

HOUSE BILL NO. 32

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KREISS-TOMKINS

Introduced: 1/11/19

Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 **"An Act making certain entities that are exempt from federal taxation under 26 U.S.C.**
2 **501(c)(3), (4), (6), (12), or (19) (Internal Revenue Code), regional housing authorities,**
3 **and federally recognized tribes eligible for a loan from the Alaska energy efficiency**
4 **revolving loan fund; relating to loans from the Alaska energy efficiency revolving loan**
5 **fund; and relating to the annual report published by the Alaska Housing Finance**
6 **Corporation."**

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

8 * **Section 1.** AS 18.56.200(d) is amended to read:

9 (d) The corporation shall include in its annual report under (b) of this section

10 (1) a report of its activities under

11 (A) AS 18.55.010 - 18.55.290 (Housing Project and Public
12 Building Assistance Act);

13 (B) AS 18.55.300 - 18.55.470 (programs of moderate income

and rental housing);

(C) AS 18.55.480 - 18.55.960 (Slum Clearance and Redevelopment Act); **and**

(D) AS 18.56.855 (Alaska energy efficiency revolving loan fund);

(2) a summary of its efforts to implement a program to extend the operation of the programs authorized under AS 18.55 and this chapter to rural communities;

(3) an evaluation of the corporation's ability to fulfill the objectives of AS 18.56.010(b) - (e); and

(4) the amount of interest rate, building, and other subsidies for each program of the corporation for which subsidies are given.

* **Sec. 2.** AS 18.56.855(b) is amended to read:

(b) Money and other assets of the Alaska energy efficiency revolving loan fund may be used to

(1) make loans to **a tax exempt entity, a federally recognized tribe, a regional housing authority, a** regional educational attendance **area, a** [AREAS OR TO] municipal **government** [GOVERNMENTS], including **a subdivision** [SUBDIVISIONS] of **a** municipal **government**, [GOVERNMENTS, TO] the University of Alaska, or [TO] the state for the purpose of financing energy efficiency improvements to buildings **in the state** owned by **a tax exempt entity, a federally recognized tribe, a regional housing authority, a** regional educational attendance **area**, [AREAS, BY] the University of Alaska, [BY] the state, or **a municipality** [BY MUNICIPALITIES IN THE STATE];

(2) secure bonds issued by the corporation to finance the loans described in (1) of this subsection;

(3) pay costs of administering the revolving loan fund; and

(4) pay the costs of administering and enforcing the terms of loans made by the corporation from the revolving loan fund.

* **Sec. 3.** AS 18.56.855(c) is amended to read:

(c) Before **a federally recognized tribe, a regional housing authority, a**

1 regional educational attendance area, the University of Alaska, a municipal
 2 government, or a subdivision of a municipal government [,] may borrow money from
 3 the corporation under this section, the **federally recognized tribe, regional housing**
 4 **authority,** regional educational attendance area, [THE] University of Alaska, or
 5 [THE] municipal government shall waive any sovereign immunity defense it may
 6 have available to it with respect to enforcement of the terms of the loan. A regional
 7 educational attendance area, the University of Alaska, or a municipal government may
 8 waive sovereign immunity to comply with the requirement of this subsection. The
 9 state waives any sovereign immunity defense against enforcement of the terms of a
 10 loan made to the state under this section. A person or corporation having a claim under
 11 this section shall bring an action in a state court in Alaska that has jurisdiction over the
 12 claim.

13 * **Sec. 4.** AS 18.56.855(d) is amended to read:

14 (d) **A tax exempt entity, a federally recognized tribe, a regional housing**
 15 **authority, a** [ALL] regional educational attendance **area, a** [AREAS AND] municipal
 16 **government, or** [GOVERNMENTS IN THE STATE AND] the University of Alaska
 17 **is** [ARE] authorized to borrow from the corporation under this section. The
 18 corporation shall set out the terms of a loan to **a tax exempt entity, a federally**
 19 **recognized tribe, a regional housing authority, or** a regional educational attendance
 20 area in a loan agreement or similar document. At the discretion of the corporation, a
 21 borrowing by a regional educational attendance area, the University of Alaska, or a
 22 municipal government under this section may be effected by use of a loan agreement
 23 or similar document evidencing and setting out the terms of the loan or by issuance of
 24 a bond by the municipal government to the corporation. Notwithstanding a charter
 25 provision requiring public sale by a regional educational attendance area or a
 26 municipality of its municipal bonds or other indebtedness, a regional educational
 27 attendance area or municipality may sell its bonds under this section to the corporation
 28 at a negotiated, private sale. At the discretion of the corporation, the bonds or other
 29 indebtedness of the municipality may be general obligations of the municipality or
 30 may be secured by an identified revenue source or by a combination of the full faith
 31 and credit of the municipality and an identified revenue source.

