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For Today's Calendar

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 763 (Rules)

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 sources of credit will enable Alaskan fisher-  
22 men to avail themselves of the opportunities offered by the Fisheries Manage-  
23 ment and Conservation Act of 1976 to the ultimate benefit of all Alaskans;

24 (6) access to regional institutions of the federal farm credit  
25 system in conjunction with appropriate state agencies will provide the finan-  
26 cial resources and specialized knowledge necessary for underutilized fish-  
27 eries development.

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

29 (1) provide sources of credit for Alaskan agriculture and fishing

1 business;

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

4 (3) encourage harvesting, processing and marketing of underutil-  
5 ized fish species;

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

8 (5) promote the more rapid development of agriculture.

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

10 CHAPTER 45. COMMERCIAL FISHING AND AGRICULTURE BANK.

11 Sec. 41.45.010. COMMERCIAL FISHING AND AGRICULTURE BANK. (a)

12 There is established the Commercial Fishing and Agriculture Bank. The  
13 bank is a public corporation and government instrumentality in the  
14 Department of Commerce and Economic Development but has a legal exist-  
15 tence independent of and separate from the state. The exercise by the  
16 bank of the powers conferred by this chapter is considered an essential  
17 governmental function of the state. Except as otherwise provided in  
18 this chapter, the bank is subject to the provisions of AS 10.15.005 -  
19 10.15.600.

20 (b) For the purpose of the initial funding of the bank's opera-  
21 tions, the board of directors shall issue nonvoting, preferred shares of  
22 stock in the bank and shall determine the value of each share. The  
23 State of Alaska, through appropriate agencies, shall purchase the non-  
24 voting, preferred shares initially issued by the bank. Shares purchased  
25 by the state shall be repurchased by the bank within 20 years after  
26 their purchase. If the bank fails to repurchase the shares within 20  
27 years, the commissioner of commerce and economic development may dis-  
28 solve the bank.

29 (c) After the board of directors has completed the necessary or-

1 ganizational matters described in secs. 30 and 40 of this chapter, the  
2 commissioner of revenue may purchase with funds from the general fund up  
3 to \$2,000,000 of preferred stock of the bank during fiscal year 1979 at  
4 such time and with terms agreed upon by the commissioner and the board.

5 Sec. 41.45.020. BOARD OF DIRECTORS. The bank shall be managed by  
6 a board of directors consisting of five members. Initial appointments  
7 to the board shall be made by the governor. Thereafter, board members  
8 shall be elected by the shareholders. The board members shall annually  
9 elect a chairman from among themselves. The purpose of the board is to  
10 manage the assets of the bank.

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

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

21 Sec. 41.45.050. MEMBERSHIP MEETINGS. Upon filing the articles of  
22 incorporation, the board of directors, with the assistance of the com-  
23 missioner of commerce and economic development or his designee, may hold  
24 public meetings throughout the state for the purpose of explaining to  
25 members of the commercial fishing and farming industries the functions  
26 of the bank and to encourage membership in the bank.

27 Sec. 41.45.060. MEMBERSHIP STOCK. (a) The board of directors  
28 shall issue shares of membership stock in the bank in the amounts and  
29 with the value determined by the board and stated in the articles of

1 incorporation.

2 (b) Loans made to shareholders of the bank under the provisions of  
3 this chapter shall be in accordance with a schedule of maximum amounts  
4 adopted by the board of directors based upon proportional ownership of  
5 shares.

6 Sec. 41.45.070. EXECUTIVE DIRECTOR; STAFF. (a) The board of  
7 directors may hire and determine the salary of an executive director.  
8 The executive director shall be responsible for the ordinary business of  
9 the bank.

10 (b) The executive director, with the approval of the board of  
11 directors, may hire and determine the salary of staff reasonably neces-  
12 sary for the efficient performance of the duties of the bank.

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

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

20 Sec. 41.45.100. QUORUM. A majority of the members of the board  
21 constitutes a quorum for the transaction of business and the exercise of  
22 the powers and duties of the board.

23 Sec. 41.45.110. COMPENSATION OF BOARD MEMBERS. Members receive  
24 compensation at a rate determined by the board for each day the board  
25 meets if they attend the meeting and are entitled to per diem and travel  
26 allowances as provided by law for members of state boards and commis-  
27 sions.

28 Sec. 41.45.120. BONDS OF THE BANK. (a) The bank may borrow money  
29 and may issue bonds for that purpose, including but not limited to bonds

1 on which the principal and interest are payable,

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

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

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

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

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, the executive director, staff, nor a person  
5 executing the bonds is liable personally on the bonds or subject to  
6 personal liability or accountability by reason of the issuance of the  
7 bonds.

