

Original sponsor: Gardiner

Offered: 6/17/81
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 413 (Finance)

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 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 and are not considered to be employees of a public

1 organization for the purposes of AS 39.30.150 - 39.30.180 or 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 which the board
12 believes would be of interest to the governor, the legislature, and the
13 public, or which the legislature requests the board to include. The
14 board may also publish such other reports as it considers desirable to
15 carry out its purposes.

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

17 (22) accept the pledge of a limited entry permit as security
18 for a loan made under this chapter for the repair, restoration, or
19 improvement of a commercial fishing vessel or commercial fishing gear,
20 or for the construction or purchase of a commercial fishing vessel,
21 subject to the conditions set out in AS 44.81.230 - 44.81.250 on pledges
22 of limited entry permits.

23 * Sec. 7. AS 44.81.220 is amended to read:

24 Sec. 44.81.220. TRANSITION. Notwithstanding the provisions of
25 AS 10.15.005, upon [UPON] the repurchase of all the nonvoting, preferred
26 shares initially issued by the bank and purchased by agencies of the
27 state, the provisions of this chapter lapse and the bank may proceed to
28 operate solely as a private cooperative corporation under the terms of
29 its bylaws and [SUBJECT TO] the provisions of AS 10.15.010 - 10.15.600

[AS 10.15.005 - 10.15.600].

* Sec. 8. AS 44.81 is amended by adding new sections to read:

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

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

(1) The legislative audit division has access to the records of the bank to perform an audit authorized under AS 44.81.270.

(2) The board of directors or the president of the bank shall supply statistical and other impersonal information pertaining to members, applicants, and loans in response to requests from the legislature or a state agency or members of the federal farm credit system and may provide similar information upon request to a responsible private organization.

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

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

(5) Credit information concerning a member may be given when

1 the member consents to it in writing.

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

6 Sec. 44.81.270. POWERS OF LEGISLATIVE AUDITOR TO AUDIT BANK. The
7 legislative auditor may cause the bank to be audited in the manner and
8 under the conditions prescribed by AS 24.20.271 for audits performed by
9 the legislative audit division. The legislative audit division has
10 free access to all books and papers of the bank which relate to its
11 business and books and papers kept by a director, officer, or employee
12 relating to or upon which a record of its business is kept, and may
13 summon witnesses and administer oaths or affirmations in the examination
14 of the directors, officers, or employees of the bank or any other
15 person in relation to its affairs, transactions, and conditions, and
16 may require and compel the production of records, books, papers, con-
17 tracts, or other documents by court order if not voluntarily produced.

18 Sec. 44.81.280. PROHIBITION ON RELEASE OF INFORMATION. The
19 legislative auditor and his employees may not disclose information
20 acquired by them in the course of an audit of the bank concerning the
21 particulars of the business or affairs of a borrower of the bank or
22 another person, unless the information is required to be disclosed by
23 law or under a court order.

24 * Sec. 9. FINDINGS. The legislature finds that

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

29 (2) the state has invested \$32 million in the bank to assist in

1 accomplishing its purposes;

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

5 (4) audit of the bank by the state can best be accomplished by
6 use of the legislative audit division to complement the audit conducted by
7 the bank's independent outside auditors;

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

13 * Sec. 10. AS 44.81.080, 44.81.120, 44.81.130, 44.81.140, 44.81.150,
14 44.81.170, and 44.81.180 are repealed.

15 * Sec. 11. Section 2 of this Act takes effect December 31, 1981.

16 * Sec. 12. Sections 1 and 3 - 10 of this Act take effect immediately in
17 accordance with AS 01.10.070(c).