



## MEMORANDUM

**To:** Participation Program Lenders

**From:** Tiffany Janssen  
Chief Lending Officer

**Date:** October 2, 2023

**Subject:** New Loan Funding

Dear Participating Lender,

Going forward, AIDEA will no longer be able to accept a reduced payment on a new loan. All payments received by AIDEA must adhere to and be the same as the amount listed on the promissory note. Non-compliance with the terms of the note can result in a balloon payment due at the end of AIDEA's loan term which is in violation of Alaska Statute 44.88.155(d)(5)(A) and Regulation 3 AAC 99.230(e) both of which require complete amortization provisions for all loan participations. The joint Originator/AIDEA promissory note, which states payment to be remitted to AIDEA collected by the Originator, must be followed to comply with the above Statutes and Regulations. Furthermore, any interest accrued on the note prior to AIDEA funding needs to be paid through the Originator's portion of the loan.

If you have any questions, please contact our Loan Participation department at (907) 771-3038.

Best Regards,

Tiffany Janssen  
Chief Lending Officer

## Sec. 44.88.155. Enterprise development account.

(a) The enterprise development account is established in the revolving fund. The enterprise development account is a trust fund for the uses and purposes of this chapter. The enterprise development account consists of money or assets appropriated or transferred to the authority and other money or assets deposited in it by the authority.

(b) The authority may establish in the enterprise development account the accounts it considers appropriate.

(c) Money and other assets of the enterprise development account may be used to secure bonds of the authority issued to finance the purchase of loans for projects, to purchase participation in the loans for projects, or to fund a new markets tax credit assistance guarantee or loan under AS 44.88.700 — 44.88.799.

(d) A loan participation purchased by the authority with assets of the enterprise development account or with proceeds of bonds secured by assets of the enterprise development account

(1) may not exceed \$25,000,000; however, in the case of a loan participation for qualified energy development, the loan participation may exceed \$25,000,000 with legislative approval;

(2) may not be purchased unless

(A) the project applicant is not, or, if the applicant is not a single proprietorship, all members of the business enterprise or enterprises constituting the project applicant are not, in default on another loan made by the state or by a public corporation of the state; and

(B) at least 10 percent of the principal amount of the loan is retained by the loan originator, or the loan is for financing improvements in energy efficiency;

(3) may not be purchased if the loan to be purchased exceeds 75 percent of the appraised value of the collateral offered as security for the loan unless the amount of the loan in excess of this limit is federally insured or guaranteed or is insured by a qualified mortgage insurance company, except that the loan to be purchased under this paragraph may not exceed the total of loan proceeds used to refinance an existing debt plus the cost of new construction, expansion, or acquisition unless the proceeds from the additional amounts of the loan to be purchased are restricted to uses approved by the authority to finance commercial activity in the state by a business enterprise;

(4) may not be purchased if the participation in the loan to be purchased is for a term longer than the following, except that a loan under (A) or (C) of this paragraph may not have a term longer than three-quarters of the authority's estimate of the life of the collateral offered as security for the loan:

(A) 40 years from the date the loan is made in the case of a loan participation for a project described in AS 44.88.900(13)(E);

(B) 50 years from the date the loan is made in the case of a loan participation for qualified energy

development;

(C) 25 years from the date the loan is made in the case of a loan participation for other projects;

(5) may be made only if the participation in the loan to be purchased contains amortization provisions; the amortization provisions

(A) must be complete and satisfactory to the authority and require periodic payments by the borrower;

(B) may allow the loan originator to amortize the portion of the loan retained by the loan originator using a shorter amortization schedule than the amortization schedule for the portion of the loan held by the authority if

(i) in the authority's opinion, the project financed can support the increased debt service; and

(ii) the accelerated amortization schedule is required to induce the originator to make the loan;

(6) may be made only if the participation in the loan to be purchased is in the form and contains the terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, secondary liens, and other matters the authority prescribes; and

(7) may be made only if the participation in the loan to be purchased is secured as to repayment by a mortgage or other security instrument in the manner the authority determines is feasible to assure timely repayment under the loan documents entered into with the borrower.

(e) The authority may adopt regulations for the administration of the enterprise development account including, without limitation, provisions for fees and agreements relating to application, loan commitment, servicing, and origination of loans by other lenders.

(f) The authority may enter into agreements as to the use of the money in the enterprise development account, including without limitation, trust or custody arrangements with banks or trust companies. It may also pledge, assign, or grant the agreement, interests under an agreement, or interests in the enterprise development account as may be necessary or appropriate to provide for payment and security for bonds of the authority issued to finance the purchase by the authority of loans for projects.

(g) Notwithstanding any other provision of this section, the authority may waive or modify the requirements of this section as it considers appropriate and prudent in order to finance a project if the authority intends to own the project or in order to finance qualified energy development.

(h) The provisions of this section apply only with respect to a loan participation purchased by the authority for projects under AS 44.88.155 — 44.88.159.

### 3 AAC 99.230. Terms of real property loans.

(a) The authority may participate in a loan made by an originator to acquire land, or to acquire or construct buildings, improvements, and structures on land, or to make improvements in the energy efficiency of buildings, improvements, and structures on land, if the loan satisfies the conditions prescribed in this section.

