

SB

519

Summary

Amends statutes concerning "Fish and Game, Regulation of Entry into Alaska Commercial Fisheries, Terms and conditions of entry permit; annual renewal" to provide for the use of entry permits as collateral for loans ^{as already provided} under existing statutes AS 44.54.230-44.54.250.

The section dealing with "Transfer of entry permits" under the same chapter is also amended to provide for the transfer of entry permits in the event of foreclosure of a loan ^{as already provided} under AS 44.54.230-44.54.250.

Background

This bill appears to be simply a house-cleaning measure to bring statutes under AS 16.43 into compliance with existing statutes under AS 44.54 ("State Government, Commercial Fishing and Agriculture Bank").

Statutes under AS 44.54.230-44.54.250 discuss state loans through the Commercial Fishing and Agriculture Bank for purchase of limited entry permits. They include provisions for using permits as collateral for such loans. This bill would make this use of permits as collateral consistent with statutes under AS 16.43.150 and AS 16.43.170.



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

SB 519 - An Act relating to the use of limited entry permits as collateral for loans.

BY: State Affairs Committee

Existing statutes under the Commercial Fishing and Agriculture Bank (AS 44.54, attached) allow the use of entry permits as collateral for state loans. However, this is not presently allowed under AS 16.41 TERMS AND CONDITIONS OF ENTRY PERMIT. Therefore, a conflict exists between the statutes. Section 1 of this bill would amend AS 16.43 to allow the use of entry permits as collateral for loans from the Commercial Fishing and Agriculture Bank and would resolve the statutory conflict.

Similarly, existing statutes under the Commercial Fishing and Agriculture Bank allow the transfer of a permit by the bank, in the event of foreclosure of a loan. This is not allowed under AS 16.43. Section 2 would amend AS 16.43 to allow this, thus resolving the statutory conflict.

HOUSE

SB 519

An Act relating to the use of limited entry permits as collateral for loans

By State Affairs

Summary

Existing statutes under the Commercial Fishing and Agriculture Bank allow the use of entry permits as collateral for state loans.

However, this is not presently allowed under AS 16.43, "Terms and conditions of entry permit"--so a conflict exists between the statutes. ^{SECTION 2} This bill would amend AS 16.43 to allow the use of permits as collateral for loans from the Commercial Fishing and Agriculture Bank, so the statutes would not conflict.

To resolve this

Section 2 would allow the transfer of a permit by the Bank in the event of foreclosure of a loan, which would again resolve the conflict between the statutes under AS 16.43 and AS 44.50

44.54.250 In the event of foreclosure, the Bank shall offer the Entry Commission the right of first refusal. If the Commission doesn't exercise the right, the debtor may nominate a person qualified to assume the note. If the debtor is unable to nominate a qualified person, the Entry Commission shall provide the bank with a list of qualified applicants, and the bank shall allow the first applicant meeting the qualifications to assume the note.

March 13, 1980

SB 519 An Act relating to the use of limited entry permits
as collateral for loans.

SUMMARY:

Statutes under AS 16.43 state that an entry permit may not be pledged, mortgaged, leased, or in any way encumbered and may not be transferred with any right of repossession or foreclosure. Statutes under AS 44.54.230 - 44.54.250 allow the use of an entry permit as collateral for a state loan from the Commercial Fishing and Agriculture Bank, and provide for the transfer of the permit in the event of foreclosure. This bill would amend the statutes under AS 16.43 to comply with the existing statutes under AS 44.54

(16) provide technical services to shareholders; for the purposes of this paragraph, "technical services" includes services that will enhance the ability of the shareholder to obtain financial assistance from the bank;

(17) make loans, as provided in (1) of this section, secured by liens subordinate to valid first liens and security agreements granted to private lending institution;

(18) participate with state departments and agencies in formulating policy and in planning for the development of commercial fishing and agriculture in the state;

(19) do what is necessary or desirable to carry out the corporate purposes and powers expressed or implied in this chapter.

