

Original sponsor: Gardiner

Offered: 4/18/79
Referred: Finance

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 SENATE CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 30 am S
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. (a) The bank shall be
20 managed by a board of directors consisting of seven [FIVE] members.
21 At least one member of the board shall be an Alaska farmer with at
22 least 10 years of Alaskan farm experinece. Initial appointments to the
23 board shall be made by the governor. Two of the initial appointments
24 shall be made at the time of the first annual membership meeting of
25 the bank. Thereafter, five board members shall be elected by the
26 shareholders, with at least one of the elected board members being
27 an Alaska farmer with at least 10 years of Alaskan farm experience,
28 and two board members shall be appointed by the governor until the
29 repurchase of all the nonvoting, preferred shares initially issued

1 by the bank and purchased by agencies of the state. After repurchase
2 is completed, all board members shall be elected by the shareholders.
3 The board members shall annually elect a chairman from among themselves.
4 The purpose of the board is to manage the assets of the bank.

5 (b) The governor shall designate the two members whose positions
6 on the board will remain appointive for the period set out in (a) of
7 this section.

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

9 Sec. 44.54.090. TERM OF OFFICE. The members of the board shall
10 serve [BE APPOINTED] for terms of three years, and they may serve
11 successive terms [BE REAPPOINTED]. Terms shall be staggered. Initial
12 terms of the first five members appointed to the board shall be two
13 members serving until the first annual membership meeting of the bank
14 [FOR ONE YEAR], two members serving until the second annual membership
15 meeting of the bank [FOR TWO YEARS], and one member serving until the
16 third annual membership meeting of the bank [FOR THREE YEARS]. Initial
17 terms of the two members appointed at the time of the first annual
18 membership meeting of the bank shall be one member serving until the
19 second annual membership meeting of the bank and one member serving
20 until the third annual membership meeting of the bank.

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

22 (20) make loans to individual commercial fishermen for limited
23 entry permits; a loan under this paragraph may be made only to an indi-
24 vidual commercial fisherman who has been a state resident for a continu-
25 ous period of five years immediately preceding the date of application
26 for the loan and who has had a crewmember or commercial fishing license
27 under AS 16.05.480 or a permit under AS 16.43 for any one of the past
28 five years, and who has actively participated in the fishery during that
29 period; loans made under this paragraph are subject to the provisions of

1 AS 44.54.230.

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

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

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

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

13 (2) the certificate for the pledged permit lists the debtor
14 as the equitable owner of the permit;

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

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

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

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

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

29 Sec. 44.54.240. DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY

1 PERMITS. (a) If the debtor defaults upon a note for which a limited
2 entry permit has been pledged as security under AS 44.54.230, the execu-
3 tive director of the bank shall provide the debtor, by registered or
4 certified mail sent to his last known address on file with the bank,
5 with a notice of default which includes

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

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

10 (3) the amount of arrearages as of the date of the notice,
11 the total amount remaining on the note less unearned interest, and the
12 amount of daily interest;

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

16 (5) a statement that the note may be reinstated if brought
17 current within 60 days from the postmark date of the notice;

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

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

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

26 (b) Upon the debtor's failure to reinstate or satisfy the note
27 within the time specified in (a) of this section, his equitable interest
28 is terminated by operation of law without further notice. Any entry
29 permit cards issued to him under the permit shall be cancelled immedi-

1 ately upon receipt by the commission of a certificate of termination
2 containing a copy of the notice required by (a) of this section issued
3 by the executive director of the bank.

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

11 (b) If the commission does not exercise its right of first refusal
12 within 30 days after it receives the offer, or if the permit is not
13 subject to a buy-back program under AS 16.43.290 - 16.43.330, the bank
14 shall promptly notify the debtor of this fact. The debtor has 30 days
15 from the postmark date of the notice to nominate a person qualified to
16 assume the note. The person nominated must qualify under the require-
17 ments of AS 44.54.230(a). If qualified, he may assume all rights and
18 liabilities of the original debtor.

19 (c) If the debtor is unable to nominate a qualified person to
20 assume the note under (b) of this section, the permit must be made
21 available to a qualified person, chosen as provided in this section, who
22 shall assume the note subject to all rights and liabilities of the
23 original debtor. The Alaska Commercial Fisheries Entry Commission shall
24 provide the bank with a list of persons chosen by lottery who qualify as
25 transferees of entry permits under AS 16.43 and regulations adopted by
26 the commission and who have met the residency and commercial fishing
27 participation requirements of AS 44.54.210(20). The executive director
28 of the bank shall then determine, in order of presentation, any re-
29 maining qualifications. The executive director shall allow the first

1 applicant meeting all qualifications to assume the note.

2 (d) Nothing in this section affects the right of the executive
3 director of the bank to institute legal action for a deficiency result-
4 ing from a default on a note given under AS 44.54.230. In addition to
5 any deficiency, the debtor is liable for the costs of administering the
6 note and for costs and attorney fees.

7 * Sec. 6. For the purposes of secs. 2 and 3 of this Act, the five members
8 of the board of directors of the Commercial Fishing and Agriculture Bank who
9 were appointed before the effective date of this Act shall continue to serve
10 on the board of directors until their terms expire as provided in sec. 3 of
11 this Act.

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