Statutes and Regulations
Small Business Loan Assumptions

October 2025

DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT

DIVISION OF INVESTMENTS

Rev. 10/2025

TABLE OF CONTENTS

ARTICLE 3.
SMALL BUSINESS LOANS

Section

Sec. 45.81.200. Powers and duties of Department of Commerce, Community, and Economic Development in general.

(a) The Department of Commerce, Community, and Economic Development shall formulate general policies and adopt regulations necessary to carry out the provisions of AS 45.81.200 — 45.81.290, including regulations to establish fees for services provided and charges for collecting the fees. The department may collect the fees and collection charges established.

(b) The department may hold hearings and subpoena witnesses and documents, and administer oaths in connection with hearings.

(c) The department shall

(1) cooperate with the state and its political subdivisions and agencies;

(2) adopt regulations necessary for the conduct of its business and for carrying out the provisions of AS 45.81.200 — 45.81.290, and make necessary regulations to maintain such standards;

(3) require bonds and undertakings from persons employed by it as shall in its judgment be necessary, and pay the premiums on them;

(4) establish such regional and local offices and such advisory groups as may be necessary or considered expedient to carry out or assist in carrying out its duties and authority.

Sec. 45.81.210. Small business loans.

(a) The commissioner shall, under regulations and policies adopted by the commissioner, make small business loans to acquire, finance, or refinance or equip businesses, including farming, mining, and fishing, not exceeding $500,000. The loans shall be secured by acceptable collateral and may not exceed 75 percent of the appraised value of the collateral offered as security. The rate of interest may not exceed nine and one-half percent a year on the unpaid balance. For the purposes of this subsection business equipment includes, but is not limited to, fire protection systems approved under AS 18.70.081 and farming equipment.

(b) [Repealed, § 14 ch 122 SLA 1980.]

(c) [Repealed, § 108 ch 59 SLA 1982.]

(d) Money loaned shall be delivered to the borrower as provided in AS 37.25.050, vouchered in the manner prescribed for state disbursing officers, and charged against the small business revolving loan fund. Each voucher shall be approved by the commissioner or a bonded deputy authorized to act as a certifying officer. Upon repayment of loans by installments, or otherwise, in accordance with the prescribed terms, or upon liquidation by foreclosure or other process, or upon receipt of interest, the money so received shall be turned over to the commissioner of revenue for deposit in the small business revolving loan fund.

(e) The commissioner may not disqualify an applicant for, or prejudice an applicant's privilege to receive, a loan to purchase and install a fire protection system solely because of a loan already made to the applicant under AS 45.81.200 — 45.81.290.

Sec. 45.81.220. Sale or transfer of mortgages and notes.
(a) The commissioner may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages and notes held by the Department of Commerce, Community, and Economic Development as security for loans made under AS 45.81.200 — 45.81.290.

(b) [Repealed, § 33 ch 141 SLA 1988.]

Sec. 45.81.230. Disposal of property acquired by default or foreclosure.
The Department of Commerce, Community, and Economic Development shall dispose of property acquired through default or foreclosure of a loan made under AS 45.81.200 — 45.81.290. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years.

Sec. 45.81.240. Creation of fund.
(a) There is created the small business revolving loan fund to carry out the purposes of AS 45.81.200 — 45.81.290. This fund shall be used for no other purpose.

(b) Money in the fund may be used by the legislature to make appropriations for costs of administering AS 45.81.200 — 45.81.290.

Sec. 45.81.250. Special account established.
(a) There is established as a special account within the small business revolving loan fund the foreclosure expense account. This account is established as a reserve from fund equity.

(b) The commissioner may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans made under AS 45.81.210 or to defray expenses incurred during foreclosure proceedings after a default by an obligor.

Sec. 45.81.260. Eligibility for loans.
A person is eligible for a loan under AS 45.81.200 — 45.81.290 if

(1) the person can establish or demonstrate good character, capacity for financial responsibility, ability to provide sufficient collateral and knowledge of Alaska economic conditions;

(2) the person is a resident of the state; and

(3) in the judgment of the Department of Commerce, Community, and Economic Development

(A) the business shows a definite potential for growth;

(B) the borrower will be able to repay the loan; and

(C) the loan will potentially create more jobs and provide additional services in the community.