1 * **Sec. 5.** AS 18.56.855(e) is amended to read:

2 (e) Notwithstanding any other provision of law, to the extent that a department
3 or agency of the state is the custodian of money payable to **a tax exempt entity, a**
4 **federally recognized tribe, a regional housing authority,** a regional educational
5 attendance area, [TO] the University of Alaska, or [TO] a municipality, at any time
6 after written notice to the department or agency head from the corporation that the **tax**
7 **exempt entity, federally recognized tribe, regional housing authority,** regional
8 educational attendance area, [THE] University of Alaska, or [THE] municipality is in
9 default on the payment of principal of or interest on municipal bonds or other
10 indebtedness then held or owned by the corporation, or amounts due under an
11 agreement between the corporation and **a tax exempt entity, a federally recognized**
12 **tribe, a regional housing authority,** a regional educational attendance area, the
13 University of Alaska, or a municipality, the department or agency shall withhold the
14 payment of that money from **the tax exempt entity, federally recognized tribe,**
15 **regional housing authority,** [THAT] regional educational attendance area, [THE]
16 University of Alaska, or [THAT] municipality and pay over the money to the
17 corporation for the purpose of paying the principal of and interest on the bonds or
18 indebtedness. The notice must be given in each instance of default. If a notice is given
19 under this subsection and, **if applicable,** under AS 44.85.170 and the default is
20 continuing under this subsection **or** [AND] under AS 44.85.170, the department or
21 agency shall make payment to the corporation and to the Alaska Municipal Bond Bank
22 Authority on a pro rata basis, taking into consideration the principal amount of the
23 respective default amounts.

24 * **Sec. 6.** AS 18.56.855(j) is amended to read:

25 (j) In this section,

26 **(1)** "authorized state officer" means

27 **(A)** [(1)] the commissioner of the department of the state for a
28 building owned by the state;

29 **(B)** [(2)] the executive director of a public corporation for a
30 building owned by the public corporation;

31 **(C)** [(3)] the legislative council for a building owned by the

legislature;

(D) [(4)] the administrative director of the Alaska Court System for a building owned by the judicial system;

(E) [(5)] any other person designated in writing by a person listed in **(A) - (D)** [(1) - (4)] of this **paragraph**;

(2) "federally recognized tribe" means a

(A) tribe that is recognized by the United States Secretary of the Interior to exist as an Indian tribe under 25 U.S.C. 5131 (Federally Recognized Indian Tribe List Act of 1994);

(B) subdivision, subsidiary, or business enterprise wholly owned by a federally recognized tribe;

(3) "regional housing authority" means a regional housing authority established under AS 18.55.996;

(4) "tax exempt entity" means an entity designated as tax exempt under 26 U.S.C. 501(c)(3), (4), (6), (12), or (19) (Internal Revenue Code), but does not include an entity organized with the primary purpose of owning, operating, managing, or controlling a plant or system for furnishing electric service by generation, transmission, or distribution, unless the entity is applying for a loan under this section for financing energy efficiency improvements to buildings unrelated to the generation, transmission, or distribution of electric service or recovered heat [SUBSECTION].

* **Sec. 7.** AS 18.56.855 is amended by adding new subsections to read:

(k) In considering applications and making loans from the Alaska energy efficiency revolving loan fund, the corporation shall give priority to energy efficiency improvements to buildings owned by a regional educational attendance area, the University of Alaska, a municipality, or the state over other applications and loans.

(l) Notwithstanding any provision of this section, the recipient of a loan under this section may not be a for-profit business enterprise.