

HOUSE BILL NO. 228

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JAMES

Introduced: 4/3/97

Referred: State Affairs, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Board of Agriculture, to the Agriculture Development**
2 **Corporation, to the Agricultural Revolving Loan Fund Board, and to the disposal**
3 **of state agricultural land; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 03 is amended by adding new sections to read:

6 **Chapter 9. Board of Agriculture.**

7 **Sec. 03.09.010. Board of Agriculture established.** (a) There is established
8 in the department the Board of Agriculture that serves as the board of directors of the
9 Agriculture Development Corporation (AS 03.10.015).

10 (b) The five members of the board shall be appointed by the governor.
11 Members shall have the following qualifications:

12 (1) one shall be a member of a chartered statewide agriculture
13 promotion organization;

14 (2) one shall be a member of a chartered statewide agriculture

1 conservation organization;

2 (3) two shall be engaged in commercial production agriculture, but each
3 shall represent a different geographic area and a different agriculture enterprise from
4 the other;

5 (4) one shall have general business or financial experience.

6 (c) Members of the board serve for staggered three-year terms and until a
7 successor is appointed. Members may be removed from office by the governor only
8 for cause. If a vacancy occurs, the governor shall immediately appoint a member for
9 the unexpired portion of the term.

10 (d) Members of the board receive \$100 compensation for each day spent on
11 official business of the board and are entitled to per diem and travel expenses
12 authorized for boards and commissions under AS 39.20.180.

13 **Sec. 03.09.020. Officers and employees.** (a) The Board of Agriculture shall
14 elect a member to serve as chair and a member to serve as vice-chair.

15 (b) The board may appoint an executive director and may employ staff. The
16 executive director and staff are in the exempt service under AS 39.25.110.

17 **Sec. 03.09.030. Meetings.** (a) A majority of the members of the Board of
18 Agriculture constitutes a quorum for the transaction of business or the exercise of a
19 power or function at a meeting of the board.

20 (b) The board may adopt procedures for the conduct of meetings. The board
21 shall keep minutes of each meeting and send a copy of the minutes to the
22 commissioner and to the Legislative Budget and Audit Committee.

23 **Sec. 03.09.040. Agricultural land.** (a) The Board of Agriculture may
24 recommend to the commissioner that land in the land disposal bank established under
25 AS 38.04.020 be classified as suitable for agriculture. The board may identify land
26 for agricultural disposal and request the commissioner to provide for the survey and
27 disposal of the land or of agricultural rights in the land.

28 (b) Land designated for agricultural disposal shall be disposed of by the board
29 in accordance with the requirements of AS 38.05.055 or 38.05.057, except that the
30 board shall carry out the duties of the director of lands of the department under those
31 sections.

1 * **Sec. 2.** AS 03.10 is amended by adding a new section to read:

2 **Sec. 03.10.015. Agriculture Development Corporation.** There is established
3 the Agriculture Development Corporation as a public corporation of the state
4 constituting a political subdivision within the department, but with separate and
5 independent legal existence. The Board of Agriculture established in AS 03.09.010
6 serves as the board of directors of the corporation.

7 * **Sec. 3.** AS 03.10.020(a) is amended to read:

8 (a) The **Agriculture Development Corporation** [DEPARTMENT] may

9 (1) make a loan to

10 (A) an individual resident farmer, homesteader, or a partnership
11 or corporation composed of farmers and homesteaders for

12 (i) clearing land for agricultural purposes;

13 (ii) development of farms;

14 (iii) storage and processing of farm produce; or

15 (iv) the purchase of livestock or machinery;

16 (B) an individual state resident, or a partnership or corporation
17 for

18 (i) storage and processing plants for agricultural
19 products;

20 (ii) the commercial production or processing of
21 horticultural products in the state;

22 (iii) the commercial production or processing of animal
23 feed in the state; or

24 (iv) the raising or care of animals in the state for the
25 purpose of marketing their fur;

26 (2) designate agents and delegate its powers to them as necessary;

27 (3) adopt **procedures** [REGULATIONS] necessary to carry out its
28 functions, including [REGULATIONS TO ESTABLISH] reasonable fees for services
29 provided and charges for collecting the fees;

30 (4) establish amortization plans for repayment of loans, which may
31 include delayed payments of principal and interest for not to exceed five years;

1 (5) enter into agreements with private lending institutions, other state
2 agencies, or agencies of the federal government [,] to carry out the purposes of this
3 chapter;

4 (6) collect the fees and collection charges established under this
5 subsection.

