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Referred: Resources and
Judiciary

1 IN THE HOUSE

BY GARDINER

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 30
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Commercial Fishing and Agri-
7 culture Bank."

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

9 * Section 1. AS 44.54.010(a) is amended to read:

10 (a) There is established the Alaska Commercial Fishing and Agri-
11 culture Bank. The bank is a public corporation and government instru-
12 mentality in the Department of Commerce and Economic Development but has
13 a legal existence independent of and separate from the state. The
14 exercise by the bank of the powers conferred by this chapter is con-
15 sidered an essential governmental function of the state. Except as
16 otherwise provided in this chapter, the bank is subject to the provi-
17 sions of AS 10.15.005 - 10.15.600.

18 * Sec. 2. AS 44.54.020 is amended to read:

19 Sec. 44.54.020. BOARD OF DIRECTORS. The bank shall be managed by
20 a board of directors consisting of seven [FIVE] members. Initial
21 appointments to the board shall be made by the governor. Thereafter,
22 four of the board members shall be elected by the shareholders and three
23 shall be appointed by the governor until the repurchase of all the non-
24 voting, preferred shares initially issued by the bank and purchased by
25 agencies of the state. The board members shall annually elect a chair-
26 man from among themselves. The purpose of the board is to manage the
27 assets of the bank.

28 * Sec. 3. AS 44.54.090 is amended to read:

29 Sec. 44.54.090. TERM OF OFFICE. The members of the board shall

1 serve [BE APPOINTED] for terms of three years, and they may serve
2 successive terms [BE REAPPOINTED]. Terms shall be staggered. Initial
3 terms shall be three [TWO] members serving for one year, two members
4 serving for two years, and two members [ONE MEMBER] serving for three
5 years.

6 * Sec. 4. AS 44.54.210 is amended by adding a new paragraph to read:

7 (20) make loans to individual commercial fishermen who have
8 been state residents for a continuous period of five years immediately
9 preceding the date of application for the loan and have had a crewmember
10 or commercial fishing license under AS 16.05.480 or a permit under
11 AS 16.43 for any one of the past five years, and who actively partici-
12 pated in the fishery during that period, for the purchase of entry
13 permits; loans made under this paragraph are subject to the provisions
14 of AS 44.54.230.

15 * Sec. 5. AS 44.54 is amended by adding new sections to read:

16 Sec. 44.54.230. LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PER-
17 MITS. (a) A loan under AS 44.54.210(20) for the purchase of a limited
18 entry permit may be made only upon certification by the Alaska Commer-
19 cial Fisheries Entry Commission (AS 16.43.020) that the fisherman is a
20 person who qualifies as a transferee for the permit under AS 16.43 and
21 the regulations adopted by the commission.

22 (b) Upon approval by the bank, the permit to be purchased may be
23 pledged as security for a loan under (a) of this section, if

24 (1) the certificate for the pledged permit lists the execu-
25 tive director of the bank as the legal owner of the permit;

26 (2) the certificate for the pledged permit lists the debtor
27 as the equitable owner of the permit;

28 (3) all annual permit cards issued under the pledged permit
29 list the name of the debtor;

1 (4) all obligations and responsibilities of a permit owner
2 are assumed by the debtor;

3 (5) co-signers or other sureties for performance under the
4 note are not vested with any rights in the pledged permit and their
5 obligation is limited to satisfaction of the note and payment of costs
6 directly incurred by the bank in administering the loan.

7 (c) Upon satisfaction of the note by the debtor, the executive
8 director shall certify to the commission that the note has been satis-
9 fied.

10 (d) Upon certification as provided in (c) of this section, the
11 commission shall amend the permit certificate to list the debtor as the
12 legal owner.

13 Sec. 44.54.240. DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY
14 PERMITS. (a) If the debtor defaults upon a note for which a limited
15 entry permit has been pledged as security under AS 44.54.230, the execu-
16 tive director of the bank shall provide the debtor, by registered or
17 certified mail sent to his last known address on file with the bank,
18 with a notice of default which includes

19 (1) a description of the security given for the note includ-
20 ing the number assigned to the pledged permit by the Alaska Commercial
21 Fisheries Entry Commission;

22 (2) the date upon which the default occurred;

23 (3) the amount of arrearages as of the date of the notice,
24 the total amount remaining on the note less unearned interest, and the
25 amount of daily interest;

26 (4) a statement that the debtor may, within 15 days of the
27 postmark date of the notice, request a hearing at which he may submit
28 evidence showing he has not defaulted;

29 (5) a statement that the note may be reinstated if brought

1 current within 60 days from the postmark date of the notice;

2 (6) a statement that the note may be paid in full less un-
3 earned interest within 90 days from the postmark date of the notice;

4 (7) the place where reinstatement or payment in full may be
5 made; and

6 (8) a notice in at least 10-point bold type stating: "IMPOR-
7 TANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE
8 SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND
9 THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

10 (b) Upon the debtor's failure to reinstate or satisfy the note
11 within the time specified in (a) of this section, his equitable interest
12 is terminated by operation of law without further notice. Any entry
13 permit cards issued to him under the permit shall be cancelled immedi-
14 ately upon receipt by the commission of a certificate of termination
15 containing a copy of the notice required by (a) of this section issued
16 by the executive director of the bank.

17 Sec. 44.54.250. DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER
18 FORECLOSURE. (a) Upon a foreclosure on an entry permit as provided in
19 AS 44.54.240, the executive director of the bank shall offer the Alaska
20 Commercial Fisheries Entry Commission a right of first refusal if the
21 permit is subject to a buy-back program under AS 16.43.290 - 16.43.330
22 at a price equal to the amount outstanding on the note plus any costs
23 the bank directly incurred in administering the loan.

24 (b) If the commission does not exercise its right of first refusal
25 within 30 days after it receives the offer, or if the permit is not
26 subject to a buy-back program under AS 16.43.290 - 16.43.330, the bank
27 shall promptly notify the debtor of this fact. The debtor has 30 days
28 from the postmark date of the notice to nominate a person qualified to
29 assume the note. The person nominated must qualify under the require-

1 ments of AS 44.54.230(a). If qualified, he may assume all rights and
2 liabilities of the original debtor.

3 (c) If the debtor is unable to nominate a qualified person to
4 assume the note under (b) of this section, the permit must be made
5 available to a qualified person, chosen as provided in this section, who
6 shall assume the note subject to all rights and liabilities of the
7 original debtor. The Alaska Commercial Fisheries Entry Commission shall
8 provide the bank with a list of persons chosen by lottery who qualify
9 as transferees of entry permits under AS 16.43 and regulations adopted
10 by the commission and who have met the residency and commercial fishing
11 participation requirements of AS 44.54.210(20). The executive director
12 of the bank shall then determine, in order of presentation, any re-
13 maining qualifications. The executive director shall allow the first
14 applicant meeting all qualifications to assume the note.

15 (d) Nothing in this section affects the right of the executive
16 director to institute legal action for a deficiency resulting from a
17 default on a note given under AS 44.54.230. In addition to any defi-
18 ciency, the debtor is liable for the costs of administering the note and
19 for costs and attorney fees.
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