

Introduced: 3/26/81
Referred: Judiciary

1 IN THE HOUSE

BY GARDINER

2 HOUSE BILL NO. 413

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST 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
8 date."

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

10 * Section 1. AS 44.81.010(a) is amended to read:

11 Sec. 44.81.010. ALASKA COMMERCIAL FISHING AND AGRICULTURE BANK.

12 (a) There is established the Alaska Commercial Fishing and Agriculture
13 Bank. [THE BANK IS A PUBLIC CORPORATION AND GOVERNMENT INSTRUMENTALITY
14 IN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BUT HAS A LEGAL
15 EXISTENCE INDEPENDENT OF AND SEPARATE FROM THE STATE.] The exercise by
16 the bank of the powers conferred by this chapter is considered to be for
17 a public purpose [AN ESSENTIAL GOVERNMENTAL FUNCTION OF THE STATE].
18 Except as otherwise provided in this chapter, the bank is subject to
19 the provisions of AS 10.15.005 - 10.15.600. The bank is exempt from the
20 provisions of the Alaska Banking Code (AS 06.05) in the exercise of
21 powers granted by this chapter.

22 * Sec. 2. AS 44.81.070(c) is amended to read:

23 (c) The president may hire employees of the bank reasonably
24 necessary for the efficient performance of the functions of the bank.
25 Subject to the approval of the board of directors, the president may
26 also contract for and engage the services of professional and technical
27 advisors. The board of directors shall prescribe the duties and compen-
28 sation of employees of the bank. Employees of the bank are not em-
29 ployees of the state but are considered to be employees of a public

1 organization for purposes of AS 39.30.150 - 39.30.180 and AS 39.35.

2 * Sec. 3. AS 44.81.110 is amended to read:

3 Sec. 44.81.110. COMPENSATION OF BOARD MEMBERS. Members of the
4 board receive compensation and are entitled to per diem and travel
5 allowances at a rate determined by the board for each day the board
6 meets if they attend the meeting [AND ARE ENTITLED TO PER DIEM AND
7 TRAVEL ALLOWANCES AS PROVIDED BY LAW FOR MEMBERS OF STATE BOARDS AND
8 COMMISSIONS].

9 * Sec. 4. AS 44.81.160 is amended to read:

10 Sec. 44.81.160. PLEDGE OF THE STATE. The state pledges to and
11 agrees with any lender to the bank [THE HOLDERS OF THE BONDS ISSUED
12 UNDER THIS CHAPTER] and with the federal agency or regional institution
13 of the federal farm credit system which loans or contributes funds in
14 respect of a project, that the state will not limit or alter the rights
15 and powers vested in the bank by this chapter to fulfill the terms of
16 any contract made by the bank with the lender to the bank [HOLDERS] or
17 federal agency or regional institution of the federal farm credit
18 system, or in any way impair the rights and remedies of the lender to
19 the bank or federal agency or regional institution of the federal farm
20 credit system [HOLDERS UNTIL THE BONDS, TOGETHER WITH INTEREST ON THEM,
21 WITH INTEREST ON UNPAID INSTALLMENTS OF INTEREST, AND ALL COSTS AND
22 EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDING BY OR ON BEHALF OF
23 THE HOLDERS, ARE FULLY MET AND DISCHARGED]. The bank is authorized to
24 include this pledge and agreement of the state, insofar as it refers to
25 a lender to the bank [HOLDERS OF BONDS OF THE BANK] in a contract with
26 the maker of a loan [HOLDERS], and insofar as it relates to a federal
27 agency or regional institution of the federal farm credit system, in a
28 contract with a federal agency or regional institution of the federal
29 farm credit system.

1 * Sec. 5. AS 44.81.200 is amended to read:

2 Sec. 44.81.200. REPORTS AND PUBLICATIONS. The board of directors
3 shall publish an annual report to the bank's members [SHAREHOLDERS].
4 The report shall be made available to the public and shall include
5 financial statements audited by independent outside auditors, [A STATE-
6 MENT OF THE AMOUNT OF MONEY RECEIVED BY THE BANK FROM EACH SOURCE
7 DURING THE PERIOD COVERED,] a statement of the bank's investments, a
8 description of the bank's loan [INVESTMENT] activity during the period
9 covered by the report, an analysis of economic and other effects of
10 loan [INVESTMENT] decisions on the state's commercial fishing and
11 agriculture industries, and any other information the board believes
12 would be of interest to the governor, the legislature and the public.
13 The board may also publish such other reports as it considers desirable
14 to carry out its purposes.

