

# MEMORANDUM


## State of Alaska Department of Law

TO: April Simpson, AAC Coordinator  
Office of the Lieutenant Governor

DATE: November 29, 2018

FILE NO.:

TELEPHONE NO.: 465-3600

FROM: Steven C. Weaver   
Senior Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

SUBJECT: Corrections to the Alaska  
Administrative Code (AAC):  
history note and authority  
citation for 3 AAC 99.750

In accordance with the authority of the regulations attorney under AS 44.62.125(b), please forward to the publisher the corrections to the Alaska Administrative Code (AAC) described below. I have forwarded these corrections under a specific delegation dated December 1, 2015 from the regulations attorney. These revisions correct manifest errors in a history note and an authority citation.

The history note and authority citation to be revised follow 3 AAC 99.750. The revisions are as follows:

--Through a "copy and paste" word processing error, the wrong history note was inserted after the most recent amendment to 3 AAC 99.750 (part of the project with Department of Law file number 2018200528). Please restore the original history note, updated with the most recent amendment: "(Eff. 8/1/88, Register 107; am 11/30/90, Register 118; am 9/25/92, Register 124; am 2/11/99, Register 150; am 6/28/2018, Register 227)".

--Also through a "copy and paste" word processing error, the last citation in the authority citation after 3 AAC 99.750 incorrectly reads "AS 44.88.535". Please restore the original citation "AS 44.88.560".

In addition, after 3 AAC 99.750, please add an editor's note to read:

**Editor's note:** As of Register 228 (January 2019), the regulations attorney made technical revisions under AS 44.62.125(b)(6), to the history note and authority citation for 3 AAC 99.750.

I reviewed how the history note and authority citation for 3 AAC 99.750 appeared in print in the Alaska Administrative Code before the amendment of June 28, 2018; I reviewed the text that the agency adopted for filing (Department of Law file number 2018200528); and I consulted with an agency staffer. The agency staffer confirmed that the history note and

April Simpson, AAC Coordinator  
Office of the Lieutenant Governor

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authority citation for 3 AAC 99.750, as they appeared in the agency draft, contained manifest errors. A copy of the correspondence between the agency staffer and me is included with this memorandum.

Please disregard any discussion in the included correspondence about possible erroneous text in 3 AAC 101.180. That text did not make to print in the official Alaska Administrative Code supplement (October 2018, Register 227) or in the electronic database.

Thank you for your assistance, and please contact me if you have additional questions.

SCW

cc w/enc:

Linda Mattson, Regulations Contact  
Department of Commerce, Community, and Economic Development

Sherrie Siverson  
Alaska Industrial Development and Export Authority

Jerry Juday, Senior Assistant Attorney General  
Labor and State Affairs Section

## **Weaver, Steven C (LAW)**

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**From:** Sherrie M. Siverson <SSiverson@aidea.org>  
**Sent:** Tuesday, November 27, 2018 2:56 PM  
**To:** Weaver, Steven C (LAW)  
**Subject:** RE: AK 2018200528 - 3 AAC 99.750 and 3 AAC 101.180

3 AAC 99.750 ... The history references were a “cut and paste” error from an earlier regulation in the document. The register references should only include the addition of the 2018 change.

3 AAC 99.750 ... the authority citation is a typo ... it should be 44.88.560

### **3 AAC 99.750. Costs and fees**

(a) The financial institution that submits an application under 3 AAC 99.720 must also submit a nonrefundable fee of \$250 with the application. In addition, the financial institution, or any substitute financial institution, or the borrower must pay a nonrefundable \$500 fee for any modification of the terms of the guarantee.

(b) The financial institution originating a loan or the borrower must pay a guarantee fee equal to two percent of the guaranteed amount of the loan as provided in the guarantee authorization. The board shall review the fee structure periodically and may establish other fees it determines commercially appropriate.

(c) The financial institution renewing a loan secured solely by inventory or accounts receivable or renewing a loan for working capital, or the borrower, must pay a fee of one-half percent of the guaranteed amount of the loan for each renewal as provided in the loan guarantee agreement. The board shall review the fee structure periodically and may establish other fees it determines commercially appropriate.

(d) The financial institution or the borrower must also pay all third party expenses of the authority related to the issuance of the authority's guarantee of a loan.

**History:** Eff. 8/1/88, Register 107; am 11/30/90, Register 118; am 9/25/92, Register 124; am 2/11/99, Register 150; am 6/28/2018, Register 227

**Authority:** AS 44.88.080 AS 44.88.085 AS 44.88.560

Thank you for your diligence. Sherrie

**From:** Weaver, Steven C (LAW) <steve.weaver@alaska.gov>  
**Sent:** Tuesday, November 27, 2018 12:13 PM  
**To:** Sherrie M. Siverson <SSiverson@aidea.org>  
**Cc:** Pollard, Susan R (LAW) <susan.pollard@alaska.gov>  
**Subject:** FW: AK 2018200528 - 3 AAC 99.750 and 3 AAC 101.180

Sherrie: One of the users of Alaska Administrative Code (AAC) found a discrepancy between the history note and authority citation for 3 AAC 99.750, as they appeared in prior versions of the AAC, and what AIDEA transmitted as the history note and authority citation for 3 AAC 99.750 and appeared in print in the October 2018 quarterly supplement (Register 227). The user noted that the history note (what he calls the "credit") changed, without explanation from four register references to 11 register references. Also, where the authority citation used to have a citation to AS 44.88.560, the citation now reads AS 44.88.535.