Sec. 45.81.290. Definition.
In AS 45.81.200 — 45.81.290, “commissioner” means the commissioner of commerce, community, and economic development.

CHAPTER 86
SMALL BUSINESS LOAN ASSUMPTIONS

Section

3 AAC 86.010. Application process.
(a) To apply for an assumption of an existing small business loan, an applicant shall file with the department
(1) a completed application for a small business loan assumption, on a form provided by the department;
(2) repealed 8/10/97;
(3) an individual financial statement from each individual applicant, including each member of a partnership or other association, or, if the applicant is a corporation, each individual owning 10 percent or more of any outstanding shares, on a form provided by the department;
(4) a business financial statement, if applicable, on a form provided by the department;
(5) an actual statement of profit and loss, on a form provided by the department;
(6) a projected statement of profit and loss, on a form provided by the department;
(7) a personal resume, on a form provided by the department;
(8) a business resume, on a form provided by the department;
(9) a signed credit authorization, on a form provided by the department;
(10) repealed 8/10/97;
(11) an earnest money agreement explaining all terms and conditions of the transaction, with signatures by all parties;
(12) signed copies of the applicant's federal income tax returns for the preceding three years, including returns for each member of a partnership or other association;
(13) a $100 nonrefundable application fee; and
(14) repealed 8/10/97;
(15) any other information that might be helpful to the applicant in demonstrating eligibility for the assumption, as requested by the department.
(b) The department will, in its discretion, process an application for an assumption without the information described in (a) of this section, if the department determines that the department can make an informed lending decision without access to the information.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.015. Examination.
(a) The materials described in 3 AAC 86.010 will be processed and evaluated by a loan officer. The loan officer will evaluate the applicant's financial and credit history, ability to repay, and proposed collateral.
(b) On the basis of the evaluation, the loan officer will either inactivate the application, due to lack of information required under 3 AAC 86.010, or recommend proposed action on the request for assumption to the appropriate loan committee. However, the recommendation of a loan officer is not binding on a loan committee.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.020. Loan committee.
(a) A loan committee consists of one or more persons appointed by the director to act on a request for assumption.
(b) A loan committee may approve, deny, or modify and approve a request for assumption, or may table a request subject to obtaining additional information.
(c) A loan committee may impose reasonable conditions on the approval of an assumption, including
(1) additional collateral to secure the loan;
(2) additional guarantors; and
(3) subordination of prior lienholders' rights to the interests of the state.
(d) A loan committee shall consider the applicant's financial and credit record, ability to repay, and the proposed collateral. A loan committee may also consider the recommendations of the loan officer assigned to process the application, and any other relevant information.
(e) If a request for an assumption is denied or significantly modified by a loan committee, the loan committee will provide the applicant with a statement of the reasons for the action and the information relied on.
(f) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a request for an assumption.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.035. Eligibility.
Repealed.

3 AAC 86.040. Financial and credit record.
(a) The department will, in its discretion, consider the following factors in evaluating an applicant's financial and credit record:
(1) existing and prior debts;
(2) credit reports obtained from creditors and private credit reporting services;
(3) prior loan history with the department;
(4) timeliness in making payments on loans and other debts;
(5) bankruptcies;
(6) existence of tax liens;
(7) judgments and foreclosures; and
(8) financial and credit reputation.
(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred in recent years.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.045. Ability to repay.
The department will, in its discretion, consider the following factors in evaluating an applicant's ability to repay a proposed assumption:
(1) income history, including present income;
(2) prospects for future income;
(3) assets and their liquidity; and
(4) liabilities.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.050. Collateral.
Repealed.

3 AAC 86.065. Closing an assumption.
An assumption agreement will be considered by the department to be closed when
(1) all required signatures have been obtained and the assumption agreement has been properly recorded;

