

ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY

RESOLUTION NO. G20-23

A RESOLUTION OF THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY PERMANENTLY ADOPTING AN EMERGENCY REGULATION ON WAIVING OR MODIFYING THE REQUIREMENTS OF THE REGULATIONS GOVERNING THE AUTHORITY'S LOAN, GUARANTEE, AND FINANCE PROGRAMS

WHEREAS, on March 11, 2020, Governor Mike Dunleavy issued a declaration that a public health disaster exists statewide in Alaska with respect to the COVID-19 pandemic;

WHEREAS, since then the COVID-19 pandemic has led to serious economic harm to the businesses and individuals in Alaska;

WHEREAS, the Alaska Industrial Development and Export Authority (the "Authority") has loan, guarantee, and financing programs that could be deployed to assist in ameliorating the economic consequences of the COVID-19 disaster and any other statewide disaster that may be declared in the future;

WHEREAS, the permanent regulations governing the Authority's loan, guarantee, and financing programs do not contain any provision for the Authority to waive or modify requirements that are established in regulation during a declared statewide disaster;

WHEREAS, waiving or modifying requirements established in regulation during any declared statewide disaster the future, to the extent that a waiver or modification can occur consistently with the Authority's governing statutes, will enable the Authority to extend loans, guarantees, and financing to meet the economic needs of Alaskans and Alaska businesses and to ensure the orderly operation of the Authority's programs during the disaster;

WHEREAS, the Authority has the ability to adopt emergency regulations under AS 44.88.085(e) on a temporary basis if the Authority finds that the adoption of emergency regulation is necessary for the immediate preservation of the orderly operation of the Authority's programs;

WHEREAS, by Resolution No. G20-08, on March 27, 2020, the Board adopted a temporary emergency regulation, 3 AAC 99.925, in response to the COVID-19 pandemic;

WHEREAS, under AS 44.88.085(e), the temporary emergency regulation would automatically lapse after 120 days, or on July 25, 2020, despite the extension of the Governor's emergency declaration to November 15, 2020;

WHEREAS, the Authority has followed its administrative procedures, AS 44.88.085(d), in order to permanently adopt the emergency regulation by fulfilling the requirements of public notice, hearing, and consideration thereof;

WHEREAS, the time period for public comment has passed with no comments being made at the hearings, and one written comment being received; and

WHEREAS, it in the best interests of the public that the temporary emergency regulation (3 AAC 99.925) be permanently adopted by the Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY AS FOLLOWS:

Section 1. The Board finds that the adoption of a permanent emergency regulation allowing the Authority to waive or modify the requirements of its regulations for its loan, guarantee, and financing programs during any declared statewide disaster is needed for the immediate preservation of the orderly operation of the Authority's programs.

Section 2. In accordance with AS 44.88.085(d), the Authority hereby adopts 3 AAC 99.925, in the form presented to the Board, as a permanent regulation.

Section 3. The Executive Director is hereby authorized and directed to file the regulation with the Lieutenant Governor, and to take any other steps necessary or desirable to make the regulation effective.

Section 4. This Resolution shall become effective immediately upon its adoption.

DATED at Anchorage, Alaska on this 24th day of June, 2020.




Secretary
Alan Weitzner, Interim Executive Director


Chair
J. Dana Pruhs

3 AAC 99 is amended to add a new section to read:

3 AAC 99.925. Waiver or modification of regulations in declared disaster emergencies. (a) If the governor has declared a statewide disaster emergency under AS 26.23.020, the Authority may waive or modify any requirement established in a regulation under this chapter, or under 3 AAC 101 or 3 AAC 102, for any of the Authority's loan, guarantee, or finance programs, to the extent that the waiver or modification is consistent with the statutes governing the loan, guarantee, or finance program. The Authority's power to waive or modify under this section applies with respect to application requirements, application processing, interest rates, costs and fees, loan or financing terms and conditions, collateral requirements, underwriting standards, and other requirements established in regulation.

(b) The Authority may approve a waiver or modification under subsection (a) for a specific loan, guarantee, or financing agreement, or the Authority may approve waivers or modifications for loan, guarantee, or finance programs or other designated categories of loans, guarantees, or financing agreements.

(c) Once the governor has determined a declared statewide disaster emergency has ended, the Authority shall comply with the requirements of the regulations of this chapter or 3 AAC 101 or 3 AAC 102 for any new or modified loans, guarantees, or financing agreements. The end of a declared statewide disaster emergency shall not affect waivers or modifications the Authority previously approved for a loan, guarantee, or financing agreement.