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

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

1 clude this pledge and agreement of the state, insofar as it refers to  
2 holders of bonds of the bank in a contract with the holders, and insofar  
3 as it relates to a federal agency or regional institution of the federal  
4 farm credit system, in a contract with a federal agency or regional  
5 institution of the federal farm credit system.

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

21 Sec. 41.45.180. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
22 bonds of the bank are securities in which all public officers and bodies  
23 of the state and all municipalities and municipal subdivisions, all  
24 insurance companies and associations and other persons carrying on an  
25 insurance business, all banks, bankers, trust companies, savings banks,  
26 savings associations, including savings and loan associations and build-  
27 ing and loan associations, investment companies and other persons carry-  
28 ing on a banking business, all administrators, guardians, executors,  
29 trustees and other fiduciaries, and all other persons who are now or may

1 hereafter be authorized to invest in bonds or other obligations of the  
2 state, may properly and legally invest funds including capital in their  
3 control or belonging to them. Notwithstanding any other provisions of  
4 law, the bonds of the bank are also securities which may be deposited  
5 with and may be received by all public officers and bodies of this state  
6 and all municipalities and municipal subdivisions for any purpose for  
7 which the deposit of bonds or other obligations of the state is now or  
8 may hereafter be authorized.

9 Sec. 41.45.190. CONFLICTS OF INTEREST. No member of the board of  
10 directors may vote on a transaction of the bank under this chapter if he  
11 is a party to the transaction.

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 individuals who  
26 are residents and who are engaged in commercial agriculture or fishing,  
27 including harvesters, processors and marketers, or to corporations,  
28 partnerships or joint ventures primarily engaged in commercial agri-  
29 culture or fishing, the majority interest of which is beneficially owned

1 by residents of the state and a majority of the owners of which are  
2 residents of the state, if the recipient of the loan is a shareholder of  
3 the bank; however, the bank may make a loan under this paragraph to a  
4 corporation, partnership, or joint venture for the purchase of a new or  
5 existing fishing vessel or for the repair or renovation of an existing  
6 fishing vessel, the primary purpose of which is to commercially harvest  
7 fishery resources, only if the corporation, partnership, or joint ven-  
8 ture is wholly owned and controlled by residents of the state;

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

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

13 (4) enter into agreements with regional institutions of the  
14 federal farm credit system, private lending institutions, and other  
15 state agencies or agencies of the federal government, to carry out the  
16 purposes of this chapter;

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

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

19 (7) issue bonds to carry out any of its corporate purposes  
20 and powers;

21 (8) sell, lease as lessor or lessee, exchange, donate, convey  
22 or encumber in any manner by mortgage or by creation of any other se-  
23 curity interest, real or personal property owned by it, or in which it  
24 has an interest, when, in the judgment of the board of directors, the  
25 action is in furtherance of its corporate purposes;

26 (9) incur secondary liability by guaranty or endorsement of  
27 the obligations of another corporation or legal entity when, in the  
28 judgment of the board of directors, the action is in furtherance of its  
29 corporate purposes;

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

4 (11) make contracts and execute instruments necessary or con-  
5 venient in the exercise of its corporate powers;

6 (12) acquire by purchase, lease, bequest, devise, gift, the  
7 satisfaction of debts, or the foreclosure of mortgages, and hold, main-  
8 tain, use, operate, and convey real or personal property;

9 (13) borrow money and issue secured and unsecured evidence of  
10 indebtedness for a corporate purpose or to fund, refund, pay, or dis-  
11 charge outstanding obligations, and enter agreements and contracts  
12 concerning these obligations;

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

15 (15) appoint officers, employees, trustees for certificate  
16 holders, and agents, and prescribe their powers and duties;

17 (16) provide technical services to shareholders; for the pur-  
18 poses of this paragraph, "technical services" includes services that  
19 will enhance the ability of the shareholder to obtain financial assis-  
20 tance from the bank;

21 (17) make loans, as provided in (1) of this section, secured  
22 by liens subordinate to valid first liens and security agreements  
23 granted to a private lending institution;

24 (18) participate with state departments and agencies in for-  
25 mulating policy and in planning for the development of commercial  
26 fishing and agriculture in the state;

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

29 Sec. 41.45.220. TRANSITION. Upon the repurchase of all the non-

1 voting, preferred shares initially issued by the bank and purchased by  
2 agencies of the state, the provisions of this chapter lapse and the bank  
3 may proceed to operate as a private cooperative corporation under the  
4 terms of its bylaws and subject to the provisions of AS 10.15.005 -  
5 10.15.600.  
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