

Original sponsor: Gardiner

Offered: 4/29/81  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 413 (Judiciary)

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  
17 for 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  
20 the provisions of the Alaska Banking Code (AS 06.05) in the exercise  
21 of 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  
28 compensation of employees of the bank. Employees of the bank are not  
29 employees 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 not to exceed \$250 as [AT A RATE] determined  
5 by the board for each day the board meets if they attend the meeting  
6 [AND ARE ENTITLED TO PER DIEM AND TRAVEL ALLOWANCES AS PROVIDED BY LAW  
7 FOR MEMBERS OF STATE BOARDS AND COMMISSIONS].

8 \* Sec. 4. AS 44.81.160 is amended to read:

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

29 \* Sec. 5. AS 44.81.200 is amended to read:

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

14 \* Sec. 6.   AS 44.81.210(a) is amended by adding a new paragraph to read:

15           (22) use Alaska limited entry permits as security for loans  
16 under (1) of this subsection for the repair, restoration, or upgrading  
17 of existing vessels and gear, for the purchase of entry permits and  
18 gear, and for the construction and purchase of vessels; the provisions  
19 of AS 44.81.230 - 44.81.250 apply to Alaska limited entry permits  
20 pledged as security for loans in accordance with this paragraph.

21 \* Sec. 7.   AS 44.81 is amended by adding new sections to read:

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

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

3 (1) Examiners and other authorized representatives of the  
4 commissioner of commerce and economic development and other authorized  
5 regulatory agencies have free access to all information, records and  
6 files.

7 (2) The board of directors or the president of the bank shall  
8 supply statistical and other impersonal information pertaining to  
9 members, employees, and loans in response to requests from the legisla-  
10 ture or a state agency, members of the federal farm credit system, or a  
11 responsible private organization.

12 (3) Information concerning members may be given for the  
13 confidential use of a member of the federal farm credit system or other  
14 financial institution in contemplation of the extension of credit or  
15 the collection of loans.

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

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

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

26 Sec. 44.81.270. POWERS OF COMMISSIONER OF COMMERCE AND ECONOMIC  
27 DEVELOPMENT TO EXAMINE BANK. The commissioner of commerce and economic  
28 development may cause the bank to be examined in the manner and under  
29 the conditions prescribed by the Alaska Banking Code (AS 06.05) for

1 examination of state banks. The commissioner or his examiner have free  
2 access to all books and papers of the bank which relate to its business  
3 and books and papers kept by a director, officer, or employee relating  
4 to or upon which a record of its business is kept, and may summon  
5 witnesses and administer oaths or affirmations in the examination of  
6 the directors, officers, or employees of the bank or any other person  
7 in relation to its affairs, transactions, and conditions, and may  
8 require and compel the production of records, books, papers, contracts,  
9 or other documents by court order if not voluntarily produced.

10 Sec. 44.81.280. PROHIBITION ON RELEASE OF INFORMATION. The  
11 commissioner of commerce and economic development, his examiner, and  
12 his employees may not divulge information acquired by them in the  
13 process of examination conducted under AS 44.81.270, except insofar as  
14 the information is necessary by law or under court order.

15 \* Sec. 8. FINDINGS. The legislature finds that

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

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

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

25 (4) audit and examination of the bank by the state can best be  
26 accomplished by use of bank examiners of the Department of Commerce and  
27 Economic Development to complement the audit conducted by the bank's inde-  
28 pendent outside auditors;

29 (5) there is an expectation of privacy guaranteed by the Consti-

1 tution of the State of Alaska which inures to the members of the bank, both  
2 as borrower and as capital shareholder with an equity interest in the bank,  
3 which can be protected through adherence to established methods of bank  
4 examination.

5 \* Sec. 9. AS 44.81.080, 44.81.120, 44.81.130, 44.81.140, 44.81.150,  
6 44.81.170, 44.81.180, and 44.81.220 are repealed.

7 \* Sec. 10. This Act takes effect immediately in accordance with AS 01.-  
8 10.070(c).

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