

Original sponsor: Gardiner

Offered: 6/23/81

1 IN THE HOUSE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR 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
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 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 that the board
11 believes would be of interest to the governor, the legislature, and the
12 public, or that the legislature requests the board to include. The
13 board may also publish such other reports as it considers desirable to
14 carry out its purposes.

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

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

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

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

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

2 Sec. 44.81.260. DATA REGARDING RECORDS OF THE BANK. (a) Except
3 as provided in (b) of this section, the directors, officers, and em-
4 ployees of the bank shall hold in strict confidence all information
5 regarding the business records of the bank, including information as to
6 the character, credit standing, and property of members and applicants
7 for loans. They shall not exhibit or quote from the bank's business
8 records, including documents regarding personnel of the bank or pertain-
9 ing to members or applicants for loans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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