(20) make loans to individual commercial fishermen for limited entry permits; a loan under this paragraph may be made only to an individual commercial fisherman who has been a state resident for a continuous period of five years immediately preceding the date of application for the loan and who has had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for any one of the past five years, and who has actively participated in the fishery during that period; loans made under this paragraph are subject to the provisions of AS 44.54.230. (§ 3 ch 159 SLA 1978, am § 4 ch 53 SLA 1979)

Effect of amendment. — The 1979 amendment added paragraph (20).

Sec. 44.54.220. Transition. Upon the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state, the provisions of this chapter lapse and the bank may proceed to operate as a private cooperative corporation under the terms of its bylaws and subject to the provisions of AS 10.15.005 — 10.15.600. (§ 3 ch 159 SLA 1978)

Sec. 44.54.230. Loans for purchase of Alaska limited entry permits.
 (a) A loan under AS 44.54.210(20) for the purchase of a limited entry permit may be made only upon certification by the Alaska Commercial Fisheries Entry Commission (AS 16.43.020) that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted by the commission.

(b) Upon approval by the bank, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

(1) the certificate for the pledged permit lists the executive director of the bank as the legal owner of the permit;

(2) the certificate for the pledged permit lists the debtor as the equitable owner of the permit;

(3) all annual permit cards issued under the pledged permit list the name of the debtor;

(4) all obligations and responsibilities of a permit owner are assumed by the debtor;

(5) co-signers or other sureties for performance under the note are not vested with any rights in the pledged permit and their obligation is limited to satisfaction of the note and payment of costs directly incurred by the bank in administering the loan.

(c) Upon satisfaction of the note by the debtor, the executive director shall certify to the commission that the note has been satisfied.

(d) Upon certification as provided in (c) of this section, the commission shall amend the permit certificate to list the debtor as the legal owner. (§ 5 ch 53 SLA 1979)

Sec. 44.54.240. Default and foreclosure of loans for limited entry permits. (a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under AS 44.54.230, the executive director of the bank shall provide the debtor, by registered or certified mail sent to his last known address on file with the bank, with a notice of default which includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the Alaska Commercial Fisheries Entry Commission;

(2) the date upon which the default occurred;

(3) the amount of arrearages as of the date of the notice, the total amount remaining on the note less unearned interest, and the amount of daily interest;

(4) a statement that the debtor may, within 15 days of the postmark date of the notice, request a hearing at which he may submit evidence showing he has not defaulted;

(5) a statement that the note may be reinstated if brought current within 60 days from the postmark date of the notice;

(6) a statement that the note may be paid in full less unearned interest within 90 days from the postmark date of the notice;

(7) the place where reinstatement or payment in full may be made; and

(8) a notice in at least 10-point bold type stating: "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

(b) Upon the debtor's failure to reinstate or satisfy the note within the time specified in (a) of this section, his equitable interest is terminated by operation of law without further notice. Any entry permit cards issued to him under the permit shall be cancelled immediately upon receipt by the commission of a certificate of termination containing a copy of the notice required by (a) of this section issued by the executive director of the bank. (§ 5 ch 53 SLA 1979)

Sec. 44.54.250.

foreclosure. (a) 44.54.240, the Commercial Fisheries Entry permit is subject at a price equal the bank directly

(b) If the commission 30 days after it buy-back program promptly notify postmark date of note. The person 44.54.230(a). If original debtor.

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Chapter 55. A

Section

- 10. Creation of auth
- 20. Membership
- 30. Officers and quor
- 40. Compensation
- 50. Staff
- 60. Legal counsel
- 70. Purpose of auth
- 80. General powers
- 90. Bonds of the aut
- 100. Submission of fi impact plan
- 110. Legislative appro
- 115. Nomination of a r

Sec. 44.54.250. Deficiencies and transfer of entry permits after foreclosure. (a) Upon a foreclosure on an entry permit as provided in AS 44.54.240, the executive director of the bank shall offer the Alaska Commercial Fisheries Entry Commission a right of first refusal if the permit is subject to a buy-back program under AS 16.43.290 — 16.43.330 at a price equal to the amount outstanding on the note plus any costs the bank directly incurred in administering the loan.

