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1 IN THE HOUSE

BY OSTERBACK

*CS* HOUSE BILL NO. 763 *(Purposes)*

2  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to commercial fishing and agricul-  
7 ture."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. FINDINGS. The legislature finds that

10 (1) certain fish species which thrive in the seas off the coast of  
11 Alaska have long provided an abundant food source for foreign nations but  
12 have been underutilized by Alaskan fishermen;

13 (2) there is a potential for these species to provide a new source  
14 of revenue for Alaskan fishermen and for the state;

15 (3) Alaskan fishermen have not utilized these species to the  
16 fullest extent possible because of adverse economic and marketing conditions  
17 and the high cost of gear and equipment for harvesting;

18 (4) the 200-mile limit established by the Fisheries Management and  
19 Conservation Act of 1976 offers an opportunity for Alaskan fishermen to  
20 harvest these species free of the competition of foreign fishermen;

21 (5) the creation of a self-sustaining source of economic assis-  
22 tance will enable Alaskan fishermen to avail themselves of the opportunities  
23 offered by the Fisheries Management and Conservation Act of 1976 to the  
24 ultimate benefit of all Alaskans;

25 (6) access to the Federal Farm Credit System in conjunction with  
26 the Alaska permanent fund and the renewable resources development fund will  
27 provide the financial resources and specialized knowledge necessary for  
28 underutilized fisheries development.

29 \* Sec. 2. PURPOSES. The purposes of this Act are to

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1 (1) provide a self-sustaining source of economic assistance for  
2 Alaskan commercial fishermen and farmers;

3 (2) encourage utilization of the fisheries off the coast of Alaska  
4 that have been underutilized in the past by local fishermen;

5 (3) encourage harvesting, processing and marketing of under-  
6 utilized fish species;

7 (4) encourage technological development in the harvesting and  
8 processing of underutilized fish species;

9 (5) promote the more rapid development of agriculture as an indus-  
10 try throughout the state.

11 \* Sec. 3. AS 41 is amended by adding a new chapter to read:

12 CHAPTER 45. COMMERCIAL FISHING AND AGRICULTURE  
13 COOPERATIVE DEVELOPMENT BANK.

14 Sec. 41.45.010. COMMERCIAL FISHING AND AGRICULTURE COOPERATIVE  
15 DEVELOPMENT BANK. (a) There is established the Commercial Fishing and  
16 Agriculture Cooperative Development Bank. The bank is a public corpora-  
17 tion and government instrumentality in the Department of Commerce and  
18 Economic Development but has a legal existence independent of and  
19 separate from the state. The exercise by the bank of the powers con-  
20 ferred by this chapter is considered an essential governmental function  
21 of the state. Except as otherwise provided in this chapter, the bank is  
22 subject to the provisions of AS 10.15.005 - 10.15.600.

23 (b) For the purpose of the initial funding of the bank's opera-  
24 tions, the board of directors shall issue nonvoting, preferred shares of  
25 stock in the bank and shall determine the value of each share. The  
26 board of trustees or other governing body of the Alaska permanent fund  
27 shall purchase from income of the permanent fund 50 per cent of the  
28 nonvoting, preferred shares initially issued by the bank. The board of  
29 trustees or other governing body of the renewable resources development

1 fund shall purchase 50 per cent of the nonvoting, preferred shares  
2 initially issued by the bank. Shares purchased by the permanent fund  
3 and the renewable resources development fund shall be repurchased by the  
4 bank within 20 years after their purchase. If the bank fails to repur-  
5 chase the shares within 20 years, the commissioner of commerce and  
6 economic development may dissolve the bank.