(2) the borrower has complied with the insurance requirements contained in an instrument signed by the borrower;
(3) requirements of the loan committee have been met; and
(4) the borrower is in compliance with all other provisions of the loan documents and this chapter.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.070. Supervision of loans.
If a loan is in default, the department will, in its discretion, require the borrower to furnish annual financial statements consisting of a balance sheet, profit-and-loss statement, sources and application of all money received, and a schedule of change of owner's equity. The department will, in its discretion, also require an audit or audits to determine whether the borrower has complied with the provisions of the assumption, and conduct periodic inspection of collateral securing repayment of the loan.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.075. Costs.
(a) All expenses incurred by the department in processing an application must be paid by the applicant. These expenses include the cost of title reports and insurance, recording fees, appraisals, surveys, travel, and other direct costs.
(b) An assumption fee of one percent of the remaining loan balance is due from the borrower when all provisions of 3 AAC 86.065 have been met.
(c) A late fee not to exceed five percent of the payment amount will, in the department's discretion, be charged to a borrower for each loan payment that is more than 15 days past due.
(d) An extension fee not to exceed $100 will, in the department's discretion, be charged to a borrower to process a loan extension.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.080. Assumptions.
(a) The department will, in its discretion, allow an assumption of a loan made under AS 45.81 and this chapter, if the department determines the assumption is in the best interest of the state.
(b) A request for an assumption of a loan made under AS 45.81 and this chapter will be processed in the same manner as a loan application. If necessary to evaluate the request, the department will, in its discretion, require that the applicant supply one or more of the items specified in 3 AAC 86.010, before the request will be processed.
(c) Wraparound financing that includes a loan made under AS 45.81 and this chapter is prohibited and constitutes a default on the loan.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.082. Modifications.
(a) A request for a modification to a loan made under AS 45.81 or assumed under this chapter will be processed in the same manner as a loan application. The department will, in its discretion, require one or more of the items specified in 3 AAC 86.010.
(b) A loan committee may permit a loan modification only if the security of the state and its investment is preserved.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.085. Reconsideration of assumption request.
(a) If an assumption request is denied, inactivated, or significantly modified by the department, an applicant may file a written request for reconsideration within 30 days after receipt of notice of the department's decision.
(b) The department will, in its discretion, reconsider a request upon a showing by the applicant that
(1) there has been a substantial change in the circumstances leading to the department's decision;
(2) additional relevant information can be provided to the department that was not initially available; or

(3) administrative errors were made by the department.

Authority: AS 45.81.200 AS 45.81.210

3 AAC 86.090. Confidentiality of loan information.
(a) The following information is not confidential and is available for public inspection upon request:
(1) a document that is already a public record including deeds of trust, financing statements, warranty deeds, bills of sale, mortgages, liens, and vehicle titles;
(2) general information regarding loans, including the original loan amount, loan terms, personal guarantees, and disbursement and repayment schedules;
(3) insurance matters, including title insurance policies and correspondence with insurance companies and borrowers regarding losses, accident reports, and nonpayment of premiums; and
(4) foreclosure and default proceedings.
(b) The following information is confidential and is not subject to public disclosure:
(1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained directly from banks and other creditors, and reports obtained from consumer reporting agencies;
(2) loan committee memoranda and minutes containing information relating to creditworthiness of an applicant; and
(3) payment history on a loan, unless the loan is in default.
(c) Information not described in (a) or (b) of this section may be subject to public disclosure. Requests for disclosure must be made, and will be determined, in accordance with 2 AAC 96. Upon receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed.

Authority: Ak Const. Art. I AS 40.25.110
AS 40.25.120 AS 45.81.200

3 AAC 86.900. Definitions.
(a) Unless the context requires otherwise, in this chapter
(1) repealed 8/10/97;
(2) "default" includes a violation of any provision of AS 45.81, this chapter, or the loan documents, failure to make the necessary payment within 15 days after it is due, or failure to maintain the insurance required by the department;
(3) "department" means the Department of Commerce, Community, and Economic Development;
(4) "small business" means a commercial enterprise operated for profit and engaged in lawful business activity with not more than $10,000,000 in annual gross sales, and does not include a business that is a division or subsidiary of a larger parent company that does not qualify as a small business;
(5) "wraparound financing" means a contract that includes the balance due on an existing debt and an additional amount to cover the difference between the selling price and the existing debt;
(6) "director" means the director of the division assigned economic development functions or its successor agency in the department.
(b) In AS 45.81.260, "resident" means a corporation, partnership, or limited partnership organized under the laws of Alaska and headquartered in Alaska or a person who, except for brief intervals, periods of military service, or attendance at an educational or training institution, has been physically present in Alaska with the intent to remain indefinitely and make a primary and permanent home in the state.

Authority: AS 45.81.200