Are these discrepancies typographical errors? For your convenience, I have included with this message, as .pdf attachments, a copy of 3 AAC 99.750 as it read before this year's changes and a copy of the pages of the 2018 transmittal where the changes to 3 AAC 99.750 appeared in Dep't of Law project 2018200528.

Thank you for your help,

Steven C. Weaver  
Senior Assistant Attorney General and Assistant Regulations Attorney  
State of Alaska, Department of Law  
Legislation and Regulations Section

Telephone: 907-465-3600

E-mail: [steve.weaver@alaska.gov](mailto:steve.weaver@alaska.gov)

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**From:** Meriwether, Scott C (GOV) <[scott.meriwether@alaska.gov](mailto:scott.meriwether@alaska.gov)>  
**Sent:** Wednesday, October 17, 2018 9:02 AM  
**To:** Pollard, Susan R (LAW) <[susan.pollard@alaska.gov](mailto:susan.pollard@alaska.gov)>; Weaver, Steven C (LAW) <[steve.weaver@alaska.gov](mailto:steve.weaver@alaska.gov)>  
**Cc:** Simpson, April L (GOV) <[april.simpson@alaska.gov](mailto:april.simpson@alaska.gov)>  
**Subject:** FW: AK 2018200528 - 3 AAC 99.750 and 3 AAC 101.180

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**From:** Lockhart, Adam (Legal) <[Adam.Lockhart@thomsonreuters.com](mailto:Adam.Lockhart@thomsonreuters.com)>  
**Sent:** Wednesday, October 17, 2018 8:52 AM  
**To:** Meriwether, Scott C (GOV) <[scott.meriwether@alaska.gov](mailto:scott.meriwether@alaska.gov)>  
**Subject:** AK 2018200528 - 3 AAC 99.750 and 3 AAC 101.180

Hello Scott:

For 3 AAC 99.750, we noticed that the credit changed from having 4 register references to having 11 register references. We would have expected it to only increase by one, for register 227. Also, in the Authority, AS 44.88.560 changed to AS 44.88.535. None of these changes is evident in the 2018200528 rule making document.

Just checking to see if these changes were intentional.

For 3 AAC 101.180, in (b), some sort of markup appears to be bleeding through – “Type equation here.”. This appears in the middle of a statutory reference. I have to think this is not a part of the amendment. Also in (b)(1) and (b)(2), the semi colons at the end each paragraph is enclosed in parens. We think that the parens is probably not intentional.

Thanks,  
Adam

**Adam Lockhart**

Principal Attorney Editor  
Thomson Reuters  
(651) 848-7253  
[Adam.lockhart@tr.com](mailto:Adam.lockhart@tr.com)

## Weaver, Steven C (LAW)

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**To:** Siverson, Sherrie M (AIDEA)  
**Cc:** Pollard, Susan R (LAW)  
**Subject:** FW: AK 2018200528 - 3 AAC 99.750 and 3 AAC 101.180  
**Attachments:** 3 AAC 99-750 before 6-28-2018.pdf; transmitted 3 AAC 99-750.pdf

Sherrie: One of the users of Alaska Administrative Code (AAC) found a discrepancy between the history note and authority citation for 3 AAC 99.750, as they appeared in prior versions of the AAC, and what AIDEA transmitted as the history note and authority citation for 3 AAC 99.750 and appeared in print in the October 2018 quarterly supplement (Register 227). The user noted that the history note (what he calls the "credit") changed, without explanation from four register references to 11 register references. Also, where the authority citation used to have a citation to AS 44.88.560, the citation now reads AS 44.88.535.

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Thank you for your help,

Steven C. Weaver  
Senior Assistant Attorney General and Assistant Regulations Attorney  
State of Alaska, Department of Law  
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**Cc:** Simpson, April L (GOV) <[april.simpson@alaska.gov](mailto:april.simpson@alaska.gov)>  
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Adam

**Adam Lockhart**

Principal Attorney Editor  
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[Adam.lockhart@tr.com](mailto:Adam.lockhart@tr.com)

**3 AAC 99.750. Costs and fees.** (a) The financial institution that submits an application under 3 AAC 99.720 must also submit a nonrefundable fee of \$200 with the application. In addition, the financial institution, or any substitute financial institution, or the borrower must pay a \$100 fee for any modification of the terms of the guarantee.