7 Sec. 41.45.020. BOARD OF DIRECTORS. The bank shall be managed by  
8 a board of directors consisting of three members. Initial appointments  
9 to the board shall be made by the governor in consultation with the  
10 Federal Farm Credit Board and shall include one member of the agricul-  
11 ture industry in the state, one member of the commercial fishing indus-  
12 try in the state, and one member knowledgeable and experienced in  
13 finance, investments, or other business management-related field.  
14 Thereafter, board members shall be elected by the shareholders. The  
15 board members shall annually elect a chairman from among themselves.  
16 The purpose of the board is to manage and invest the assets of the bank.

17 Sec. 41.45.030. ARTICLES OF INCORPORATION. Not later than  
18 November 1, 1978, the board of directors shall file with the commis-  
19 sioner of commerce and economic development articles of incorporation as  
20 provided in AS 10.15.340 - 10.15.355 except that any filing fees shall  
21 be waived.

22 Sec. 41.45.040. BYLAWS. The board of directors shall adopt the  
23 initial bylaws of the bank. The power to alter, amend or repeal the by-  
24 laws is vested in the board of directors. The bylaws may contain provi-  
25 sions for the regulation and management of the affairs of the bank not  
26 inconsistent with this chapter or other provisions of law.

27 Sec. 41.45.050. MEMBERSHIP MEETINGS. Upon filing the articles of  
28 incorporation, the board of directors, with the assistance of the commis-  
29 sioner of commerce and economic development or his designee, may hold

1 public meetings throughout the state for the purpose of explaining to  
2 members of the commercial fishing and farming industries the functions  
3 of the bank and to encourage membership in the bank.

4 Sec. 41.45.060. MEMBERSHIP STOCK. (a) The board of directors  
5 shall issue shares of membership stock in the bank in the amounts and  
6 with the value determined by the board and stated in the articles of  
7 incorporation.

8 (b) Loans made to shareholders of the bank under the provisions of  
9 this chapter shall be in accordance with a schedule of maximum amounts  
10 adopted by the board of directors in the bylaws based upon proportional  
11 ownership of shares.

12 Sec. 41.45.070. STAFF. The board of directors may hire and deter-  
13 mine the salary of staff reasonably necessary or desirable for the  
14 efficient performance of the duties of the board.

15 Sec. 41.45.080. EXEMPT STATUS. Employees of the bank are in the  
16 exempt service under AS 39.25.

17 Sec. 41.45.090. TERM OF OFFICE. The members of the board shall be  
18 appointed for terms of three years, and they may be reappointed. Terms  
19 shall be staggered. Initial terms shall be one member serving for one  
20 year, one member serving for two years, and one member serving for three  
21 years.

22 Sec. 41.45.100. QUORUM. Two members of the board constitute a  
23 quorum for the transaction of business and the exercise of the powers  
24 and duties of the board.

25 Sec. 41.45.110. COMPENSATION OF BOARD MEMBERS. Members receive  
26 \$250 per meeting day if they attend the meeting and are entitled to per  
27 diem and travel allowances as provided by law for members of state  
28 boards and commissions.

29 Sec. 41.45.120. BONDS OF THE BANK. (a) The bank may borrow money

1 and may issue bonds for that purpose, including but not limited to bonds  
2 on which the principal and interest are payable,

3 (1) exclusively from the income and receipts or other money  
4 derived from the project financed with the proceeds of the bonds;

5 (2) exclusively from the income and receipts or other money  
6 derived from designated projects whether or not they are financed in  
7 whole or in part with the proceeds of the bonds; or

8 (3) from its income and receipts or other assets generally,  
9 or a designated part or parts of them.

10 (b) Bonds shall be authorized by resolution of the board of direc-  
11 tors, and be dated and shall mature as the resolution may provide,  
12 except that no bond may mature more than 30 years from the date of its  
13 issue. Bonds shall bear interest at the rate or rates, be in the denomi-  
14 nations, be in the form, either coupon or registered, carry the regis-  
15 tration privileges, be executed in the manner, be payable in the medium  
16 of payment, at the place or places, and be subject to the terms of  
17 redemption which the resolution or a subsequent resolution may provide.

