the municipality **or regional housing**  
18 **authority** can demonstrate that it will have sufficient revenue to operate and maintain  
19 the harbor facility in the future without state aid;

20 (2) public safety and emergency factors;

21 (3) the amount spent by the municipality **or regional housing**  
22 **authority** on maintenance of the harbor facility;

23 (4) other options that would reduce or eliminate the need for the  
24 proposed project; and

25 (5) whether alternative harbor projects would better serve the public  
26 interest.

27 (d) The Department of Transportation and Public Facilities may suggest  
28 modifications to a project request to achieve cost savings or to better serve the public  
29 interest and, if the municipality **or regional housing authority** agrees, award the  
30 [MUNICIPAL] harbor facility grant for the proposed project as modified.

31 \* **Sec. 8.** AS 29.60 is amended by adding a new section to article 7 to read:

1                   **Sec. 29.60.830. Definitions.** In AS 29.60.800 - 29.60.830, "regional housing  
2 authority" means a regional housing authority established under AS 18.55.996.

3 \* **Sec. 9.** AS 36.30.015(f) is amended to read:

4                   (f) The board of directors of the Alaska Housing Finance Corporation,  
5 notwithstanding AS 18.56.088, **the membership of the Alaska Industrial**  
6 **Development and Export Authority, notwithstanding AS 44.88.085,** and the board  
7 of directors of the Knik Arm Bridge and Toll Authority under AS 19.75.111, shall  
8 adopt regulations under AS 44.62 (Administrative Procedure Act), and the board of  
9 trustees of the Alaska Retirement Management Board shall adopt regulations under  
10 AS 37.10.240, to govern the procurement of supplies, services, professional services,  
11 and construction for the respective public corporation and board. The regulations must  
12 reflect competitive bidding principles and provide vendors reasonable and equitable  
13 opportunities to participate in the procurement process and must include procurement  
14 methods to meet emergency and extraordinary circumstances. Notwithstanding the  
15 other provisions of this subsection, the Alaska Housing Finance Corporation, **the**  
16 **Alaska Industrial Development and Export Authority,** the Knik Arm Bridge and  
17 Toll Authority, and the Alaska Retirement Management Board shall comply with  
18 AS 36.30.170(b).

19 \* **Sec. 10.** AS 36.30.990(1) is amended to read:

20                   (1) "agency"

21                   (A) means a department, institution, board, commission,  
22 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska  
23 Veterans' Home, or other administrative unit of the executive branch of state  
24 government;

25                   (B) does not include

26                   (i) the University of Alaska;  
27                   (ii) the Alaska Railroad Corporation;  
28                   (iii) the Alaska Housing Finance Corporation;  
29                   (iv) a regional Native housing authority created under  
30 AS 18.55.996 or a regional electrical authority created under  
31 AS 18.57.020;



1 (v) the Department of Transportation and Public  
2 Facilities, in regard to the repair, maintenance, and reconstruction of  
3 vessels, docking facilities, and passenger and vehicle transfer facilities  
4 of the Alaska marine highway system;

5 (vi) the Alaska Aerospace Corporation;

6 (vii) the Alaska Retirement Management Board;

7 (viii) the Alaska Seafood Marketing Institute;

8 (ix) the Alaska children's trust and the Alaska  
9 Children's Trust Board;

10 **(x) the Alaska Industrial Development and Export**

11 **Authority;**

12 \* **Sec. 11.** AS 44.88.172(a) is amended to read:

13 (a) The economic development account is established in the revolving fund.  
14 The economic development account consists of money or assets appropriated, loaned,  
15 or transferred to the authority for deposit in the account and other money or assets  
16 deposited in the account by the authority. While money is on deposit in the economic  
17 development account, the money may be used only to finance, acquire, manage, and  
18 operate development projects that the authority intends to own and operate. In this  
19 subsection,

20 (1) "operate" includes operation directly by the authority, by an agent  
21 of the authority, or by a person as determined under an agreement between the  
22 authority and other owners of the development project;