(b) If the commission does not exercise its right of first refusal within 30 days after it receives the offer, or if the permit is not subject to a buy-back program under AS 16.43.290 — 16.43.330, the bank shall promptly notify the debtor of this fact. The debtor has 30 days from the postmark date of the notice to nominate a person qualified to assume the note. The person nominated must qualify under the requirements of AS 44.54.230(a). If qualified, he may assume all rights and liabilities of the original debtor.

(c) If the debtor is unable to nominate a qualified person to assume the note under (b) of this section, the permit must be made available to a qualified person, chosen as provided in this section, who shall assume the note subject to all rights and liabilities of the original debtor. The Alaska Commercial Fisheries Entry Commission shall provide the bank with a list of persons chosen by lottery who qualify as transferees of entry permits under AS 16.43 and regulations adopted by the commission and who have met the residency and commercial fishing participation requirements of AS 44.54.210(20). The executive director of the bank shall then determine, in order of presentation, any remaining qualifications. The executive director shall allow the first applicant meeting all qualifications to assume the note.

(d) Nothing in this section affects the right of the executive director of the bank to institute legal action for a deficiency resulting from a default on a note given under AS 44.54.230. In addition to any deficiency, the debtor is liable for the costs of administering the note and for costs and attorney fees. (5 5 ch 53 SLA 1979)

Chapter 55. Alaska Gas Pipeline Financing Authority.

Section	Section
10. Creation of authority	120. Trust indentures and trust agreements
20. Membership	130. Nonliability on bonds
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THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 519
 Title "An Act relating to the use of limited entry permits as collateral
 Requested by The State Affairs Committee Date 3/20/80 for loans"

II. FISCAL DETAIL Office of the Governor

Agency Affected Alaska Commercial Fisheries Entry Commission
 Program Category Affected NRMEC
 BRU, Program, or Subprogram(s) Affected ACFEC

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

SB 519 will not in itself require significant expense for the Commission. However, this bill and any increase in the State's permit loan program will likely increase the number of transfers processed by the Commission. At present the permanent transfer request rate is approximately 2,000 per year. We are presently one month behind in processing transfer requests. Any increase in transfer rates and loan application evaluations will necessitate the creation of a transfer officer position. ^{1/}

^{1/} Presently, the supervisor of the Commission's licensing section also handles transfer requests. Because of the financial worth of these permits, we must use qualified Commission personnel who are thoroughly familiar with the Commission's operations to evaluate, approve and effect transfers. The increases realized in licensing and transfer requests (both permanent and emergency) has created a backlog, even though this employee contributes an average of 15 hours per week of overtime during the heaviest licensing months.

Derrill L. Johnson *DJ*

IV. DATE March 20, 1980 PREPARED BY Director of Administration
 AGENCY Commercial Fisheries Entry Commission
 Original: Legislative Finance PHONE 465-4081
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

(16) provide technical services to shareholders; for the purposes of this paragraph, "technical services" includes services that will enhance the ability of the shareholder to obtain financial assistance from the bank;

(17) make loans, as provided in (1) of this section, secured by liens subordinate to valid first liens and security agreements granted to a private lending institution;

(18) participate with state departments and agencies in formulating policy and in planning for the development of commercial fishing and agriculture in the state;

(19) do what is necessary or desirable to carry out the corporate purposes and powers expressed or implied in this chapter.

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(b) Upon approval by the bank, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

(1) the certificate for the pledged permit lists the executive director of the bank as the legal owner of the permit;

(2) the certificate for the pledged permit lists the debtor as the equitable owner of the permit;

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(5) co-signers or other sureties for performance under the note are not vested with any rights in the pledged permit and their obligation is limited to satisfaction of the note and payment of costs directly incurred by the bank in administering the loan.

(c) Upon satisfaction of the note by the debtor, the executive director shall certify to the commission that the note has been satisfied.

