3 AAC is amended by adding a new chapter to Part 10 to read:

Chapter 75. Capstone Avionics Loans.

Section

10. Application process

15. Examination

20. Loan committee

25. Eligibility of aircraft and equipment

30. Financial and credit record

35. Ability to repay

40. Collateral

45. Lending practices

50. Disbursement of loan proceeds

55. Fees

60. Assumptions

65. Modifications

70. Reconsideration of loan request

75. Confidentiality of loan information

900. Definitions

3 AAC 75.010. Application process. To apply for a loan for the purchase and installation of capstone avionics equipment, the applicant shall file

(1) a completed application for a capstone avionics loan, on a form provided by the department;

(2) documentation to verify that the aircraft on which the capstone avionics equipment is to be installed meets the eligibility requirements contained in AS 44.33.665(a) and 3 AAC 75.025;

(3) a letter of intent stating the amount requested and the intended use of the proposed loan money on a form provided by the department;

(4) a schedule of acceptable collateral, including a copy of the aircraft title and capstone avionics equipment to be acquired with the loan proceeds, on a form provided by the department;

(5) an individual financial statement consisting of a current balance sheet and a profit and loss statement, on a form provided by the department;

(6) a signed authorization, on a form provided by the department, for any individual or institution to release to the department credit information concerning the applicant;

(7) a copy of the applicant's federal income tax return for the preceding year; as necessary to verify the applicant's income, or if a federal income tax return for the preceding year is not available, the department will request copies of federal income tax returns for earlier years or other documentation of the applicant's income;

(8) a signed consent, on a form provided by the department, for the department to obtain information from, or release information to, other government agencies;

(9) copies of the purchase agreement, cost estimates, invoice, or other documentation to verify the cost of equipment being purchased and installed with loan proceeds;

(10) the application fee required by 3 AAC 75.055(a);

(11) any other information that might be helpful to the applicant in demonstrating eligibility for a loan, as requested by the department; and

(12) a copy of the airworthiness certificate issued under 49 U.S.C. 44704(d) by the Federal Aviation Administration for the aircraft on which the capstone avionics equipment is to be installed.

(b) An applicant who submits a false sworn or unsworn statement on or in support of a loan application is subject to AS 11.56.200 - 11.56.210 and may be denied any future loans.

(Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665

3 AAC 75.015. Examination. (a) A loan officer shall evaluate and process the materials described in 3 AAC 75.010. The loan officer shall evaluate the applicant's eligibility, financial and credit history, financial statement, ability to repay, and proposed collateral.

(b) On the basis of the evaluation, the loan officer shall either

(1) inactivate the application due to

(A) lack of information required under 3 AAC 75.010;

(B) ineligibility of the applicant; or

(C) failure by the aircraft to meet the eligibility requirements under 3 AAC 75.025; or

(2) recommend proposed action on the loan request to the appropriate loan committee; however, the recommendation of a loan officer is not binding on a loan committee.

(Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665

3 AAC 75.020. Loan committee. (a) A loan committee consists of one or more persons appointed by the director to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or may table a loan request subject to obtaining additional information.

(c) A loan committee may impose reasonable conditions on the approval of a loan, including

(1) additional collateral to secure the loan;

(2) additional guarantors; and

(3) adding the department as loss payee on an existing aircraft insurance policy.

(d) A loan committee shall consider the applicant's eligibility for a loan, financial and credit record, and ability to repay, and the adequacy of collateral offered to secure the loan. A loan committee may also consider the recommendations of the loan officer assigned to process the application and any other relevant information.

(e) A loan committee may fix, within the limitations set by AS 44.33.670, the term of a loan and repayment schedule.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee shall provide the applicant with a statement of the reasons for the action and the information relied upon.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds

for denial of a loan request. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665 AS 44.33.670

3 AAC 75.025. Eligibility of aircraft and equipment. (a) For an aircraft to be eligible for a loan under AS 44.33.650 - 44.33.690, the applicant must document that the aircraft has logged a substantial percentage of flight hours in the state. For purposes of this section, an applicant shall document that the aircraft has logged substantial flight hours by submitting to the department a declaration certifying that at least 51 percent of the aircraft's flight hours in the previous 12 months were flown in this state.

(b) Capstone avionics equipment eligible for a loan includes one or more of the following:

(1) a universal access transceiver (UAT) automatic dependent surveillance – broadcast (ADS-B) data link system;

(2) global positioning system/wide area augmentation system (GPS/WAAS) navigation equipment;

(3) a moving map multifunction display (MFD);

(4) other equipment as determined by the department in consultation with the Department of Transportation and Public Facilities.