23 (2) "own" includes ownership by the authority of all or a percentage of  
24 a development project **or all or a percentage of the shares of a corporation or**  
25 **membership in a limited liability company for which the development project is**  
26 **the sole asset of the corporation or limited liability company.**

27 \* **Sec. 12.** AS 44.88 is amended by adding a new section to read:

28 **Sec. 44.88.178. Creation of subsidiaries.** The authority may create one or  
29 more subsidiary corporations for the purpose of acquiring, constructing, owning,  
30 operating, or financing a project financed under AS 44.88.172. A subsidiary  
31 corporation created under this section may be incorporated under AS 10.20.146 -

1 10.20.166. The authority may transfer assets of the authority to a subsidiary created  
2 under this section. A subsidiary created under this section may borrow money and  
3 issue bonds as evidence of that borrowing, and has all the powers of the authority that  
4 the authority grants to it. Unless otherwise provided by the authority, the debts,  
5 liabilities, and obligations of a subsidiary corporation created under this section are not  
6 the debts, liabilities, or obligations of the authority.

7 \* **Sec. 13.** AS 44.88.900(3) is amended to read:

8 (3) "development project" has the meaning given to "project" in (9)(A)  
9 and (D) - (H) [(9)(A) AND (D) - (F)] of this section;

10 \* **Sec. 14.** AS 44.88.900(8) is amended to read:

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

19 \* **Sec. 15.** AS 44.88.900(9) is amended to read:

20 (9) "project" means

21 (A) a plant or facility used or intended for use in connection  
22 with making, processing, preparing, transporting, or producing in any manner,  
23 goods, products, or substances of any kind or nature or in connection with  
24 developing or utilizing a natural resource, or extracting, smelting, transporting,  
25 converting, assembling, or producing in any manner, minerals, raw materials,  
26 chemicals, compounds, alloys, fibers, commodities and materials, products, or  
27 substances of any kind or nature;

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

30 (C) commercial activity by a business enterprise;

31 (D) a plant or facility demonstrating technological advances of

1 new methods and procedures and prototype commercial applications for the  
2 exploration, development, production, transportation, conversion, and use of  
3 energy resources;

4 (E) infrastructure for a new tourism destination facility or for  
5 the expansion of a tourism destination facility; in this subparagraph, "tourism  
6 destination facility" does not include a hotel or other overnight lodging facility;

7 (F) a plant or facility, other than a plant or facility described in  
8 (D) of this paragraph, for the generation, transmission, development,  
9 transportation, conversion, or use of energy resources;

10 **(G) a plant or facility that enhances, provides for, or**  
11 **promotes economic development with respect to transportation,**  
12 **communications, community public purposes, technical innovations,**  
13 **prototype commercial applications of intellectual property, or research;**

14 **(H) a plant or facility used or intended for use as a federal**  
15 **facility, including a United States military, national guard, or coast guard**  
16 **facility;**

17 \* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 LEGISLATIVE APPROVAL; SKAGWAY ORE TERMINAL. (a) The Alaska  
20 Industrial Development and Export Authority may issue bonds to finance the expansion,  
21 modification, improvement, and upgrading of the Skagway Ore Terminal. The Skagway Ore  
22 Terminal shall be owned by the authority and financed under AS 44.88.172 - 44.88.177. The  
23 principal amount of the bonds provided by the authority for the Skagway Ore Terminal may  
24 not exceed \$65,000,000 and may include the costs of funding reserves and other costs of  
25 issuing bonds deemed reasonable and appropriate by the Alaska Industrial Development and  
26 Export Authority.

27 (b) This section constitutes legislative approval required by AS 44.88.095(g).

28 \* **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 RETROACTIVITY. AS 29.60.810(2)(D), added by sec. 6 of this Act, is retroactive to  
31 January 1, 1993.

- 1     \* **Sec. 18.** AS 18.55.130(c) and 18.55.130(d) are repealed.
- 2     \* **Sec. 19.** This Act takes effect immediately under AS 01.10.070(c).