

# ALASKA LEGISLATURE

## *Representative Jonathan Kreiss-Tomkins*

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## **HB 366 — Community Permit Banks**

### **Summary of Changes, Ver S to Ver L**

**Section 2** was added, amending Title 6 (Banks and Financial Institutions) to allow the term “bank” to be used in referring to regional community permit banks.

**Sections 3, 11-14, and 16** have been redrafted for the purposes of clarity, without making substantive changes.

**Section 18** adds subsection (k) to clarify that a person leasing a permit from a permit bank has equal use rights as an individual who holds a permit.

**Section 20** clarifies that the act of a permit bank leasing a permit isn’t considered a transfer of a permit. It also clarifies that permit transfers to and from permit banks go through the same process as permit transfers between two individuals.

**Section 21** adds conforming language relating to the transfer of permits to permit banks.

**Sections 23-27** replace sections 21-23 in Version S. The language has been redrafted to provide additional clarity, without making substantive changes.

**Section 29** is added, empowering the Commercial Fisheries Entry Commission (CFEC) to revoke leases of persons who attempt to defraud the commission.

**Section 30** restores language clarifying that “person” does not mean a corporation, company, partnership, firm, association, organization, joint venture, trust, society, or any legal entity besides an individual person or a permit bank for the purposes of the Limited Entry Act.

**Section 31, 16.44.010(a)(2)(D)** has been deleted because it was redundant.

**Section 31, 16.44.010(b)** has been changed to allow the Department of Commerce, Community, and Economic Development (DCCED) to modify permit bank boundaries for “good reason.” The language in Version S about social and economic cohesiveness has been moved to transitional language.

**Section 31, 16.44.010(e)** deletes explicit language allowing DCCED to write regulations for the subsection because that power exists without this explicit language.

**Section 31, 16.44.020(c)** has been moved from uncodified law to codified law.

**Section 31, 16.44.020(d)** adds a requirement that a member of a permit bank board appointed from an unincorporated community must be appointed by an entity eligible to receive capital matching grants under AS 37.06.020.

The prohibition on a manager leasing a permit, previously in **Section 31, 16.44.020(i)**, has been moved to 16.44.080.

**Section 31, 16.44.020(k)** allows for a permit bank to be administratively located in an unincorporated community if that community has the greatest number of active entry permits per capita on January 1, 2016. The previous version required the permit bank to be located in a municipality.

**Section 31, 16.44.050(a)(3)** has been amended to allow permit banks to borrow funds for purposes other than acquiring entry permits.

**Section 31, 16.44.050(a)(4)** has been amended to clarify that the permit bank's authority to transfer or be the transferee of an entry permit is subject to approval of the DCCED commissioner.

**Section 31, 16.44.050(c)** has been amended so that permit banks may, rather than shall, consider the factors enumerated in the subsection. The subsection has also been amended to make explicit that any action taken to consider those factors must be secondary to the financial solvency of the permit bank.

**Section 31, 16.44.055** has been amended to clarify exactly how DCCED maintains legal ownership of permits acquired by permit banks. The permit certificate shall list the DCCED commissioner as the permit's legal owner. The section has also been amended to allow a permit bank to retain all its revenue, subject to legislative appropriation, rather than only the revenue necessary to the permit bank's purposes.

**Section 31, 16.44.060(b)** uses "holds" on line 20 rather than "acquires" to clarify that the proportionality rule only applies when a permit banks currently holds 10 permits.

The second sentence of **Section 31, 16.44.060(c)** has been redrafted for the purposes of clarification.

**Section 31, 16.44.060(e)** has been added to explicitly state that permits held by permit banks cannot be encumbered, pledged, mortgaged, transferred with any retained right of possession, or sold on execution of a judgment or other process of a court.

**Section 31, 16.44.070(a)** clarifies that a permit bank's lease terms are subject to approval of the DCCED commissioner.

**Section 31, 16.44.070(d)** is a new subsection prohibiting a permit bank from imposing limits on a lessee's time, place, manner, or method of taking or selling fish.

**Section 31, 16.44.070(e)** attempts to require that emergency transfers of leased permits be handled through CFEC in the same manner as emergency transfers of permits held by individuals.

**Section 31, 16.44.070(f)** is rewritten to more clearly provide for a permit bank to establish a lease-to-own track.

**Section 31, 16.44.080(a)** prohibits someone from leasing a permit from a permit bank if they have claimed benefits of residency in another country, not just another state.

**Section 31, 16.44.080(b)(2)** expands the list of people who may not lease permits from a permit bank to include all permit bank employees.

**Sections 34-51** redraft sections 28-30 of Version S for the purposes of clarity, without making substantive changes.

**Sections 52-58** redraft sections 31-32 of Version S for the purposes of clarity, without making substantive changes.

**Sections 59-70** redraft sections 34-36 of Version S for the purposes of clarity, without making substantive changes.

**Section 72** allows DCCED to adopt regulations necessary to implement the act prior to the act's effective date; the regulations may not take effect until the act's effective date.

**Section 73(b)** has been moved to codified law in 16.44.020(c).

**Section 74** directs DCCED to base the initial boundaries of permit bank regions off of CFEC's designations of communities as local to given fisheries, in addition to Version S's requirement to base permit bank regions off the boundaries of CFEC administrative areas. The new version, Version L, also requires the permit bank regions to be socially and economically cohesive.

**Section 75** has been added to make section 72 effective immediately.