

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) am  
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 The State of Alaska will not incur any liability for contributions to  
3 the public employees retirement system for the bank or its employees.

4 \* Sec. 3. AS 44.81.110 is amended to read:

5 Sec. 44.81.110. COMPENSATION OF BOARD MEMBERS. Members of the  
6 board receive compensation not to exceed \$250 as [AT A RATE] determined  
7 by the board for each day the board meets if they attend the meeting  
8 [AND ARE ENTITLED TO PER DIEM AND TRAVEL ALLOWANCES AS PROVIDED BY LAW  
9 FOR MEMBERS OF STATE BOARDS AND COMMISSIONS].

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

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

1 farm credit system.

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

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

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

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

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

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

1 records, including documents regarding personnel of the bank or pertain-  
2 ing to members or applicants for loans.

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

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

9 (2) The board of directors or the president of the bank  
10 shall supply members' names and their loan amounts and the salaries,  
11 benefits and bonuses of all employee positions and statistical and  
12 other impersonal information pertaining to members, employees, and  
13 loans in response to requests from the public.

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

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

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

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

28 Sec. 44.81.270. POWERS OF COMMISSIONER OF COMMERCE AND ECONOMIC  
29 DEVELOPMENT TO EXAMINE BANK. The commissioner of commerce and economic

1 development may cause the bank to be examined in the manner and under  
2 the conditions prescribed by the Alaska Banking Code (AS 06.05) for  
3 examination of state banks. The commissioner or his examiner have free  
4 access to all books and papers of the bank which relate to its business  
5 and books and papers kept by a director, officer, or employee relating  
6 to or upon which a record of its business is kept, and may summon  
7 witnesses and administer oaths or affirmations in the examination of  
8 the directors, officers, or employees of the bank or any other person  
9 in relation to its affairs, transactions, and conditions, and may re-  
10 quire and compel the production of records, books, papers, contracts,  
11 or other documents by court order if not voluntarily produced.

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

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

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

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

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

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

1 pendent outside auditors;

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

7 \* Sec. 9. AS 44.81.080, 44.81.120, 44.81.130, 44.81.140, 44.81.150,  
8 44.81.170, 44.81.180, and 44.81.220 are repealed.

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

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