(d) Upon certification as provided in (c) of this section, the commission shall amend the permit certificate to list the debtor as the legal owner. (§ 5 ch 53 SLA 1979)

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(4) a statement that the debtor may, within 15 days of the postmark date of the notice, request a hearing at which he may submit evidence showing he has not defaulted;

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Sec. 44.54.250
foreclosure. (a) Under AS 44.54.240, the entry permit is subject to foreclosure at a price equal to the value of the permit as determined by the bank directly.

(b) If the commission determines that a buy-back program is necessary, it shall promptly notify the debtor by registered mail, postmark date of the notice, of the program. The person who is the original debtor under AS 44.54.230(a). If the debtor is not the original debtor.

(c) If the debtor is not the original debtor, the note under (b) shall be subject to a qualified person's bid. The note subject to the bid shall be sold to the highest bidder. The Alaska Commercial Fisheries Entry Commission shall publish a list of permitted entry permits to be sold. The commission and the bank shall determine the participation requirements. The bank shall determine the qualifications. The bank shall determine the meeting all qualifications.

(d) Nothing in this section shall prevent the bank to institute a buy-back program on a note if the debtor is liable for the note and attorney fees.

Chapter 55. A

Section	
10.	Creation of authority
20.	Membership
30.	Officers and quorum
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60.	Legal counsel
70.	Purpose of authority
80.	General powers
90.	Bonds of the authority
100.	Submission of financial impact plan
110.	Legislative approval
115.	Nomination of a member

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(b) Upon approval by the bank, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

(1) the certificate for the pledged permit lists the executive director of the bank as the legal owner of the permit;

(2) the certificate for the pledged permit lists the debtor as the equitable owner of the permit;

(3) all annual permit cards issued under the pledged permit list the name of the debtor;

(4) all obligations and responsibilities of a permit owner are assumed by the debtor;

(5) co-signers or other sureties for performance under the note are not vested with any rights in the pledged permit and their obligation is limited to satisfaction of the note and payment of costs directly incurred by the bank in administering the loan.

(c) Upon satisfaction of the note by the debtor, the executive director shall certify to the commission that the note has been satisfied.

(d) Upon certification as provided in (c) of this section, the commission shall amend the permit certificate to list the debtor as the legal owner. (§ 5 ch 53 SLA 1979)

Sec. 44.54.240. Default and foreclosure of loans for limited entry permits. (a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under AS 44.54.230, the executive director of the bank shall provide the debtor, by registered or certified mail sent to his last known address on file with the bank, with a notice of default which includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the Alaska Commercial Fisheries Entry Commission;

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(b) Upon the debtor's failure to reinstate or satisfy the note within the time specified in (a) of this section, his equitable interest is terminated by operation of law without further notice. Any entry permit cards issued to him under the permit shall be cancelled immediately upon receipt by the commission of a certificate of termination containing a copy of the notice required by (a) of this section issued by the executive director of the bank. (§ 5 ch 53 SLA 1979)

Sec. 44.54.250
foreclosure. (a) 44.54.240, the Commercial Fisheries Entry permit is subject to foreclosure at a price equal to the principal of the note plus the bank direct

(b) If the commission does not buy-back the note within 30 days after it is notified, the bank shall promptly notify the debtor by postmark date of the note. The person who is the original debtor.

(c) If the debtor fails to pay the note under the permit, the bank shall provide a qualified person to administer the note subject to the approval of the Alaska Commercial Fisheries Entry Commission with a list of persons who are qualified to administer entry permits. The commission and the bank shall participate in the cost of the participation required. The bank shall the qualifications. The meeting all qualifications.

(d) Nothing in this section shall prevent the bank to insure against default on a note. The debtor is liable for the cost of the insurance and attorney fees.

Chapter 55.

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115.	Nomination of authority

Sec. 44.54.250. Deficiencies and transfer of entry permits after foreclosure. (a) Upon a foreclosure on an entry permit as provided in AS 44.54.240, the executive director of the bank shall offer the Alaska Commercial Fisheries Entry Commission a right of first refusal if the permit is subject to a buy-back program under AS 16.43.290 — 16.43.330 at a price equal to the amount outstanding on the note plus any costs the bank directly incurred in administering the loan.

