

S B

5 2 1

COMMITTEE REPORT
SENATE

FURTHER: Finance

3/12/80

Date: MARCH 24, 1980

Mr. President:

The Committee on STATE AFFAIRS has had SB 521
Alaska Commercial Fishing and Agriculture Bank

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 521 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Bob Mulcahy

Tim Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS:

PATRICK ROBERTS

Zyglis

Bob Mulcahy

CHAIRMAN

Definition in 521 - Shareholder to include members still public

SB 521

An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

By State
Affairs

According to Ken Vassar, the Legislative Counsel who drafted this bill, the definition of "shareholder" in Section 13 of this bill raises some questions. The bank is subject to statutes pertaining to cooperatives (AS 10.15.005 - 10.15.600) except as otherwise provided in AS 44.54, and members are specifically exempted from the definition of "shareholder" under AS 10.15.595(11). However, this bill would define "shareholder", for the purposes of the bank, as including members.

He suggests that "it might be more appropriate to delete the word 'shareholder' and insert the word 'member' in those parts of AS 44.54 relating to loans. The method used in this bill of defining 'shareholder' to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended."

Look on 44.54.210 (1) used word shareholder - intent to member

Amendments recommended by Ken Vassar

§ 44.54.010

ALASKA STATUTES SUPPLEMENT

§ 44.54.020

Sec. 44.54.010. Commercial Fishing and Agriculture Bank. (a) There is established the Alaska Commercial Fishing and Agriculture Bank. The bank is a public corporation and government instrumentality in the Department of Commerce and Economic Development but has a legal existence independent of and separate from the state. The exercise by the bank of the powers conferred by this chapter is considered an essential governmental function of the state. Except as otherwise provided in this chapter, the bank is subject to the provisions of AS 10.15.005 — 10.15.600.

(b) For the purpose of the initial funding of the bank's operations, the board of directors shall issue nonvoting, preferred shares of stock in the bank and shall determine the value of each share. The State of Alaska, through appropriate agencies, shall purchase the nonvoting, preferred shares initially issued by the bank. Shares purchased by the state shall be repurchased by the bank within 20 years after their purchase. If the bank fails to repurchase the shares within 20 years, the commissioner of commerce and economic development may dissolve the bank.

(c) After the board of directors has completed the necessary organizational matters described in §§ 30 and 40 of this chapter, the commissioner of revenue may purchase with funds from the general fund up to \$2,000,000 of preferred stock of the bank during fiscal year 1979 at such time and with terms agreed upon by the commissioner and the board. (§ 3 ch 159 SLA 1978; am § 1 ch 53 SLA 1979)

Effect of amendment. — The 1979 amendment inserted "Alaska" in the first sentence of subsection (a).

Sec. 44.54.020. Board of directors. (a) The bank shall be managed by a board of directors consisting of seven members. At least one member of the board shall be an Alaska farmer with at least 10 years of Alaska farm experience. Initial appointments to the board shall be made by the governor. Two of the initial appointments shall be made at the time of the first annual membership meeting of the bank. Thereafter, five board members shall be elected by the shareholders, with at least one of the elected board members being an Alaska farmer with at least 10 years of Alaskan farm experience, and two board members shall be appointed by the governor until the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state. After repurchase is completed, all board members shall be elected by the shareholders. The board members shall annually elect a chairman from among themselves. The purpose of the board is to manage the assets of the bank.

(b) The governor shall designate the two members whose positions on the board will remain appointive for the period set out in (a) of this section. (§ 3 ch 159 SLA 1978; am § 2 ch 53 SLA 1979)

Delete "shareholders" insert "members of the bank."

§ 44.54.030

Effect of amendment designating this section as subsection, substitute for "five members" "board members" and beginning "with at least one board member" at

Sec. 44.54.030. 1, 1978, the board of commerce and economic development provided in AS 10.15.005 waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws of the bank shall be adopted and amended by the board of directors. The regulation of the bank shall be inconsistent with the provisions of AS 10.15.005 (1978)

Sec. 44.54.050. Upon incorporation, the commissioner of commerce and economic development may hold public hearings explaining to members the functions of the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. The board shall issue shares of membership stock and determine the value of the shares at the time of incorporation.

(b) Loans made to the bank under this chapter shall be subject to the provisions adopted by the board of directors. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. The board may hire and determine the compensation of an executive director of the bank.

(b) The executive director may hire and determine the compensation of efficient performance.

