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The "mystery picture" in last month's 'Journal' is salmon troller Frank Bifoss, of Meyers Chuck, Alaska. "The Old Man and the Sea" he was nicknamed by the trollers out of Hole in the Wall in the mid '70s, who'd see him fishing far off shore. "I can't tell you how many times I'd come over a swell and see him just like that," says one troller who identified the photo at once. The picture was taken off Meyers Chuck in 1977 on the last day of the silver season.

WINNERS: Gwen Emel, Ketchikan; Walter V. Pulju, Ketchikan; Paul Peterson, Ketchikan; Ed Glenz, Meyers Chuck; Robert Ezell, Ketchikan; David K. Olson, Meyers Chuck and Christina Settles.

[continued from previous page]

Mark I was in fact a success as far as we were concerned. It accomplished the objectives we set out to resolve. It gave us the information by which to fill the gaps we needed to fill. Yet, there is still one thing we cannot quite fully understand. That is, how can anyone consider even 70% a resounding success? We do not and have been told by Mr. Sato that he does not.

We are continuing to work on the development of the hair crab. We fully recognize that a tremendous amount of work must yet be done before we will be fully satisfied with our efforts. Yet, we believe that this specie of crab can be utilized and developed carefully.

In closing, we want to state that the success of the December trip was due entirely in part by skipper Sid Green and the crew of the Mark I. It was a tremendous pleasure to work with them.

Patrick Pletnikoff  
President  
Nika Corporation

### CFAB is not a production credit assn.

To the editor: -

For some time now, Northwest Livestock PCA has been following the development of the Alaska Commercial Fishing and Agricultural Bank (CFAB) with great interest. In light of recent advertising that we have seen, as well as press releases, we can understand why the commercial banking industry in Alaska has not been too 'excited' about CFAB's

approach to their market development.

For our part, we feel that a few things should be clarified at this time with respect to the Farm Credit System in general—and specifically Northwest Livestock PCA's role in the Alaska banking industry. Since the inception of CFAB, the bank seems to have made a great effort at making references to their affiliation with the Farm Credit System.

This can hardly be seen as anything else than an attempt to benefit from the credibility and goodwill that the 63 years' history of the Farm Credit System has developed. This has been an effective approach, we will not deny, as we have had a number of prospective borrowers either imply or ask if CFAB is the same as our Association. Accordingly, we feel that it is proper at this time to point out that CFAB is not a PCA (Production Credit Association). With respect to their affiliation with the Bank of Co-ops, they are a borrower just like any other co-op eligible to borrow from that Bank.

The statement made by Gary Anderson about the Farm Credit System's availability in Alaska is ambiguous at best. He is technically correct when saying that the Farm Credit System has been available in the Lower 48 for 70 years (correct number of years is 63), but he very pointedly avoids mentioning that our Association has been financing also in the State of Alaska since 1969 and that our scope of financing was amended to include commercial fishing in 1972 concurrently with the Farm Credit Act passed in 1971.



## Freshest in

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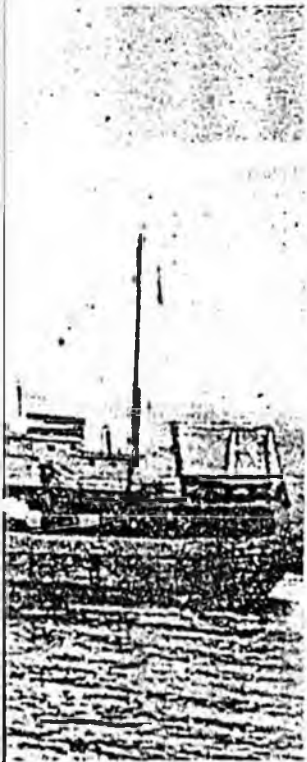
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*Alaska Fisherman News March 1981*

# PHOTO



# sel

will win free  
ORDER: the Sea-  
ke its debut in  
er today to:

month's 'Journal' is salmon  
s Chuck, Alaska. "The Old  
named by the trollers out of  
s, who'd see him fishing far  
many times I'd come over a  
hat," says one troller who  
The picture was taken off  
ust day of the silver season.

chikan; Walter V. Pulju,  
chikan; Ed Glenz, Meyers  
n; David K. Ottee, Meyers

to their market  
at.

part, we feel that a few

Since 1972 our volume in the area of commercial fishing vessel financing has been steadily building, and today we are financing a large number of fishing vessels of all sizes and from all over the State of Alaska. Our loan volume in Alaska has increased 140% and 121% in the past two years. Our credit standards are probably among the soundest in the industry, and we feel that this has served the industry well and most of our borrowers are supportive of this view.

Laws and regulations for Northwest Livestock PCA (and for other Associations as well) strictly prohibit advertising of interest rates; however, recent information gives us reason to believe that Gary Anderson's statement that "CFAB can offer fishermen the lowest rates commercially available" is just not true.

Our distant location in Portland, Oregon, has, from time to time, been viewed as a detriment. However, we feel that the borrower indirectly

benefits from this in the form of low operating costs which are, in turn, passed on to the borrower in the form of lower interest rates. This is not a concept specific for our Association but is shared by other Associations who finance fishing and agriculture in the Lower 48 states. Actually, we are as close as the borrower's nearest phone.

