

Introduced: 3/17/80
Referred: Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE
BY REQUEST

2 HOUSE BILL NO. 961

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Commercial Fishing and
7 Agriculture Bank; and providing for an effective date."

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

9 * Section 1. AS 16.43.150(g) is amended to read:

10 (g) Except as provided in AS 16.10.333 - 16.10.337 and in AS 44.-
11 54.230 - 44.54.250, an entry permit may not be:

12 (1) pledged, mortgaged, leased, or encumbered in any way;

13 (2) transferred with any retained right of repossession or
14 foreclosure; or

15 (3) attached, distrained, or sold on execution of judgment or
16 under any other process or order of any court.

17 * Sec. 2. AS 16.43.170(a) is amended to read:

18 (a) Except as provided in AS 16.10.333 - 16.10.338 and in AS 44.-
19 54.230 - 44.54.250, entry permits and interim-use permits are transfer-
20 able only through the commission as provided in this section and AS 16.-
21 43.180 and under regulations adopted by the commission.

22 * Sec. 3. AS 44.54.070 is repealed and re-enacted to read:

23 Sec. 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (a) The board
24 of directors shall employ a president. The president may not be a
25 member of the board of directors. The president serves at the pleasure
26 of the board of directors. The president is the chief executive officer
27 of the bank.

28 (b) The board of directors shall appoint one or more vice-presi-
29 dents, as prescribed in the bylaws of the bank, a secretary, a treasurer

1 and other officers as the board of directors considers necessary. The
2 board of directors may appoint one person to more than one of the posi-
3 tions described in this subsection.

4 (c) The president may hire employees of the bank reasonably neces-
5 sary for the efficient performance of the functions of the bank. Sub-
6 ject to the approval of the board of directors, the president may also
7 contract for and engage the services of professional and technical
8 advisors. The board of directors shall prescribe the duties and com-
9 pensation of employees of the bank.

10 * Sec. 4. AS 44.54.150(a) is amended to read:

11 (a) Neither the members of the board of directors, the president
12 [EXECUTIVE DIRECTOR], staff, nor a person executing the bonds is liable
13 personally on the bonds or subject to personal liability or account-
14 ability by reason of the issuance of the bonds.

15 * Sec. 5. AS 44.54.210(1) is amended to read:

16 (1) make variable rate or fixed rate loans to individuals who
17 are residents and who are engaged in commercial agriculture or fishing,
18 including harvesters, processors, suppliers and marketers, or to cor-
19 porations, partnerships or joint ventures [PRIMARILY] engaged in com-
20 mercial agriculture or fishing, the majority interest of which is bene-
21 ficially owned by residents of the state and a majority of the owners of
22 which are residents of the state, if the recipient of the loan is a
23 shareholder of the bank; however, the bank may make a loan under this
24 paragraph to a corporation, partnership, or joint venture for the pur-
25 chase of a new or existing fishing vessel or for the repair or renova-
26 tion of an existing fishing vessel, the primary purpose of which is to
27 commercially harvest fishery resources, only if the corporation, partner-
28 ship, or joint venture is wholly owned and controlled by residents of
29 the state and if the recipient of the loan is a shareholder of the bank.

1 * Sec. 6. AS 44.54.210 is amended by adding new paragraphs to read:

2 (21) indemnify a director, officer or employee of the bank and
3 his heirs, executors and administrators against all liabilities and
4 related expenses including, but not limited to, court costs and attorney
5 fees, judgments, and the cost of reasonable settlements, incurred by him
6 in connection with or arising out of an action or proceeding brought
7 against him because of an act or omission in the performance of his
8 official duties as director, officer or employee of the bank regardless
9 of whether he is a director, officer or employee at the time the ex-
10 penses or liabilities are incurred;

11 (22) make variable rate or fixed rate loans to corporations,
12 partnerships or joint ventures for fish processing plants as provided in
13 AS 44.54.215.

14 * Sec. 7. AS 44.54.210 is amended by adding a new subsection to read:

15 (b) The provisions of (a)(21) of this section do not authorize the
16 bank to indemnify a director, officer or employee of the bank who is
17 adjudged liable for negligence or misconduct in the performance of his
18 official duties.