(c) An aircraft eligible for a loan under AS 44.33.650 - 44.33.690 must, at a minimum, already be equipped with a UAT ADS-B system, or the capstone avionics equipment being purchased and installed must include a UAT ADS-B system. Other capstone avionics equipment is optional. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665

3 AAC 75.030. Financial and credit record. (a) The department may 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) existence of tax liens;

(6) judgments and foreclosures;

(7) financial and credit reputation.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred within the past 10 years. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665

3 AAC 75.035. Ability to repay. The department may consider the following factors in evaluating an applicant's ability to repay:

(1) income history, including present income;

(2) prospects for future income;

(3) assets and their liquidity;

(4) liabilities;

(5) reasonableness of profit and loss statement;

(6) other relevant experience. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665

3 AAC 75.040. Collateral. A loan must be secured by collateral acceptable to the department, which may include a lien on the equipment being financed and the aircraft on which the capstone avionics equipment is to be installed. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665

3 AAC 75.045. Lending practices. (a) A loan will not be approved for refinancing of debt of an existing loan, the proceeds of which were used to purchase or install capstone avionics equipment described in 3 AAC 75.025.

(b) A loan may be approved under AS 44.33.650 - 44.33.690 and this chapter for capstone avionics equipment purchased and installed not more than 120 days before receipt of the application by the department.

(c) The interest rate for the loan program is four percent.

(d) A loan for the purchase and installation of capstone avionics equipment will be made only if the aircraft is in the name of the applicant and the equipment to be purchased is offered as security for the loan. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665

3 AAC 75.050. Disbursement of loan proceeds. Loan proceeds will be disbursed when

(1) requirements of the loan committee have been met; and

(2) the borrower is in compliance with all other provisions of AS 44.33.650 - 44.33.690, this chapter, and the loan documents. (Eff. 8 / 22 / 2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665 AS 44.33.670

3 AAC 75.055. Fees. (a) A $50 application fee will be charged to a borrower to process each loan application.

(b) A late fee not to exceed five percent of the payment amount will be charged to a borrower for each loan payment that is received more than 15 days after the due date. If requested by the borrower and the borrower has not previously received a partial or full waiver of a late fee, the department will waive up to all of the late fee as follows:

(1) 100 percent if the loan payment was received no more than 18 days after the due date;

(2) 90 percent if the loan payment was received no more than 29 days after the due date.

(c) The department will not charge the late fee described in (b) of this section if

(1) the department receives from the borrower a loan extension application or a payment plan no more than 15 days after the due date;

(2) the department approves the loan extension application or payment plan; and

(3) one or more of the following occurs:

(A) the borrower meets all conditions for the loan extension or the payment plan;

(B) the department receives payment during the its review of the loan

extension application or payment plan.

(d) A fee, not to exceed $50, will be charged to a borrower to process a loan modification. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665

3 AAC 75.060. Assumptions. (a) A request for permission to assume the obligations and benefits of a loan made under AS 44.33.650 - 44.33.690 and this chapter will be processed in the same manner as a loan application.

(b) A loan committee may permit an assumption if the

(1) applicant is a good financial risk; and

(2) security of the state's investment is preserved.

(c) Wraparound financing that includes a loan made under AS 44.33.650 - 44.33.690 and this chapter is prohibited and constitutes a default on the loan. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660

3 AAC 75.065. Modifications. (a) A request for a modification to a loan made under AS 44.33.650 - 44.33.690 and this chapter will be processed in the same manner as a loan application. The department will require the applicant to file one or more of the items specified in 3 AAC 75.010 if information on those items has changed since they were previously filed, or if the department needs additional information not appearing in the previously filed items in order to review the request for modification.

(b) A loan committee may permit a loan modification only if the security of the state and its investment is preserved. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660

3 AAC 75.070. Reconsideration of loan request. (a) If a loan 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 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. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660 AS 44.33.665

3 AAC 75.075. 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 a financing statement, aircraft title, or aircraft documentation;

(2) general information regarding loans, including the original loan amount, loan terms, personal guarantees, and disbursement and repayment schedules;

(3) insurance matters, including insurance policies and correspondence with insurance companies or borrowers regarding losses, accident reports, and nonpayment of premiums;

(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, profit and loss statements, credit information obtained 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;

(3) the 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. (Eff. 8/22/2008, Register 187)

Authority: Art. I, sec. 22, Ak Const. AS 40.25.120 AS 44.33.660
AS 40.25.110

3 AAC 75.900. Definitions. In this chapter, unless the context requires otherwise,

(1) "default" includes a violation of any provision of AS 44.33.650 - 44.33.690, this chapter, or the loan documents, or failure to make the necessary payment within 15 days

after it is due;

(2) "department" means the Department of Commerce, Community, and Economic Development;

(3) "director" means the director of the division of investments or its successor agency in the department;

(4) "guarantor" means a person who legally assures that the loan requirements will be met if the borrower fails to pay or perform as contracted;

(5) "UAT ADS-B system" means a universal access transceiver (UAT) automatic dependent surveillance-broadcast (ADS-B) data link system;

(6) "wraparound financing" means a contract that includes the balance due on an existing debt and any additional amount to cover the difference between the selling price and the existing debt. (Eff. 8/22/2008, Register 187)

Authority: AS 44.33.660