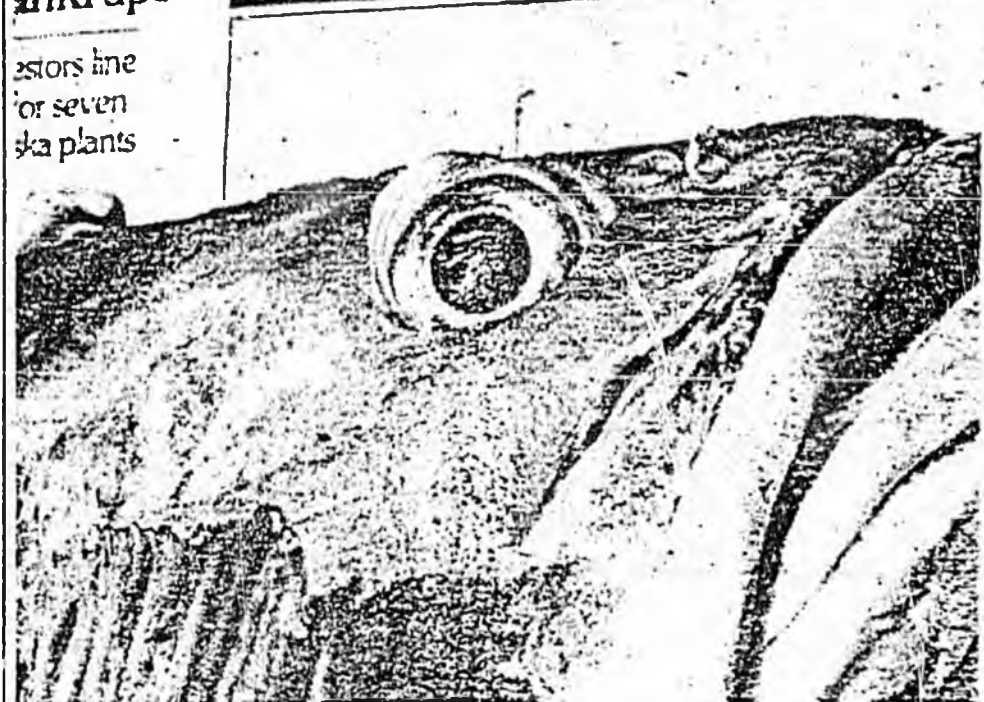
We are not about to pass judgment on the merit of creating CFAB in the present form or any other form. Generally our view is that in a free enterprise society, competition should not overshadow the fact that we are in business to provide a service to the borrower. All prospective borrowers, we feel, are well advised to look around. If these individuals are not able to prosper and grow, neither will we.

*Stein Setvik  
Associate Loan Officer,  
NW Livestock Production  
Credit Association  
Portland, Oregon*

FCO files  
for Chapter 11

bankrupt

restors line  
for seven  
ska plants



THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H B 413

Title An Act relating to the Alaska Commercial Fishing & Agriculture Bank

Requested by Rep. Brown Date 4/13/81

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Retirement

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

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

This bill will result in no charge to the Retirement System. Employees of the Bank are now in PERS and all contributions are made by the Bank and its employees.

IV. DATE 4/13/81

PREPARED BY Ken Humphreys

AGENCY Administration

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Rep. Gardiner

*Ken Humphreys* *gc*

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 413

Title An Act Relating to the Alaska Commercial Fishing and Agriculture Bank

Requested by \_\_\_\_\_ Date 4/7/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Financial Institutions

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 4/7/81

PREPARED BY Willis F. Kirkpatrick, Director of Banking  
 AGENCY Dept. of Commerce & Economic Development  
 PHONE 465-2521

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)



# UNITED FISHERMEN OF ALASKA

MAILING ADDRESS & OFFICE:

197 SOUTH FRANKLIN ST.  
JUNEAU, ALASKA 99801  
907 586-2820

Ernest Painter  
Executive Director

Proposed amendment to House Bill 413 (An Act relating to the Commercial Fishing and Agriculture Bank; and providing for an effective date.)

Insert on line 2, page 6:

\*Sec. 8. AS 44.81.210 POWERS OF THE BANK. (a)

(22) use Alaska limited entry permits as security for loans under (1) of this section for the repair, restoration or upgrading of existing vessels and gear, for the purchase of entry permits and gear, and for the construction and purchase of vessels. The provisions of AS ~~44.81.330-340~~ apply to Alaska limited entry permits pledged as security for loans in accordance with this section.