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present

fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

Sec. 44.54.030. Articles of incorporation. Not later than November 1, 1978, the board of directors shall file with the commissioner of commerce and economic development articles of incorporation as provided in AS 10.15.340 — 10.15.355 except that any filing fees shall be waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to shareholders of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

Delete "shareholders" insert "members"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 5, 1980

SUBJECT: Commercial Fishing and Agriculture Bank
(Work Order Number 8171)

TO: Senator Clem V. Tillion

FROM: Kenneth E. Vassar
Legislative Counsel *K.E.V.*

Enclosed is the bill you requested amending various provisions of the statutes relating to the Commercial Fishing and Agriculture Bank. One of the provisions being added by this bill, the definition of "shareholder" in sec. 44.54.-260(3), raises some questions. I do not know what its intended effect is. The bank is subject to AS 10.15.005 - 10.15.600 except as otherwise provided in AS 44.54. The provisions of AS 10.15.005 - 10.15.600 relate to the functions of cooperative corporations, and AS 10.15.595(9) and (11) define "member" and "shareholder". This bill would define "shareholder", for the purposes of the bank, as including members. Members are specifically exempted from the definition of "shareholder" under AS 10.15.595(11). Thus, this departs from the general provisions relating to cooperative corporations.

I would guess that this intended to cure an apparent mistake in AS 44.54.210(1). That paragraph allows the bank to make loans to "shareholders". The intent, of course, was for the bank to be able to make loans to members, but since members are excluded from the definition of "shareholder" under AS 10.15.595, that intent is frustrated by the use of the word "shareholder". If this is intended to cure that mistake, it might be more appropriate to delete the word "shareholder" and insert the word "member" in those parts of AS 44.54 relating to loans. The method used in this bill of defining "shareholder" to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 5, 1980

SUBJECT: Commercial Fishing and Agriculture Bank
(Work Order Number 8171)

TO: Senator Clem V. Tillion

FROM: Kenneth E. Vassar
Legislative Counsel *KED*

Enclosed is the bill you requested amending various provisions of the statutes relating to the Commercial Fishing and Agriculture Bank. One of the provisions being added by this bill, the definition of "shareholder" in sec. 44.54.-260(3), raises some questions. I do not know what its intended effect is. The bank is subject to AS 10.15.005 - 10.15.600 except as otherwise provided in AS 44.54. The provisions of AS 10.15.005 - 10.15.600 relate to the functions of cooperative corporations, and AS 10.15.595(9) and (11) define "member" and "shareholder". This bill would define "shareholder", for the purposes of the bank, as including members. Members are specifically exempted from the definition of "shareholder" under AS 10.15.595(11). Thus, this departs from the general provisions relating to cooperative corporations.

I would guess that this intended to cure an apparent mistake in AS 44.54.210(1). That paragraph allows the bank to make loans to "shareholders". The intent, of course, was for the bank to be able to make loans to members, but since members are excluded from the definition of "shareholder" under AS 10.15.595, that intent is frustrated by the use of the word "shareholder". If this is intended to cure that mistake, it might be more appropriate to delete the word "shareholder" and insert the word "member" in those parts of AS 44.54 relating to loans. The method used in this bill of defining "shareholder" to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended.

Senator Clem V. Tillion
Page 2
March 5, 1980

I also want to notify you that this bill does not include a provision similar to that on page 3 of the rough draft you delivered with your request which states:

The foregoing right of indemnification shall not be exclusive of other rights to which any director, officer or employee may be entitled as a matter of law.

Since I was unable to determine what it meant, I have left it out of this draft; however, I will be happy to meet with you to try to determine what it means and how it can be restated in a more understandable manner.

KEV:ljb

Enclosure

March 24, 1980

SB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank, and providing for an effective date.

BY: State Affairs

Section 1: AS 44.54.070. EXECUTIVE DIRECTOR; STAFF is repealed and re-enacted to read PRESIDENT; OFFICERS AND EMPLOYEES.

(a) Provides for employment of a president as chief executive officer of the bank. President may not be a member of board of directors.

(b) Board shall appoint vice-president(s), secretary, treasurer, and other necessary officers.

(c) President may hire employees, may contract for advisors.

Section 2: AS 44.54.150 (a). NONLIABILITY ON BONDS. Amended to change executive director to president regarding non-liability.

Section 3: AS 44.54.210 (1). POWERS OF THE BANK. Amended to allow bank to make loans to commercial agriculture or fishing } suppliers. Deletes 'primarily' from: "Bank may make loans to... corporations, partnerships, or joint ventures (primarily) involved in commercial agriculture or fishing."

Why
Section 4: AS 44.54.210 Amended by adding a new paragraph.
Idem to others
(21) Provides for indemnification of directors, officers and employees against liabilities from the performance of official duties.

Section 5: AS 44.54.210 Amended by adding a new subsection.
(b) Bank is not authorized to indemnify director, officer, or employee adjudged liable for negligence or misconduct.

Section 6: AS 44.54.230 LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS.

Why
(a) Amended to change 'Commercial Fisheries Entry Commission' to 'Commission'.