19 * Sec. 8. AS 44.54 is amended by adding a new section to read:

20 Sec. 44.54.215. FISH PROCESSING PLANT LOANS. (a) The bank may
21 make a loan for a purpose described in (b) of this section to a cor-
22 poration, partnership or joint venture which meets the following con-
23 ditions:

24 (1) the corporation, partnership or joint venture is a share-
25 holder of the bank;

26 (2) fish processing is the primary business of the corpora-
27 tion, partnership or joint venture;

28 (3) the corporation, partnership or joint venture was created
29 or organized in the United States or under the laws of the United States

1 or of a state or territory of the United States;

2 (4) citizens of the United States are the beneficial owners
3 of the majority interest in the corporation, partnership or joint ven-
4 ture; and

5 (5) citizens of the United States are the majority of the
6 owners of the corporation, partners in the partnership or joint ven-
7 turers in the joint venture.

8 (b) A loan under this section may be made to provide financing
9 for:

10 (1) the construction or improvement of onshore fish pro-
11 cessing plants in the state;

12 (2) the working capital requirements of a fish processing
13 plant in the state.

14 * Sec. 9. AS 44.54.230(a) is amended to read:

15 (a) A loan under AS 44.54.210(20) for the purchase of a limited
16 entry permit may be made only upon certification by the commission
17 [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION (AS 16.43.020)] that the
18 fisherman is a person who qualifies as a transferee for the permit under
19 AS 16.43 and the regulations adopted by the commission.

20 * Sec. 10. AS 44.54.230(b) is amended to read:

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

23 (1) the certificate for the pledged permit lists [THE EXECU-
24 TIVE DIRECTOR OF] the bank as the legal owner of the permit;

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

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

29 (4) all obligations and responsibilities of a permit owner

1 are assumed by the debtor;

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

6 * Sec. 11. AS 44.54.230(c) is amended to read:

7 (c) Upon satisfaction of the note by the debtor, the bank [EXECU-
8 TIVE DIRECTOR] shall certify to the commission that the note has been
9 satisfied.

10 * Sec. 12. AS 44.54.240 is amended to read:

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

17 (1) a description of the security given for the note in-
18 cluding the number assigned to the pledged permit by the commission
19 [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION];

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

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

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

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

29 (6) a statement that the note may be paid in full less un-

1 earned interest within 90 days from the postmark date of the notice;

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

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

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

15 * Sec. 13. AS 44.54.250(a) is amended to read:

16 (a) Upon a foreclosure on an entry permit as provided in AS 44.54.-
17 240, [THE EXECUTIVE DIRECTOR OF] the bank shall offer the commission
18 [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] a right of first refusal
19 if the permit is subject to a buy-back program under AS 16.43.290 -
20 16.43.330 at a price equal to the amount outstanding on the note plus
21 any costs the bank directly incurred in administering the loan.

22 * Sec. 14. AS 44.54.250(c) is amended to read:

23 (c) If the debtor is unable to nominate a qualified person to
24 assume the note under (b) of this section, the permit must be made
25 available to a qualified person, chosen as provided in this section, who
26 shall assume the note subject to all rights and liabilities of the
27 original debtor. The commission [ALASKA COMMERCIAL FISHERIES ENTRY
28 COMMISSION] shall provide the bank with a list of persons chosen by
29 lottery who qualify as transferees of entry permits under AS 16.43 and

1 regulations adopted by the commission and who have met the residency and
2 commercial fishing participation requirements of AS 44.54.210(20). The
3 [EXECUTIVE DIRECTOR OF THE] bank shall then determine, in order of
4 presentation, any remaining qualifications. The bank [EXECUTIVE DIREC-
5 TOR] shall allow the first applicant meeting all qualifications to
6 assume the note.

7 * Sec. 15. AS 44.54.250(d) is amended to read:

8 (d) Nothing in this section affects the right of [THE EXECUTIVE
9 DIRECTOR OF] the bank to institute legal action for a deficiency result-
10 ing from a default on a note given under AS 44.54.230. In addition to
11 any deficiency, the debtor is liable for the costs of administering the
12 note and for costs and attorney fees.

13 * Sec. 16. AS 44.54 is amended by adding a new section to read:

14 Sec. 44.54.260. DEFINITIONS. In this chapter

15 (1) "bank" means the Alaska Commercial Fishing and Agricul-
16 ture Bank;

17 (2) "commission" means the Alaska Commercial Fisheries Entry
18 Commission (AS 16.43.020);

19 (3) "shareholder" includes a holder of a share of membership
20 stock of the bank, a holder of a share of capital stock of the bank, or
21 a patron of the bank with retained patronage earnings of \$2,500 or more
22 to his credit.

23 * Sec. 17. This Act takes effect immediately in accordance with AS 01.10.-
24 070(c).