

Original sponsor: State Affairs Committee

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Referred: Rules

1 IN THE SENATE

BY THE RULES COMMITTEE

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HOUSE CS FOR SENATE BILL NO. 519

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to the Alaska Commercial Fishing and

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Agriculture Bank; and providing for an effective date."

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

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

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(g) Except as provided in AS 16.10.333 - 16.10.337 and in AS 44.-

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54.230 - 44.54.250, an entry permit may not be:

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

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(2) transferred with any retained right of repossession or

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foreclosure; or

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(3) attached, distrained, or sold on execution of judgment or

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under any other process or order of any court.

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

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(a) Except as provided in AS 16.10.333 - 16.10.338 and in AS 44.-

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54.230 - 44.54.250, entry permits and interim-use permits are trans-

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ferable only through the commission as provided in this section and

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AS 16.43.180 and under regulations adopted by the commission.

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* Sec. 3. AS 44.54.020(a) is amended to read:

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(a) The bank shall be managed by a board of directors consisting

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of seven members. At least one member of the board shall be an Alaska

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farmer with at least 10 years of Alaskan farm experience. Initial

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appointments to the board shall be made by the governor. Two of the

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initial appointments shall be made at the time of the first annual

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membership meeting of the bank. Thereafter, five board members shall be

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elected by the members of the bank [SHAREHOLDERS], with at least one of

1 the elected board members being an Alaska farmer with at least 10 years
2 of Alaskan farm experience, and two board members shall be appointed by
3 the governor until the repurchase of all the nonvoting, preferred shares
4 initially issued by the bank and purchased by agencies of the state.
5 After repurchase is completed, all board members shall be elected by the
6 members of the bank [SHAREHOLDERS]. The board members shall annually
7 elect a chairman from among themselves. The purpose of the board is to
8 manage the assets of the bank.

9 * Sec. 4. AS 44.54.060(b) is amended to read:

10 (b) Loans made to members [SHAREHOLDERS] of the bank under the
11 provisions of this chapter shall be in accordance with a schedule of
12 maximum amounts adopted by the board of directors based upon proportional
13 ownership of shares of capital stock.

14 * Sec. 5. AS 44.54.070 is repealed and re-enacted to read:

15 Sec. 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (a) The board
16 of directors shall employ a president. The president may not be a
17 member of the board of directors. The president serves at the pleasure
18 of the board of directors. The president is the chief executive officer
19 of the bank.

20 (b) The board of directors shall appoint one or more vice-presi-
21 dents, as prescribed in the bylaws of the bank, a secretary, a treasurer
22 and other officers as the board of directors considers necessary. The
23 board of directors may appoint one person to more than one of the posi-
24 tions described in this subsection. The officers described in this sub-
25 section are not required to be members of the board of directors.

26 (c) The president may hire employees of the bank reasonably neces-
27 sary for the efficient performance of the functions of the bank. Sub-
28 ject to the approval of the board of directors, the president may also
29 contract for and engage the services of professional and technical

1 advisors. The board of directors shall prescribe the duties and com-
2 pensation of employees of the bank.

3 * Sec. 6. AS 44.54.150(a) is amended to read:

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

8 * Sec. 7. AS 44.54.210(1) is amended to read:

9 (1) make variable rate or fixed rate loans to individuals who
10 are residents and who are engaged in commercial agriculture or fishing,
11 including harvesters, processors, suppliers and marketers, or to cor-
12 porations, partnerships or joint ventures [PRIMARILY] engaged in com-
13 mercial agriculture or fishing, the majority interest of which is bene-
14 ficially owned by residents of the state and a majority of the owners of
15 which are residents of the state, if the recipient of the loan is a
16 member [SHAREHOLDER] of the bank; however, the bank may make a loan
17 under this paragraph to a corporation, partnership, or joint venture for
18 the purchase of a new or existing fishing vessel or for the repair or
19 renovation of an existing fishing vessel, the primary purpose of which
20 is to commercially harvest fishery resources, only if the corporation,
21 partnership, or joint venture is wholly owned and controlled by residents
22 of the state and if the recipient of the loan is a member [SHAREHOLDER]
23 of the bank.

24 * Sec. 8. AS 44.54.210(16) is amended to read:

25 (16) provide technical services to members of the bank [SHARE-
26 HOLDERS]; for the purposes of this paragraph, "technical services"
27 includes services that will enhance the ability of the member [SHARE-
28 HOLDER] to obtain financial assistance from the bank;

29 * Sec. 9. AS 44.54.210 is amended by adding a new paragraph to read:

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

10 * Sec. 10. AS 44.54.210 is amended by adding a new subsection to read:

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

15 * Sec. 11. AS 44.54.230(a) is amended to read:

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

21 * Sec. 12. AS 44.54.230(b) is amended to read:

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 * Sec. 13. AS 44.54.230(c) is amended to read:

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

11 * Sec. 14. AS 44.54.240 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

17 (a) Upon a foreclosure on an entry permit as provided in AS 44.-
18 54.240, [THE EXECUTIVE DIRECTOR OF] the bank shall offer the commission
19 [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] a right of first refusal
20 if the permit is subject to a buy-back program under AS 16.43.290 -
21 16.43.330 at a price equal to the amount outstanding on the note plus
22 any costs the bank directly incurred in administering the loan.

23 * Sec. 16. AS 44.54.250(c) is amended to read:

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

1 lottery who qualify as transferees of entry permits under AS 16.43 and
2 regulations adopted by the commission and who have met the residency and
3 commercial fishing participation requirements of AS 44.54.210(20). The
4 [EXECUTIVE DIRECTOR OF THE] bank shall then determine, in order of
5 presentation, any remaining qualifications. The bank [EXECUTIVE DIREC-
6 TOR] shall allow the first applicant meeting all qualifications to
7 assume the note.

8 * Sec. 17. AS 44.54.250(d) is amended to read:

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

14 * Sec. 18. AS 44.54 is amended by adding a new section to read:

15 Sec. 44.54.260. DEFINITIONS. In this chapter

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

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

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

23 (4) "supplier" means a person whose main source of income is
24 from providing goods or services that are directly related to commercial
25 fishing or agriculture to individuals, corporations, partnerships or
26 joint ventures engaged in commercial fishing or agriculture.

27 * Sec. 19. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

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