- Section 7: AS 44.54.230 (b). Amended to give the bank, rather than the executive director, legal ownership of a limited entry permit pledged as collateral.
- Section 8: AS 44.54.230 (c). Provides that the bank, rather than the executive director, must certify that a note has been satisfied.
- Section 9: AS 44.54.240 DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY PERMITS.
(a) Amended to provide that bank, rather than executive director, shall give notice of default. Changes 'Commercial Fisheries Entry Commission' to 'Commission'.
(b) Provides bank, rather than executive director, shall send a copy of notice of default to the commission.
- Section 10: AS 44.54.250 DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE.
(a) Amended by providing that bank, rather than executive director, shall offer the commission first refusal on a foreclosed permit. Changes 'Commercial Fisheries Entry Commission' to 'commission'.
- Section 11: AS 44.54.250 (c). Changes 'Commercial Fisheries Entry Commission' to 'Commission'. Provides that bank, rather than executive director, shall transfer a note after foreclosure.
- Section 12: AS 44.54.250 (d). Provides that bank, rather than executive director, may institute legal action for a deficiency resulting in a default.
- Section 13: AS 44.54 is amended by adding a new section.
AS 44.54.260 DEFINITIONS. Defines "bank", "commission" and "shareholder".



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

April 2, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

CSSB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

BY: State Affairs

SECTIONAL ANALYSIS OF CHANGES IN CSSB 521:

- SECTION 1 : AS 44.54.020. BOARD OF DIRECTORS. (a) is amended to provide for the election of board members by members of the bank (deletes "shareholders").
- SECTION 2 : AS 44.54.060. MEMBERSHIP STOCK. (b) is amended to provide that loans made to members (deletes "shareholders") of the bank shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of membership shares.
- SECTION 3 : AS 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (b) is amended by adding a sentence to provide that the officers described in this subsection are not required to be members of the board of directors.
- SECTION 5 : AS 44.54.210. POWERS OF THE BANK. (1) is amended to provide that the bank may make a loan to a qualified member (deletes "shareholder") of the bank.
- SECTION 6 : AS 44.54.210 (16) is amended to provide that the bank may provide technical services to members of the bank (deletes "shareholders"); for purposes of this paragraph, "technical services" includes services that will enhance the ability of the member (deletes "shareholder") to obtain financial assistance from the bank.



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

CSSB 521 (Cont.)

SECTION 16 : AS 44.54.200 DEFINITIONS. Amended to add:

(3) "member of the bank" includes a holder of a share of membership stock of the bank or a portion of the bank with retained patronage earnings of \$2,500 or more to his credit;

(4) "supplier" means a person whose main source of income is from providing goods and services that are directly related to commercial fishing or agriculture to individuals, corporations, partnerships, or joint ventures engaged in commercial fishing or agriculture.

("(3) 'shareholder' includes a holder of a share of membership stock of the bank, a holder of a share of capital stock in the bank, or a patron of the bank with retained patronage earnings of \$2,500 or more to his credit." is deleted.)

March 24, 1980

SB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank, and providing for an effective date.

BY: State Affairs

Section 1: AS 44.54.070. EXECUTIVE DIRECTOR; STAFF is repealed and re-enacted to read PRESIDENT; OFFICERS AND EMPLOYEES.

- (a) Provides for employment of a president as chief executive officer of the bank. President may not be a member of board of directors.
- (b) Board shall appoint vice-president(s), secretary, treasurer, and other necessary officers.
- (c) President may hire employees, may contract for advisors.

Section 2: AS 44.54.150 (a). NONLIABILITY ON BONDS. Amended to change executive director to president regarding non-liability.

Section 3: AS 44.54.210 (1). POWERS OF THE BANK. Amended to allow bank to make loans to commercial agriculture or fishing suppliers. Deletes 'primarily' from: "Bank may make loans to... corporations, partnerships, or joint ventures (primarily) involved in commercial agriculture or fishing."

Section 4: AS 44.54.210 Amended by adding a new paragraph.
(21) Provides for indemnification of directors, officers and employees against liabilities from the performance of official duties.

Section 5: AS 44.54.210 Amended by adding a new subsection.
(b) Bank is not authorized to indemnify director, officer, or employee adjudged liable for negligence or misconduct.

Section 6: AS 44.54.230 LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS.
(a) Amended to change 'Commercial Fisheries Entry Commission' to 'Commission'.