(b) The authority may participate in a loan made by an originator to refinance an outstanding loan described in (a) of this section if, in addition to other requirements of this section, the authority is satisfied that (1) the loan to be refinanced was not made with proceeds of outstanding general obligation indebtedness of the authority nor relates to a project that was originally financed with outstanding general obligation indebtedness of the authority, (2) the borrower will receive economic benefit from the refinancing, and (3) the loan is permitted under the code. The authority may participate in a loan for improvements in energy efficiency that will be secured by a lien on real property subordinate to a lien securing an existing loan of the authority or another lender if the requirements of (j) of this section are satisfied, if the borrower will receive economic benefit from the subordinate loan, and if the subordinate loan is permitted under the code. The economic benefit to the borrower may be in the form of an interest rate reduction, a reduction of debt service payments, an extension of the maturity of the loan, the elimination of call or balloon payment provisions, or other economic benefits, including improvements in the energy efficiency of an existing building and improvements and structures on existing real estate.

(c) The amount of the authority's participation in a real property loan will not exceed \$25,000,000, except that the authority may participate in a real property loan in an amount greater than \$25,000,000 if the loan is for the financing of a qualified energy development and if the legislature has approved the authority's participation. The principal amount of a real property loan may not exceed 75 percent of the appraised value of the collateral offered as security for the loan unless the amount of the real property loan in excess of this limit is federally insured or guaranteed or is insured by a qualified mortgage insurance company, except that in no event may the real property loan to be purchased under this section exceed the total of loan proceeds used to refinance an existing debt plus the cost of new construction, expansion, or acquisition, unless the additional amounts of the loan to be purchased are restricted to uses approved by the authority to finance commercial activity in the state by a business enterprise.

(d) A real property loan must be secured by a mortgage which is a first lien on real property in fee simple or on a leasehold estate or, in the case of a qualified energy development, on an easement, except as provided in (j) of this section. The authority may review and approve other encumbrances against the real property that do not affect the authority's security for the loan.

(e) The loan terms for any real property loan must require complete amortization provisions and require periodic payments by the borrower. The term for a real property loan shall not exceed the following calculated from the date the loan is made:

(1) a loan to finance a qualified energy development may not exceed 50 years or 75 percent of the estimated economic life of the collateral offered as security for the loan, whichever is less, as determined by the authority;

(2) a loan to finance a tourism destination facility may not exceed 40 years or 75 percent of the estimated economic life of the collateral offered as security for the loan, whichever is less, as determined by the authority; and

(3) a loan to finance real property, other than described in (1) and (2) of this subsection, may not exceed 25 years or 75 percent of the estimated economic life of the collateral offered as security for the loan, whichever is less, as determined by the authority.

(f) The authority may allow the loan originator to amortize its portion of the loan using a shorter amortization schedule than the amortization schedule for the authority's portion provided

(1) in the authority's opinion, the project or qualified energy development financed can support the increased debt service;

(2) the accelerated amortization schedule is required to induce the originator to make the loan; and

(3) the originator's term is at least one-half of the amortization term of the authority's participation or 10 years, whichever is less.

(g) Before closing a real property loan where construction of the improvements in part or whole has taken place, an originator shall obtain a statement in writing from

(1) the author of the original appraisal, or other appraiser acceptable to the authority, that construction was substantially completed according to the plans and specifications included in the original appraisal required by 3 AAC 99.220(b)(12) and that the completed value is at least equal to an amount which would meet the requirements of (c) of this section;

(2) an authorized official that the buildings and structures may be occupied and that the occupancy, buildings, and structures conform to all requirements of federal, state and municipal law; or if there is no authorized official or if requested by the authority, a registered architect or professional engineer that the property offered as security for the real property loan is structurally sound and that buildings or structures conform to applicable building standards.

(h) The terms and conditions of a land lease or, in the case of a qualified energy development, an easement that secures a real property loan for a project or qualified energy development are subject to approval by the authority. The term of the lease or easement must exceed the effective term of the loan by at least 10 years. However, the authority may approve a land lease or easement for a shorter term if there is an irrevocable option to renew the lease or easement that is acceptable in the sole discretion of the authority.

(i) Unless waived by the authority, the applicant shall obtain insurance coverage for the improvements on the real property from responsible companies in such amounts and against such risks as is satisfactory to the authority. An American Land Title Association title insurance loan policy is required if real property is involved.

(j) The authority may, in its discretion, allow secondary financing on a project financed by a real property loan if the applicant demonstrates to the satisfaction of the authority that the additional debt can be repaid from the revenue earned by the real property offered as security for the real property loan.

(k) If required by the authority, the originator must obtain a guarantee for repayment of an applicant from the following persons:

- (1) a partner or member of the applicant;
- (2) a joint venturer with the applicant;
- (3) any stockholder of the capital stock of the applicant; or
- (4) the parent corporation if the applicant is a subsidiary corporation.

(l) When a real property loan is for a qualified energy development, the originator shall require the applicant to grant the authority a first position security interest in the applicant's rights under, and the proceeds of, any contract for the sale of power, electricity, or heat from the qualified energy development.