6 * **Sec. 4.** AS 03.10.030(c) is amended to read:

7 (c) A short term loan, to be amortized within one year, not to exceed \$350,000
8 to any one borrower may be made for operating purposes, except that a loan made
9 under this subsection may not exceed \$200,000 unless the loan is made to a borrower
10 in a farm disaster area declared under AS 03.10.058. An applicant for a short term
11 loan may be required to purchase insurance through the Federal Crop Insurance Act
12 (7 U.S.C. 1501 - 1520) as a condition of the loan. The term of a loan made under
13 this subsection may be extended for up to three years by the **Board of Agriculture**
14 **[AGRICULTURAL REVOLVING LOAN FUND BOARD]**, in the discretion of the
15 board, upon application by the borrower.

16 * **Sec. 5.** AS 03.10.030(e) is amended to read:

17 (e) An installment payment is delinquent unless it is mailed by the borrower
18 on or before the 30th day after the date specified for payment in the loan agreement
19 or unless it is received by the **Agriculture Development Corporation**
20 **[DEPARTMENT]** on or before the 30th day after the date specified for payment in the
21 loan agreement. If an installment payment is delinquent, the **corporation** **[DIRECTOR**
22 **OF THE DIVISION OF AGRICULTURE OF THE DEPARTMENT]** may assess a
23 delinquency penalty. The delinquency penalty shall be an amount equal to seven
24 percent of the delinquent payment, but the combined delinquency penalty and loan
25 interest may not exceed 15 percent.

26 * **Sec. 6.** AS 03.10.030(h) is amended to read:

27 (h) The **Board of Agriculture** **[COMMISSIONER]** shall **[ADOPT**
28 **REGULATIONS TO]** establish other terms for loans made under this chapter,
29 consistent with the provisions of this section, and may establish interest rates for loans
30 under (a)(4) of this section that

31 (1) encourage agricultural development;

- 1 (2) do not subsidize nonviable agricultural enterprises; and
 2 (3) do not discriminate against viable existing agricultural enterprises.

3 * **Sec. 7.** AS 03.10.033(a) is amended to read:

4 (a) To increase the return to the state, the **Board of Agriculture**
 5 [AGRICULTURAL REVOLVING LOAN FUND BOARD] may restructure loans in
 6 existence on January 1, 1987, [MADE BY THE BOARD OR BY THE ALASKA
 7 AGRICULTURAL ACTION COUNCIL] based upon guidelines approved by the
 8 board. The restructuring may only include reduction of interest to rates below those
 9 specified by AS 03.10.030, an extension of the term of the loan, and an improvement
 10 to the security interest of the state. It may not reduce the amount of principal and
 11 interest owed before the loan is restructured.

12 * **Sec. 8.** AS 03.10.033(c) is amended to read:

13 (c) Notwithstanding any other provision of this section, the **Board of**
 14 **Agriculture** [AGRICULTURAL REVOLVING LOAN FUND BOARD] may approve
 15 an application for restructuring under this section only upon

16 (1) the applicant's written release of the state, including the Alaska
 17 Agriculture Action Council, the agricultural revolving loan fund, and the University
 18 of Alaska, from all potential liability for actions and omissions occurring before the
 19 date of restructuring that relate in any way to a state farm project, land sale, land sale
 20 relinquishment, farm loan, or loan application or loan modification application, whether
 21 granted or denied by the state; and

22 (2) assignment by the applicant to the **Agriculture Development**
 23 **Corporation** [BOARD] of the proceeds from the federal government under 7 U.S.C.
 24 1442 (Conservation Reserve Program) and P.L. 88-26 (Feed Grain Act of 1963), as
 25 amended.