- Section 7: AS 44.54.230 (b). Amended to give the bank, rather than the executive director, legal ownership of a limited entry permit pledged as collateral.
- Section 8: AS 44.54.230 (c). Provides that the bank, rather than the executive director, must certify that a note has been satisfied.
- Section 9: AS 44.54.240 DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY PERMITS.
(a) Amended to provide that bank, rather than executive director, shall give notice of default. Changes 'Commercial Fisheries Entry Commission' to 'Commission'.
(b) Provides bank, rather than executive director, shall send a copy of notice of default to the commission.
- Section 10: AS 44.54.250 DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE.
(a) Amended by providing that bank, rather than executive director, shall offer the commission first refusal on a foreclosed permit. Changes 'Commercial Fisheries Entry Commission' to 'commission'.
- Section 11: AS 44.54.250 (c). Changes 'Commercial Fisheries Entry Commission' to 'Commission'. Provides that bank, rather than executive director, shall transfer a note after foreclosure.
- Section 12: AS 44.54.250 (d). Provides that bank, rather than executive director, may institute legal action for a deficiency resulting in a default.
- Section 13: AS 44.54 is amended by adding a new section.
AS 44.54.260 DEFINITIONS. Defines "bank", "commission" and "shareholder".

Alaska Commercial Fishing and Agriculture Bank

The Commercial Fishing and Agriculture Bank was established in 1979 and is scheduled to start conducting Business on April 2, 1980. It is organized as a public corporation and government instrumentality within DOCED, but it has a legal existence independent of and separate from the state. The bank will operate along the lines of a cooperative, and is subject to the statutes governing cooperatives. As with other cooperatives, borrowing from the Bank is contingent on membership in the Bank. When someone receives a loan from the Bank, he must purchase membership stock in the Bank for an amount equal to 10% of the loan. This provides additional working capital that the Bank can reloan.

The Bank received its initial funding from an appropriation for \$2 million. The chairman of the Bank, Frank Homan, estimates that about \$30 million in capital is needed by the Bank. The state has offered to loan \$30 million at 9.5% interest, and the papers have just been signed (March 14, 1980) for the first \$15 million installment. The remaining \$15 million will be loaned to the Bank this fall. In addition, the Federal Farm Credit System will be providing funds to the Bank at a 6 or 7 to 1 leverage ratio. The Bank plans to repurchase all the nonvoting preferred shares from the state within 20 years, so it ultimately will be completely divorced from the state.

Loans made by the Bank will be at the interest rate charged to the Bank plus a 2% service charge. There is a tentative ceiling of 20% of the Capital in the Bank to any one borrower.

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present

fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

Sec. 44.54.030. Articles of incorporation. Not later than November 1, 1978, the board of directors shall file with the commissioner of commerce and economic development articles of incorporation as provided in AS 10.15.340 — 10.15.355 except that any filing fees shall be waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to shareholders of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

§ 10.15.010 CORPORATIONS AND ASSOCIATIONS § 10.15.010

Sec. 10.15.010. General powers. Each cooperative may

(1) have perpetual succession unless a limited period of duration is stated in its articles;

(2) sue and be sued, complain and defend, in its corporate name;

(3) adopt a corporate seal and alter it, and use it by having it, or a facsimile of it impressed, affixed or reproduced;

(4) buy, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in, real or personal property, wherever situated;

(5) sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of its property and assets;

(6) buy, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, or its governmental district or municipality or instrumentality;

(7) make contracts and incur liabilities, borrow money at the rates of interest the cooperative determines, issue notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure its obligations by mortgage or pledge of its property, franchise and income;

(8) lend money for its corporation purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds loaned or invested;

(9) conduct business and affairs and have offices and exercise its powers in a state, territory, district or possession of the United States, or in a foreign country;

(10) elect or appoint officers and agents, and define their duties and fix their compensation;

(11) make and alter bylaws, consistent with its articles and the laws of the state, for the administration and regulation of its affairs;

(12) donate for the public welfare or for charitable, scientific or educational purposes;

(13) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled;

(14) cease its activities and surrender its franchise;

(15) have and exercise all powers necessary or convenient to carry out the purposes for which the cooperative is organized. (§ 4 ch 107 SLA 1959)

SB 521

An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

By State Affairs

Main points of this bill are:

- 1) Renaming of executive director's position to become president (to conform with the organization of banks). Provides for appointment of vice-presidents, secretary, treasurer, and other necessary officers.
- 2) Conveyance of certain powers and duties now held by executive director to the bank as a whole
- 3) Indemnification of directors, officers, and employees against liabilities arising from a proceeding brought against them because of an act or omission in the performance of official duties (conforms with 'cooperatives' statutes)
- 4) Enables bank to make loans to residents who are engaged in commercial fishing and agriculture who are "suppliers" (for example, shipyards).
- 5) Adds "Definitions" section to Commercial Fishing and Agriculture Bank statutes.