18 (c) All bonds, regardless of form or character, shall be nego-  
19 tiable instruments for all the purposes of the Uniform Commercial Code.

20 (d) All bonds may be sold at public or private sale in the manner,  
21 for the price or prices, and at the time or times which the board of  
22 directors may determine.

23 (e) The superior court shall have jurisdiction to hear and deter-  
24 mine suits, actions or proceedings relating to the bank, including  
25 suits, actions or proceedings brought to foreclose or otherwise enforce  
26 a mortgage, pledge, assignment or security of a holder of its bonds or  
27 by a trustee for or other representative of the holders.

28 Sec. 41.45.130. TRUST INDENTURES AND TRUST AGREEMENTS. In the  
29 discretion of the board of directors an issue of bonds may be secured by

1 a trust indenture or trust agreement between the bank and a corporate  
2 trustee (which may be a trust company, bank, or national banking asso-  
3 ciation, with corporate trust powers, located inside or outside the  
4 state) or by a secured loan agreement or other instrument or under a  
5 resolution giving powers to a corporate trustee by means of which the  
6 bank may

7 (1) make and enter into any and all the covenants and agree-  
8 ments with the trustee or the holders of the bonds which the board of  
9 directors may determine to be necessary or desirable, including, without  
10 limitation, covenants, provisions, limitations and agreements as to

11 (A) the application, investment, deposit, use and dis-  
12 position of the proceeds of bonds of the bank or of money or other  
13 property of the bank or in which it has an interest;

14 (B) the terms and conditions upon which additional bonds  
15 of the bank may be issued;

16 (2) pledge, mortgage or assign money, leases, agreements,  
17 property or other assets of the bank either presently in hand or to be  
18 received in the future, or both; and

19 (3) provide for any other matters of like or different char-  
20 acter which in any way affect the security or protection of the bonds.

21 Sec. 41.45.140. VALIDITY OF PLEDGE. It is the intention of the  
22 legislature that a pledge made in respect of bonds shall be valid and  
23 binding from the time the pledge is made; that the money or property so  
24 pledged and thereafter received by the bank shall immediately be subject  
25 to the lien of the pledge without physical delivery or further act; and  
26 that the lien of the pledge shall be valid and binding as against all  
27 parties having claims of any kind in tort, contract or otherwise against  
28 the bank irrespective of whether the parties have notice. Neither the  
29 resolution, trust agreement nor any other instrument by which a pledge

1 is created need be recorded or filed under the provisions of the Uniform  
2 Commercial Code to be valid, binding or effective against the parties.

3 Sec. 41.45.150. NONLIABILITY ON BONDS. (a) Neither the members  
4 of the board of directors, their staff, nor a person executing the bonds  
5 is liable personally on the bonds or subject to personal liability or  
6 accountability by reason of the issuance of the bonds.

7 (b) The bonds issued by the bank may not constitute an indebted-  
8 ness or other liability of the state or of a political subdivision of  
9 the state, except the bank but shall be payable solely from the income  
10 and receipts or other funds or property of the bank. The bank may not  
11 pledge the faith or credit of the state or of a political subdivision of  
12 the state, except the bank, to the payment of a bond, and the issuance  
13 of a bond by the bank shall not directly or indirectly or contingently  
14 obligate the state or a political subdivision of the state to apply  
15 money from, or levy or pledge any form of taxation whatever to the  
16 payment of the bond.

17 Sec. 41.45.160. PLEDGE OF THE STATE. The state pledges to and  
18 agrees with the holders of the bonds issued under this chapter and with  
19 the federal agency which loans or contributes funds in respect of a  
20 project, that the state will not limit or alter the rights and powers  
21 vested in the bank by this chapter to fulfill the terms of any contract  
22 made by the bank with the holders or federal agency, or in any way  
23 impair the rights and remedies of the holders until the bonds, together  
24 with interest on them, with interest on unpaid installments of interest,  
25 and all costs and expenses in connection with any action or proceeding  
26 by or on behalf of the holders, are fully met and discharged. The bank  
27 is authorized to include this pledge and agreement of the state, insofar  
28 as it refers to holders of bonds of the bank in a contract with the  
29 holders, and insofar as it relates to a federal agency, in a contract

1 with a federal agency.