(b) The financial institution originating a loan or the borrower must pay a guarantee fee equal to two percent of the guaranteed amount of the loan as provided in the guarantee authorization. The board shall review the fee structure periodically and may establish other fees it determines commercially appropriate.

(c) The financial institution renewing a loan secured solely by inventory or accounts receivable or renewing a loan for working capital, or the borrower, must pay a fee of one-half percent of the guaranteed amount of the loan for each renewal as provided in the loan guarantee agreement. The board shall review the fee structure periodically and may establish other fees it determines commercially appropriate.

(d) The financial institution or the borrower must also pay all third party expenses of the authority related to the issuance of the authority's guarantee of a loan. (Eff. 8/1/88, Register 107; am 11/30/90, Register 118; am 9/25/92, Register 124; am 2/11/99, Register 150)

Authority: AS 44.88.080

AS 44.88.085

AS 44.88.560

**3 AAC 99.760. Terms of guarantee.** (a) A guarantee under this article guarantees payment of outstanding principal, unpaid interest as described in (b) of this section, and liquidation expenses acceptable to the authority on a loan up to the amounts stated in the guarantee authorization in accordance with the terms and conditions set out in the loan guarantee agreement. A guarantee or portion of a guarantee that relates to an export transaction guarantees against commercial and political loss. The guarantee does not apply to penalties, late fees or interest accruing under a default interest rate. Liquidation expenses must receive written approval from the authority before expenditure to be reimbursable pro rata.

(b) A guarantee issued under this article guarantees payment of accrued and unpaid interest for a period of time not to exceed

(1) 90 days for loans or parts of loans not made to support an export transaction;

(2) 180 days for loans or parts of loans made for a post-shipment loan guarantee to support an export transaction; or

(3) 270 days for loans or parts of loans made for a pre-shipment loan guarantee to support an export transaction.

(c) A loan guaranteed by the authority may be made for the purpose of either financing or refinancing real property, tangible personal property, or working capital, or for the purpose of financing or ref-

3 AAC 99.710(g) is amended to read:

(g) The authority will monitor the size of its guarantees to ensure compliance with AS 44.88.540 [ISSUANCE OF LOAN GUARANTEES IN AMOUNTS EXCEEDING \$500,000 PER LOAN WILL BE SUSPENDED WHEN THE TOTAL INITIAL PRINCIPAL AMOUNT OF ALL LOANS HAVING AN INITIAL GUARANTEE EXCEEDING \$500,000 REACHES \$25,000,000].

(Eff. 8/1/88, Register 107; am 11/30/90, Register 118; am 7/19/91, Register 119; am 9/25/92, Register 124; am 10/23/96, Register 141; am 2/11/99, Register 150; am 11/1/99, Register 153; am 2/8/2001, Register 158; am 6/28/2018, Register 227)

**Authority:** AS 44.88.080 AS 44.88.505 AS 44.88.560

AS 44.88.085 AS 44.88.515 AS 44.88.570

**Editor's note:** As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125 (b)(6) to reflect the name change of the Department of Labor to the Department of Labor and Workforce Development made by ch. 58, SLA 1999 and the corresponding title change of the commissioner of labor.

3 AAC 99.750(a) is amended to read:

(a) The financial institution that submits an application under 3 AAC 99.720 must also submit a nonrefundable \$250 fee [OF \$200] with the application. In addition, the financial institution, or any substitute financial institution, or the borrower must pay a nonrefundable \$500 [\$100] fee for any modification of the terms of the guarantee.

Register 227, October, 2018 COMMERCE, COMMUNITY, AND EC. DEV.

(Eff. 8/1/88, Register 107; am 11/22/88, Register 109; am 11/30/90, Register 118; am 7/19/91, Register 119; am 9/25/92, Register 124; am 12/2/94, Register 134; am 10/23/96, Register 141; am 2/11/99, Register 150; am 11/1/99, Register 153; am 2/8/2001, Register 158; am 6/28/2018, Register 227)

Authority: AS 44.88.080 AS 44.88.085 AS 44.88.535

3 AAC 99.810(b) is amended to read:

(b) A nonrefundable \$250 [\$200] application fee is due from the applicant at the time that an application is filed with the department. This fee will be credited toward the origination fee if the loan is made.

3 AAC 99.810(c) is amended to read:

(c) An origination fee not to exceed 15 basis points applied to [ONE AND ONE-HALF PERCENT OF] the loan balance is due from the borrower at the time that the loan is made.

3 AAC 99.810(d) is amended to read:

(d) A late fee not to exceed five percent [5%] of the payment amount may be charged to a borrower for each loan payment that is more than 15 days past due.

3 AAC 99.810(e) is amended to read:

(e) An extension fee not to exceed \$50 [\$25] may be charged to a borrower to process a loan extension. (Eff. 1/12/89, Register 109; am 3/30/89, Register 110; am 7/19/91, Register 119; am 6/28/2018, Register 227)