SB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

BY: State Affairs Committee

Basically, this bill does the following:

1. Renames the executive director's position to become president (to conform with the organization of banks). Provides for the appointment of vice-presidents, secretary, treasurer and other necessary officers.
2. Conveys certain powers and duties now held by the ~~executive~~ director to the bank as a whole. EXECUTIVE
3. Indemnifies directors, officers and employees against liabilities arising from a proceeding brought against them because of an act or omission in the performance of official duties (conforms with cooperatives' statutes, see attached). DOES NOT INCLUDE NEGLIGENCE OR MISCONDUCT IN PERFORMANCE OF DUTIES.
4. Enables bank to make loans to residents who ^{are} engaged in commercial fishing or agriculture who are "suppliers" (for example: shipyards).
5. Adds "Definitions" section to Commercial Fishing and Agriculture Bank statutes. Defines "bank", "commission" and "shareholder".

The Commercial Fishing and Agriculture bank supports this bill and helped in the drafting of it. The bank has received interest from shipyards desiring to participate in the program, hence the addition of "suppliers" to those who may receive loans from the Bank. (Suppliers is not defined in the legislation, however, and without knowing the intent, it might be too vague of a term. Perhaps should be defined.)

- REQUESTED
4
THEY ASSISTED

SB 521

An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

By State Affairs.

Summary

Main points of this bill are:

- 1) Reorganization of administrative branch of Commercial Fishing and Agriculture Bank. Eliminates executive director's position - provides for employment of a president as the chief executive officer of the bank.
- 2) Conveyance of certain powers and duties now held by executive director to the bank as a whole.
- 3) Indemnification of directors, officers and employees against liabilities arising from a proceeding brought against them because of an act or omission in the performance of official duties.
- 4) Enables bank to make loans to ~~individual~~ residents engaged in commercial fishing or agriculture who are "suppliers" (for example, shipyards)
- 5) Adds definitions section to define "bank", "commission" and "shareholder"

Background

Commercial Fishing and Agriculture Bank supports this bill - they assisted in the drafting of it. The Bank has received interest from shipyards desiring to participate in this program, hence the addition of "suppliers" to those who may receive loans from the Bank ("suppliers" is not defined in the legislation, however, and without knowing the intent might be too vague of a term).

Ken Vassar, the Legislative Counsel who drafted this bill, has

problems with the definition of "shareholder" included in the bill.

"This bill ~~would define~~ would define 'shareholder', for the purposes of the bank, as including members. However, this departs from the general provisions relating to cooperative corporations, under which the Bank is organized and which specifically exempt members from the definition of 'shareholder'. According to Vassar, "the method used in this bill of defining 'shareholder' to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended. It might be more appropriate to delete the word 'shareholder' and insert the word 'member' in those parts of AS 44.54. relating to loans."

titles more recognizable

more flexibility in hiring people

change shareholder to 'member' or 'member of the bank'

44.54.020 (a) ✓

.060 (b) ✓

.210 (1) ✓

.210 (16) ✓

shareholder def. deleted.

CS SB 521

An Act relating to the Alaska Commercial Bank; and providing for an effective date. By State Affairs

Sectional Analysis of Changes in CSB 521

Section 1

AS 44.54.020. BOARD OF DIRECTORS. (a) is amended to provide for the election of board members by members of the bank [~~shareholders~~ ^{deletes} "shareholders"].

Section 2

AS 44.54.060. MEMBERSHIP STOCK. (b) is amended to provide that loans made to members [~~shareholders~~ "shareholders"] of the bank shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of membership ~~the~~ shares.

Section 3

AS 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (b) is amended by adding a sentence to provide that the officers described in this ~~section~~ ^{subsection} are not required to be members of the board of directors.

Section 5

AS 44.54.210. ~~(a)~~ POWERS OF THE BANK. (i) is amended to provide that the bank may make loans to qualified member [~~shareholder~~ "shareholder"] of the bank.

Section 6

AS 44.54.210 (16) is amended to provide that the bank may provide technical services to members of the bank [deletes ~~fish~~ "shareholders"]; for purposes of this paragraph, "technical services" includes services that will enhance the ability of the member [deletes "shareholder"] to obtain financial assistance from the bank.

Section 16

AS 44.54.260. DEFINITIONS. Amended to add:

(3) "member of the bank" includes a holder of a share of membership stock of the bank or a patron of the bank with retained patronage earnings of \$2,500 or more to his credit;

(4) "supplier" means a person whose main source of income is from providing goods or services that are directly related to commercial fishing or agriculture to individuals, corporations, partnerships, or joint ventures engaged in commercial fishing or agriculture.

[~~deletes~~ "(5) 'shareholder' includes a
"(3) 'supplier'"]

["(3) 'shareholder' includes a holder of a share of membership stock of the bank, a holder of a share of capital stock in the bank, or a patron of the bank with retained patronage earnings of \$2,500 or more to his credit." is deleted]

Summary

Amends or re-enacts numerous statutes under AS 44.54 (State Government, Alaska Commercial Fishing and Agriculture Bank).