2           Sec. 41.45.170. EXEMPTION FROM TAXATION. The real and personal  
3 property of the bank and its assets, income and receipts are declared to  
4 be property of a political subdivision of the state and shall be exempt  
5 from all taxes and special assessments of the state or a political  
6 subdivision of the state, including, without limitation, all boroughs,  
7 cities, municipalities, school districts, public utility districts, and  
8 other taxing units. All bonds of the bank are declared to be issued by  
9 a political subdivision of the state, to be for an essential public and  
10 governmental purpose, and to be a public instrumentality, and the bonds,  
11 and the interest on them, the income from them, the transfer of the  
12 bonds, and all assets, income and receipts pledged to pay or secure the  
13 payment of the bonds, or interest on them, shall at all times be exempt  
14 from taxation by or under the authority of the state, except for inheri-  
15 tance and estate taxes and taxes on transfers by or in contemplation of  
16 death.

17           Sec. 41.45.180. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
18 bonds of the bank are securities in which all public officers and bodies  
19 of the state and all municipalities and municipal subdivisions, all  
20 insurance companies and associations and other persons carrying on an  
21 insurance business, all banks, bankers, trust companies, savings banks,  
22 savings associations, including savings and loan associations and build-  
23 ing and loan associations, investment companies and other persons carry-  
24 ing on a banking business, all administrators, guardians, executors,  
25 trustees and other fiduciaries, and all other persons who are now or may  
26 hereafter be authorized to invest in bonds or other obligations of the  
27 state, may properly and legally invest funds including capital in their  
28 control or belonging to them. Notwithstanding any other provisions of  
29 law, the bonds of the bank are also securities which may be deposited

1 with and may be received by all public officers and bodies of this state  
2 and all municipalities and municipal subdivisions for any purpose for  
3 which the deposit of bonds or other obligations of the state is now or  
4 may hereafter be authorized.

5 Sec. 41.45.190. CONFLICTS OF INTEREST. No member of the board of  
6 directors may vote on a resolution of the bank relating to a contract to  
7 be entered into or an investment to be made by the bank under this  
8 chapter if he is a party to the contract or has a direct ownership or  
9 equity interest in a firm, partnership, corporation or association which  
10 may be a party to the contract or if he has a financial interest in the  
11 investment proposal.

12 Sec. 41.45.200. REPORTS AND PUBLICATIONS. The board of directors  
13 shall publish an annual report to the bank's shareholders. The report  
14 shall be made available to the public and shall include financial state-  
15 ments audited by independent outside auditors, a statement of the amount  
16 of money received by the bank from each source during the period  
17 covered, a statement of the bank's investments, a description of the  
18 bank's investment activity during the period covered by the report, an  
19 analysis of economic and other effects of investment decisions on the  
20 state's commercial fishing and agriculture industries, and any other  
21 information the board believes would be of interest to the governor, the  
22 legislature and the public. The board may also publish such other  
23 reports as it considers desirable to carry out its purposes.