26 * **Sec. 9.** AS 03.10.035(a) is amended to read:

27 (a) A borrower may not use farm land for a **nonfarm** [NON-FARM] use or
 28 sell, lease, or otherwise dispose of farm land if that land is encumbered by a mortgage
 29 given to secure the payment of a farm development, chattel, or irrigation system loan
 30 under this chapter unless the borrower either

31 (1) pays the outstanding balance of the loan in a lump sum or under

1 other terms agreed to by the **Board of Agriculture** [COMMISSIONER] that accelerate
2 payment of the loan; or

3 (2) pays the outstanding principal balance for the remaining term of the
4 loan at the prevailing rate of interest that is charged by commercial banks in the state
5 during the calendar quarter in which the department receives notice of the change of
6 use, sale, lease, or other disposal of the farm land.

7 * **Sec. 10.** AS 03.10.050(a) is amended to read:

8 (a) The **Agriculture Development Corporation** [COMMISSIONER] shall
9 administer the loan fund [IN CONJUNCTION WITH THE AGRICULTURAL
10 REVOLVING LOAN FUND BOARD]. No loan in excess of \$25,000 may be made
11 by the **corporation** [COMMISSIONER] without the approval of a majority of the
12 **members of the Board of Agriculture** [BOARD].

13 * **Sec. 11.** AS 03.10.050(g) is amended to read:

14 (g) The **Board of Agriculture** [DIRECTOR OF AGRICULTURE] may
15 dispose of property acquired by the **agricultural revolving loan fund**
16 [AGRICULTURAL REVOLVING LOAN FUND BOARD] or by the commissioner
17 through foreclosure, default, or other action arising out of agricultural loans or the sale
18 of agricultural land. Disposals shall be conducted under regulations approved by the
19 commissioner. The regulations must ensure that the property is disposed of so as to
20 maximize the return to the state and must require that the parcels of land that are
21 composed primarily of cropland soils be restricted to agricultural uses and disposed of
22 only to persons who are residents of the state.

23 * **Sec. 12.** AS 38.04.020(g) is amended to read:

24 (g) After July 1 of each year, the commissioner shall direct the expenditure of
25 money appropriated for the disposal of land in response to requests made under (e) and
26 (f) of this section for the following:

27 (1) **land** [LAND] designated as suitable for homestead disposal shall
28 be classified and surveyed under this chapter and AS 38.05 and made available for
29 staking and lease under AS 38.09; [.]

30 (2) **land** [LAND] designated as suitable for subdivision and homesite
31 disposal shall be surveyed, subdivided, classified, and disposed of under this chapter,

1 AS 38.05, and AS 38.08; [.]

2 (3) **land** [LAND] designated [AGRICULTURAL,] commercial,
3 industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057;

4 **(4) land designated agricultural shall be disposed of by the Board**
5 **of Agriculture, established under AS 03.09.010, in accordance with requirements**
6 **of AS 38.05.055 or 38.05.057, except that the board shall carry out the duties of**
7 **the director under those sections.**

8 * **Sec. 13.** AS 38.05.069(c) is amended to read:

9 (c) Under this section,

10 (1) the **Board of Agriculture, established under AS 03.09.010,**
11 [DIRECTOR] may transfer state land classified for agriculture only for agricultural
12 purposes;

13 (2) the sale or lease shall be at public auction.

14 * **Sec. 14.** AS 39.25.110 is amended by adding a new paragraph to read:

15 (33) the executive director and staff of the Board of Agriculture.

16 * **Sec. 15.** AS 39.50.200(b) is amended by adding a new paragraph to read:

17 (56) Board of Agriculture (AS 03.09.010).

18 * **Sec. 16.** AS 03.10.050(b), 03.10.050(c), 03.10.050(d), 03.10.052; and AS 39.50.200(b)(1)
19 are repealed.

20 * **Sec. 17.** TRANSITION. Notwithstanding AS 03.09.010(c), as enacted in sec. 1 of this
21 Act, one initial member of the Board of Agriculture shall be appointed to a one-year term, and
22 two initial members of the Board of Agriculture shall be appointed to two-year terms.

23 * **Sec. 18.** This Act takes effect July 1, 1998.