Statute dealing with organization of the administrative branch of the bank (44.54.070) is repealed and re-enacted to read "President; officers and employees". Provides for the employment of a president by the bank's board of directors. Board shall also appoint one or more vice-presidents, a secretary, a treasurer and other necessary officers. One person may be appointed to more than one position. President may hire employees of the bank and may contract for advisors. Present statute ("Executive director, staff") specifies that the board may hire an executive director who may hire staff. Wording in the chapter is changed to reflect that the president rather than the executive director is the chief executive of the bank.

Numerous statutes are amended to provide that powers and responsibilities now given to the executive director would be conveyed to the bank as a whole. These powers and responsibilities are primarily in regard to loans for purchase of limited entry permits. Bank would be given:

- 1) Legal ownership of entry permits pledged as security for a loan (Sec 7)
- 2) Responsibility for certification of repayment of debt for which permit is pledged as security (Sec. 8)
- 3) Responsibility for notifying debtor of default on loan for limited entry permit (Sec. 9)
- 4) Bank would decide who gets permit in event of foreclosure of loan for limited entry permit (Sec. 11)
- 5) Bank has the right to institute legal action from default of a loan for a limited entry permit. (Sec. 12)

Statute concerning powers of the bank (44.54.210) is amended to allow the bank to make loans to "individuals who are residents and who are engaged in commercial agriculture or fishing, including suppliers or to corporations, partnerships or joint ventures ("primarily" is deleted) engaged in commercial fishing or agriculture."

Powers of the bank statute is also amended by adding a new paragraph providing that the bank may indemnify a director, officer or employee of the bank and his heirs, administrators, and executors against all liabilities and related expenses arising from a proceeding brought against him because of an act or omission in the performance of his official duties. This is regardless of whether he is director, officer or employee at the time the expenses are incurred. A new subsection added to the same statute also provides that the bank is not authorized to indemnify a director, officer, or employee who is adjudged liable for negligence or misconduct in the performance of his official duties.

A definitions section is added to this chapter to define "bank", "commission" and "shareholder".

Takes effect immediately

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present

fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

Sec. 44.54.030. Articles of incorporation. Not later than November 1, 1978, the board of directors shall file with the commissioner of commerce and economic development articles of incorporation as provided in AS 10.15.340 — 10.15.355 except that any filing fees shall be waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to shareholders of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

§ 10.15.010 CORPORATIONS AND ASSOCIATIONS § 10.15.010

Sec. 10.15.010. General powers. Each cooperative may

(1) have perpetual succession unless a limited period of duration is stated in its articles;

(2) sue and be sued, complain and defend, in its corporate name;

(3) adopt a corporate seal and alter it, and use it by having it, or a facsimile of it impressed, affixed or reproduced;

(4) buy, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in, real or personal property, wherever situated;

(5) sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of its property and assets;

(6) buy, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, or its governmental district or municipality or instrumentality;

(7) make contracts and incur liabilities, borrow money at the rates of interest the cooperative determines, issue notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure its obligations by mortgage or pledge of its property, franchise and income;

(8) lend money for its corporation purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds loaned or invested;

(9) conduct business and affairs and have offices and exercise its powers in a state, territory, district or possession of the United States, or in a foreign country;

(10) elect or appoint officers and agents, and define their duties and fix their compensation;

(11) make and alter bylaws, consistent with its articles and the laws of the state, for the administration and regulation of its affairs;

(12) donate for the public welfare or for charitable, scientific or educational purposes;

(13) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled;

(14) cease its activities and surrender its franchise;

(15) have and exercise all powers necessary or convenient to carry out the purposes for which the cooperative is organized. (§ 4 ch 107 SLA 1959)

Alaska Commercial Fishing and Agriculture Bank

The Commercial Fishing and Agriculture Bank was established in 1979 and is scheduled to start conducting Business on April 2, 1980. It is organized as a public corporation and government instrumentality within DOCED, but it has a legal existence independent of and separate from the state. The bank will operate along the lines of a cooperative, and is subject to the statutes governing cooperatives. As with other cooperatives, borrowing from the Bank is contingent on membership in the Bank. When someone receives a loan from the Bank, he must purchase membership stock in the Bank for an amount equal to 10% of the loan. This provides additional working capital that the Bank can reloan.

The Bank received its initial funding from an appropriation for \$2 million. The chairman of the Bank, Frank Homan, estimates that about \$30 million in capital is needed by the Bank. The state has offered to loan \$30 million at 9.5% interest, and the papers have just been signed (March 14, 1980) for the first \$15 million installment. The remaining \$15 million will be loaned to the Bank this fall. In addition, the Federal Farm Credit System will be providing funds to the Bank at a 6 or 7 to 1 leverage ratio. The Bank plans to repurchase all the nonvoting preferred shares from the state within 20 years, so it ultimately will be completely divorced from the state.