(b) If the commission does not exercise its right of first refusal within 30 days after it receives the offer, or if the permit is not subject to a buy-back program under AS 16.43.290 — 16.43.330, the bank shall promptly notify the debtor of this fact. The debtor has 30 days from the postmark date of the notice to nominate a person qualified to assume the note. The person nominated must qualify under the requirements of AS 44.54.230(a). If qualified, he may assume all rights and liabilities of the original debtor.

(c) If the debtor is unable to nominate a qualified person to assume the note under (b) of this section, the permit must be made available to a qualified person, chosen as provided in this section, who shall assume the note subject to all rights and liabilities of the original debtor. The Alaska Commercial Fisheries Entry Commission shall provide the bank with a list of persons chosen by lottery who qualify as transferees of entry permits under AS 16.43 and regulations adopted by the commission and who have met the residency and commercial fishing participation requirements of AS 44.54.210(20). The executive director of the bank shall then determine, in order of presentation, any remaining qualifications. The executive director shall allow the first applicant meeting all qualifications to assume the note.

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Similarly, existing statutes under the Commercial Fishing and Agriculture Bank allow the transfer of a permit by the bank, in the event of foreclosure of a loan. This is not allowed under AS 16.43. Section 2 would amend AS 16.43 to allow this, thus resolving the statutory conflict.

Summary

Amends statutes concerning "Fish and Game, Regulation of Entry into Alaska Commercial Fisheries, Terms and conditions of entry permit; annual renewal" to provide for the use of entry permits as collateral for loans ^{as already provided} under existing statutes AS 44.54.230-44.54.250.

The section dealing with "Transfer of entry permits" under the same chapter is also amended to provide for the transfer of entry permits in the event of foreclosure of a loan ^{as already provided} under AS 44.54.230-44.54.250.

Background

This bill appears to be simply a house-cleaning measure to bring statutes under AS 16.43 into compliance with existing statutes under AS 44.54 ("State Government, Commercial Fishing and Agriculture Bank").

Statutes under AS 44.54.230-44.54.250 discuss state loans through the Commercial Fishing and Agriculture Bank for purchase of limited entry permits. They include provisions for using permits as collateral for such loans. This bill would make this use of permits as collateral consistent with statutes under AS 16.43.150 and AS 16.43.170.

HOUSE

SB 519

An Act relating to the use of limited entry permits as collateral for loans

By State Affairs

Summary

Existing statutes under the Commercial Fishing and Agriculture Bank allow the use of entry permits as collateral for state loans.

However, this is not presently allowed under AS 16.43, "Terms and conditions of entry permit"--so a conflict exists between the statutes. ^{SELECTING AN EC} This bill would amend AS 16.43 to allow the use of permits as collateral for loans from the Commercial Fishing and Agriculture Bank, so the statutes would not conflict.

To resolve this

Section 2 would allow the transfer of a permit by the Bank in the event of foreclosure of a loan, which would again resolve the conflict between the statutes under AS 16.43 and AS 44.54.

44.51.250 In the event of foreclosure, the Bank shall offer the Entry Commission the right of first refusal. If the Commission doesn't exercise the right, the debtor may nominate a person qualified to assume the note. If the debtor is unable to nominate a qualified person, the Entry Commission shall provide the bank with a list of qualified applicants, and the bank shall allow the first applicant meeting the qualifications to assume the note.

March 13, 1980

SB 519 An Act relating to the use of limited entry permits
as collateral for loans.

SUMMARY:

Statutes under AS 16.43 state that an entry permit may not be pledged, mortgaged, leased, or in any way encumbered and may not be transferred with any right of repossession or foreclosure. Statutes under AS 44.54.230 - 44.54.250 allow the use of an entry permit as collateral for a state loan from the Commercial Fishing and Agriculture Bank, and provide for the transfer of the permit in the event of foreclosure. This bill would amend the statutes under AS 16.43 to comply with the existing statutes under AS 44.54