24 Sec. 41.45.210. POWERS OF THE BANK. The bank may

25 (1) make variable rate or fixed rate loans to resident com-  
26 mercial fishermen and farmers or to corporations, partnerships, or joint  
27 ventures 51 per cent of which are owned by commercial fishermen or  
28 farmers who are state residents if the recipient of the loan is a share-  
29 holder of the bank;

1           (2) make and alter bylaws necessary or desirable to carry out  
2 its corporate functions;

3           (3) establish amortization plans for repayment of loans,  
4 which may include extensions for poor fishing or farming seasons;

5           (4) enter into agreements with the Spokane Bank for Coopera-  
6 tives and other institutions of the Federal Farm Credit System, private  
7 lending institutions, and other state agencies or agencies of the  
8 federal government, to carry out the purposes of this chapter;

9           (5) adopt, alter, and use a corporate seal;

10          (6) sue and be sued in the name of the bank;

11          (7) invest in projects conducted by shareholders of the bank  
12 relating to the purchase, construction, repair, or upgrading of fishing  
13 vessels or gear capable of harvesting underutilized fishery resources by  
14 purchase of the capital stock of corporations involved in such projects,  
15 except that no investment in capital stock may exceed 49 per cent of the  
16 capital stock of a corporation;

17          (8) invest in projects conducted by shareholders of the bank  
18 relating to the development of farms, storage and processing of farm  
19 produce, livestock and machinery by purchase of the capital stock of  
20 corporations involved in such projects, except that no investment in  
21 capital stock may exceed 49 per cent of the capital stock of a corpora-  
22 tion;

23          (9) issue bonds to carry out any of its corporate purposes  
24 and powers, including the acquisition or construction of a project to be  
25 owned or leased as lessor or lessee, by the bank, or the acquisition of  
26 any interest in it or any right to capacity of it, the establishment or  
27 increase of reserves to secure or to pay the bonds or interest on them,  
28 and the payment of all other costs or expenses of the bank incident to  
29 and necessary or convenient to carry out its corporate purposes and

1 powers;

2 (10) sell, lease as lessor or lessee, exchange, donate, convey  
3 or encumber in any manner by mortgage or by creation of any other se-  
4 curity interest, real or personal property owned by it, or in which it  
5 has an interest, when, in the judgment of the board of directors, the  
6 action is in furtherance of its corporate purposes;

7 (11) incur secondary liability by guaranty or endorsement of  
8 the obligations of another corporation or legal entity when, in the  
9 judgment of the board of directors, the action is in furtherance of its  
10 corporate purposes;

11 (12) make loans as provided in (1) of this section in partici-  
12 pation with financial institutions, and establish and regulate the terms  
13 of the loans;

14 (13) make contracts and execute instruments necessary or con-  
15 venient in the exercise of its corporate powers;

16 (14) acquire by purchase, lease, bequest, devise, gift, the  
17 satisfaction of debts, or the foreclosure of mortgages, and hold, main-  
18 tain, use, operate, and convey real or personal property;

19 (15) borrow money and issue secured and unsecured evidence of  
20 indebtedness for a corporate purpose or to fund, refund, pay, or dis-  
21 charge outstanding obligations, and enter agreements and contracts  
22 concerning these obligations;

23 (16) secure the payment of its obligations by pledge or mort-  
24 gage or other lien on its contracts, revenues, income, or property;

25 (17) appoint officers, employees, trustees for certificate  
26 holders, and agents, and prescribe their powers and duties;

27 (18) provide technical services to shareholders; for the pur-  
28 poses of this paragraph, "technical services" includes services that  
29 will enhance the ability of the shareholder to obtain financial assis-

1 tance from the bank;

2 (19) make loans, as provided in (1) of this section, secured  
3 by liens subordinate to valid first liens and security agreements  
4 granted to a private lending institution;

5 (20) do what is necessary or desirable to carry out the cor-  
6 porate purposes and powers expressed or implied in this chapter.

7 Sec. 41.45.220. TRANSITION. Upon the repurchase of all the non-  
8 voting, preferred shares initially issued by the bank and purchased by  
9 the permanent fund and the renewable resources development fund, the  
10 provisions of this chapter lapse and the bank may proceed to operate as  
11 a private cooperative corporation under the terms of its bylaws and sub-  
12 ject to the provisions of AS 10.15.005 - 10.15.600.

13 \* Sec. 4. AS 16.10.300 - 16.10.370 is repealed.  
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