Loans made by the Bank will be at the interest rate charged to the Bank plus a 2% service charge. There is a tentative ceiling of 20% of the Capital in the Bank to any one borrower.

§ 10.15.010 CORPORATIONS AND ASSOCIATIONS § 10.15.010

Sec. 10.15.010. General powers. Each cooperative may

- (1) have perpetual succession unless a limited period of duration is stated in its articles;
- (2) sue and be sued, complain and defend, in its corporate name;
- (3) adopt a corporate seal and alter it, and use it by having it, or a facsimile of it impressed, affixed or reproduced;
- (4) buy, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold; improve, use and otherwise deal in, real or personal property, wherever situated;
- (5) sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of its property and assets;
- (6) buy, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, or its governmental district or municipality or instrumentality;
- (7) make contracts and incur liabilities, borrow money at the rates of interest the cooperative determines, issue notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure its obligations by mortgage or pledge of its property, franchise and income;
- (8) lend money for its corporation purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds loaned or invested;
- (9) conduct business and affairs and have offices and exercise its powers in a state, territory, district or possession of the United States, or in a foreign country;
- (10) elect or appoint officers and agents, and define their duties and fix their compensation;
- (11) make and alter bylaws, consistent with its articles and the laws of the state, for the administration and regulation of its affairs;
- (12) donate for the public welfare or for charitable, scientific or educational purposes;
- (13) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled;
- (14) cease its activities and surrender its franchise;
- (15) have and exercise all powers necessary or convenient to carry out the purposes for which the cooperative is organized. (§ 4 ch 107 SLA 1959)

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present

fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

Sec. 44.54.030. Articles of incorporation. Not later than November 1, 1978, the board of directors shall file with the commissioner of commerce and economic development articles of incorporation as provided in AS 10.15.340 — 10.15.355 except that any filing fees shall be waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to shareholders of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

Introduced: 3/12/80
Referred: State Affairs
and Finance

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 521

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND 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 date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 44.54.070 is repealed and re-enacted to read:

10 Sec. 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (a) The board
11 of directors shall employ a president. The president may not be a
12 member of the board of directors. The president serves at the pleasure
13 of the board of directors. The president is the chief executive officer
14 of the bank.

15 (b) The board of directors shall appoint one or more vice-presi-
16 dents, as prescribed in the bylaws of the bank, a secretary, a treasurer
17 and other officers, as the board of directors considers necessary. The
18 board of directors may appoint one person to more than one of the posi-
19 tions described in this subsection.
(none of whom need be directors) - insert

20 (c) The president may hire employees of the bank reasonably neces-
21 sary for the efficient performance of the functions of the bank. Sub-
22 ject to the approval of the board of directors, the president may also
23 contract for and engage the services of professional and technical
24 advisors. The board of directors shall prescribe the duties and com-
25 pensation of employees of the bank.

26 * Sec. 2. AS 44.54.150(a) is amended to read:

27 (a) Neither the members of the board of directors, the president
28 [EXECUTIVE DIRECTOR], staff, nor a person executing the bonds is liable
29 personally on the bonds or subject to personal liability or account-

1 ability by reason of the issuance of the bonds.

2 * Sec. 3. AS 44.54.210(1) is amended to read:

3 (1) make variable rate or fixed rate loans to individuals who
4 are residents and who are engaged in commercial agriculture or fishing,
5 including harvesters, processors, suppliers and marketers, or to cor-
6 porations, partnerships or joint ventures [PRIMARILY] engaged in com-
7 mercial agriculture or fishing, the majority interest of which is bene-
8 ficially owned by residents of the state and a majority of the owners of
9 which are residents of the state, if the recipient of the loan is a
10 shareholder of the bank; however, the bank may make a loan under this
11 paragraph to a corporation, partnership, or joint venture for the pur-
12 chase of a new or existing fishing vessel or for the repair or renova-
13 tion of an existing fishing vessel, the primary purpose of which is to
14 commercially harvest fishery resources, only if the corporation, partner-
15 ship, or joint venture is wholly owned and controlled by residents of
16 the state and if the recipient of the loan is a shareholder of the bank.

17 * Sec. 4. AS 44.54.210 is amended by adding a new paragraph to read:

18 (21) indemnify a director, officer or employee of the bank and
19 his heirs, executors and administrators against all liabilities and
20 related expenses including, but not limited to, court costs and attorney
21 fees, judgments, and the cost of reasonable settlements, incurred by him
22 in connection with or arising out of an action or proceeding brought
23 against him because of an act or omission in the performance of his
24 official duties as director, officer or employee of the bank regardless
25 of whether he is a director, officer or employee at the time the ex-
26 penses or liabilities are incurred.