15 * Sec. 6. AS 44.81 is amended by adding new sections to read:

16 Sec. 44.81.260. DATA REGARDING RECORDS OF THE BANK. (a) Except
17 as provided in (b) of this section, the directors, officers, and em-
18 ployees of the bank shall hold in strict confidence all information
19 regarding the business records of the bank, including information as to
20 the character, credit standing and property of members and applicants
21 for loans. They shall not exhibit or quote from the bank's business
22 records, including documents regarding personnel of the bank or pertain-
23 ing to members or applicants for loans.

24 (b) The requirements of (a) of this section are subject to the
25 following exceptions:

26 (1) Examiners and other authorized representatives of the
27 commissioner of commerce and economic development and other authorized
28 regulatory agencies have free access to all information, records and
29 files.

1 (2) The board of directors or the president of the bank may
2 supply statistical and other impersonal information pertaining to
3 members, applicants, and loans in response to requests from the legisla-
4 ture or a state agency, members of the federal farm credit system, or a
5 responsible private organization.

6 (3) Information concerning members may be given for the
7 confidential use of a member of the federal farm credit system or other
8 financial institution in contemplation of the extension of credit or
9 the collection of loans.

10 (4) Impersonal information based solely on transactions or
11 experience with a member, such as amounts of loans, terms, and payment
12 records may be given by the bank for the confidential use of a reliable
13 organization in contemplation of the extension of credit.

14 (5) Credit information concerning a member may be given when
15 the member consents to it in writing.

16 (6) In litigation between a member (or his successor in
17 interest) and the bank, any competent evidence may be introduced with
18 respect to relevant statements made orally or in writing by or to the
19 member or his successor.

20 Sec. 44.81.270. POWERS OF COMMISSIONER OF COMMERCE AND ECONOMIC
21 DEVELOPMENT TO EXAMINE BANK. The commissioner of commerce and economic
22 development may cause the bank to be examined in the manner and under
23 the conditions prescribed by the Alaska Banking Code (AS 06.05) for
24 examination of state banks. The commissioner or his examiner have free
25 access to all books and papers of the bank which relate to its business
26 and books and papers kept by a director, officer, or employee relating
27 to or upon which a record of its business is kept, and may summon
28 witnesses and administer oaths or affirmations in the examination of
29 the directors, officers, or employees of the bank or any other person

1 in relation to its affairs, transactions, and conditions, and may require
2 and compel the production of records, books, papers, contracts, or
3 other documents by court order if not voluntarily produced.

4 Sec. 44.81.280. PROHIBITION ON RELEASE OF INFORMATION. The
5 commissioner of commerce and economic development, his examiner, and
6 his employees may not divulge information acquired by them in the
7 process of examination conducted under AS 44.81.270, except insofar as
8 the information is necessary by law or under court order. However, the
9 commissioner may furnish information as to the condition of the bank to
10 the board of directors of the bank, to the legislature, or to members
11 of the federal farm credit system.

12 * Sec. 7. FINDINGS. The legislature finds that

13 (1) the Alaska Commercial Fishing and Agriculture Bank has been
14 established in the form of a cooperative for the purpose of providing capital
15 to Alaska's commercial fishermen and farmers and assisting in the development
16 of fishing and agriculture in the state;

17 (2) the state has invested \$32 million in the bank to assist in
18 accomplishing its purposes;

19 (3) the state has an interest in assuring that its money is being
20 used in a manner so that the bank will accomplish those purposes which the
21 legislature intended in establishing the bank;

22 (4) audit and examination of the bank by the state can best be
23 accomplished by use of bank examiners of the Department of Commerce and
24 Economic Development to complement the audit conducted by the bank's indepen-
25 dent outside auditors;

26 (5) there is an expectation of privacy guaranteed by the Consti-
27 tution of the State of Alaska which inures to the members of the bank, both
28 as borrower and as capital shareholder with an equity interest in the bank,
29 which can be protected through adherence to established methods of bank



1 examination.

2 * Sec. 8. AS 44.81.080, 44.81.120, 44.81.130, 44.81.140, 44.81.150,
3 44.81.170, 44.81.180, and 44.81.220 are repealed.

4 * Sec. 9. This Act takes effect immediately in accordance with AS 01.10.-
5 070(c).

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