27 * Sec. 5. AS 44.54.210 is amended by adding a new subsection to read:

28 (b) The provisions of (a)(21) of this section do not authorize the
29 bank to indemnify a director, officer or employee of the bank who is

1 adjudged liable for negligence or misconduct in the performance of his
2 official duties.

3 * Sec. 6. AS 44.54.230(a) is amended to read:

4 (a) A loan under AS 44.54.210(20) for the purchase of a limited
5 entry permit may be made only upon certification by the commission
6 [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION (AS 16.43.020)] that the
7 fisherman is a person who qualifies as a transferee for the permit under
8 AS 16.43 and the regulations adopted by the commission.

9 * Sec. 7. AS 44.54.230(b) is amended to read:

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

12 (1) the certificate for the pledged permit lists [THE EXECU-
13 TIVE DIRECTOR OF] the bank as the legal owner of the permit;

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

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

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

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

24 * Sec. 8. AS 44.54.230(c) is amended to read:

25 (c) Upon satisfaction of the note by the debtor, the bank [EXECU-
26 TIVE DIRECTOR] shall certify to the commission that the note has been
27 satisfied.

28 * Sec. 9. AS 44.54.240 is amended to read:

29 Sec. 44.54.240. DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY

1 PERMITS. (a) If the debtor defaults upon a note for which a limited
2 entry permit has been pledged as security under AS 44.54.230, [THE
3 EXECUTIVE DIRECTOR OF] the bank shall provide the debtor, by registered
4 or certified mail sent to his last known address on file with the bank,
5 with a notice of default which includes

6 (1) a description of the security given for the note including
7 the number assigned to the pledged permit by the commission [ALASKA
8 COMMERCIAL FISHERIES ENTRY COMMISSION];

9 (2) the date upon which the default occurred;

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

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

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

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

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

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

26 (b) Upon the debtor's failure to reinstate or satisfy the note
27 within the time specified in (a) of this section, his equitable interest
28 is terminated by operation of law without further notice. Any entry
29 permit cards issued to him under the permit shall be cancelled immedi-

1 ately upon receipt by the commission of a certificate of termination
2 containing a copy of the notice required by (a) of this section issued
3 by [THE EXECUTIVE DIRECTOR OF] the bank.

4 * Sec. 10. AS 44.54.250(a) is amended to read:

5 (a) Upon a foreclosure on an entry permit as provided in AS 44.54.-
6 240, [THE EXECUTIVE DIRECTOR OF] the bank shall offer the commission
7 [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] a right of first refusal
8 if the permit is subject to a buy-back program under AS 16.43.290 -
9 16.43.330 at a price equal to the amount outstanding on the note plus
10 any costs the bank directly incurred in administering the loan.

11 * Sec. 11. AS 44.54.250(c) is amended to read:

12 (c) If the debtor is unable to nominate a qualified person to
13 assume the note under (b) of this section, the permit must be made
14 available to a qualified person, chosen as provided in this section, who
15 shall assume the note subject to all rights and liabilities of the
16 original debtor. The commission [ALASKA COMMERCIAL FISHERIES ENTRY
17 COMMISSION] shall provide the bank with a list of persons chosen by
18 lottery who qualify as transferees of entry permits under AS 16.43 and
19 regulations adopted by the commission and who have met the residency and
20 commercial fishing participation requirements of AS 44.54.210(20). The
21 [EXECUTIVE DIRECTOR OF THE] bank shall then determine, in order of
22 presentation, any remaining qualifications. The bank [EXECUTIVE DIREC-
23 TOR] shall allow the first applicant meeting all qualifications to
24 assume the note.

25 * Sec. 12. AS 44.54.250(d) is amended to read:

26 (d) Nothing in this section affects the right of [THE EXECUTIVE
27 DIRECTOR OF] the bank to institute legal action for a deficiency result-
28 ing from a default on a note given under AS 44.54.230. In addition to
29 any deficiency, the debtor is liable for the costs of administering the

1 note and for costs and attorney fees.

2 * Sec. 13. AS 44.54 is amended by adding a new section to read:

3 Sec. 44.54.260. DEFINITIONS. In this chapter

4 (1) "bank" means the Alaska Commercial Fishing and Agricul-
5 ture Bank;

6 (2) "commission" means the Alaska Commercial Fisheries Entry
7 Commission (AS 16.43.020);

8 (3) "shareholder" includes a holder of a share of membership
9 stock of the bank, a holder of a share of capital stock of the bank, or
10 a patron of the bank with retained patronage earnings of \$2,500 or more
11 to his credit.

12 * Sec. 14. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).