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

\*Sec. 10. This Act takes effect immediately in accordance with AS 01.10.070(c).

the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.180. Bonds legal investments for fiduciaries.** The bonds of the bank are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the bank are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.190. Conflicts of interest.** No member of the board of directors may vote on a transaction of the bank under this chapter if he is a party to the transaction. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.200. Reports and publications.** The board of directors shall publish an annual report to the bank's shareholders. The report shall be made available to the public and shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the bank from each source during the period covered, a statement of the bank's investments, a description of the bank's investment activity during the period covered by the report, an analysis of economic and other effects of investment decisions on the state's commercial fishing and agriculture industries, and any other information the board believes would be of interest to the governor, the legislature and the public. The board may also publish such other reports as it considers desirable to carry out its purposes. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.210. Powers of the bank.** (a) The bank may

- (1) make variable rate or fixed rate loans to individuals who are residents and who are engaged in commercial agriculture or fishing, including harvesters, processors, suppliers and marketers, or to corporations, partnerships or joint ventures engaged in commercial agriculture or fishing, the majority interest of which is beneficially

owned by residents of the state and a majority of the owners of which are residents of the state, if the recipient of the loan is a member of the bank; however, the bank may make a loan under this paragraph to a corporation, partnership, or joint venture for the purchase of a new or existing fishing vessel or for the repair or renovation of an existing fishing vessel, the primary purpose of which is to commercially harvest fishery resources, only if the corporation, partnership, or joint venture is wholly owned and controlled by residents of the state and if the recipient of the loan is a member of the bank.

(2) make and alter bylaws necessary or desirable to carry out its corporate functions;

(3) establish amortization plans for repayment of loans, which may include extensions for poor fishing or farming seasons;

(4) enter into agreements with regional institutions of the federal farm credit system, private lending institutions, and other state agencies or agencies of the federal government, to carry out the purposes of this chapter;

(5) adopt, alter, and use a corporate seal;

(6) sue and be sued in the name of the bank;

(7) issue bonds to carry out any of its corporate purposes and powers;

(8) sell, lease as lessor or lessee, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other security interest, real or personal property owned by it, or in which it has an interest, when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(9) incur secondary liability by guaranty or endorsement of the obligations of another corporation or legal entity when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(10) make loans as provided in (1) of this section in participation with financial institutions, and establish and regulate the terms of the loans;

(11) make contracts and execute instruments necessary or convenient in the exercise of its corporate powers;

(12) acquire by purchase, lease, bequest, devise, gift, the satisfaction of debts, or the foreclosure of mortgages, and hold, maintain, use, operate, and convey real or personal property;

(13) borrow money and issue secured and unsecured evidence of indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding obligations, and enter agreements and contracts concerning these obligations;

(14) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(15) appoint officers, employees, trustees for certificate holders, and agents, and prescribe their powers and duties;

(16) provide technical services to members of the bank; for the purposes of this paragraph, "technical services" includes services that will enhance the ability of the member 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;

(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 44.81.230;

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

(b) The provisions of (a)(21) of this section do not authorize the bank to indemnify a director, officer or employee of the bank who is adjudged liable for negligence or misconduct in the performance of his official duties. (§ 3 ch 159 SLA 1978; am § 4 ch 53 SLA 1979; am §§ 7-10 ch 51 SLA 1980)

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

The 1980 amendments in paragraph (1) of subsection (a), inserted "suppliers" following "harvesters, processors" and deleted "primarily" following "or joint ventures" near the beginning and

substituted "member" for "shareholder" near the middle and near the end. The amendment also substituted "members of the bank" for "shareholders" and "member" for "shareholder" in paragraph (16) of subsection (a), added paragraph (21) of subsection (a), and added subsection (b).

**Sec. 44.81.220. 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

From CFAB

SUMMARY OF A BILL CONCERNING THE  
ALASKA COMMERCIAL FISHING AND AGRICULTURE BANK  
AND RELATING TO THE RELATIONSHIP OF THE BANK WITH THE STATE

The Bill now before the Legislature as HB 413, is designed to make clear what many believe to be the intent of the original drafters of the legislation which created the Alaska Commercial Fishing and Agriculture Bank ("CFAB") i.e., that CFAB was intended to exist as a private, cooperative corporation while filling a crucial need of the State in making capital available to commercial fishermen and farmers, thereby assisting with the development of fishing and agriculture in the state.

Unfortunately, the founders of CFAB apparently also hoped to create an entity with the ability to raise capital by issuing tax-exempt bonds. Thus, they include many features in what is now AS 44.81 which are common and essential to legislative acts which create authorities of the State which are designed to raise capital in the tax-exempt market. Among such authorities in Alaska are the Alaska Industrial Development Authority, Alaska Municipal Bond Bank, the Alaska Housing Finance Corporation and the Alaska Power Authority. The effect of such "bonding" language has been confusion as to the status of CFAB. Is it an instrumentality of the State or a private cooperative institution? Recent events indicate that the distinction should now be made clear.

In any event, the State has never had the form of control over CFAB so that CFAB could be considered a "constituted

authority" as required by Section 103 of the Internal Revenue Code and the Treasury Regulations thereunder for the issuance of tax-exempt bonds. Little is, therefore, lost by removal of the language in AS 44.81 intended to assist the sale of CFAB bonds. This Bill, of course, retains all of CFAB's ability to raise capital by contracting other types of debt.

A section by section summary of the proposed legislation follows:

Section 1 of the Bill makes it clear that CFAB serves a public purpose (filling an unmet need in the state by providing capital to commercial fishermen and farmers so that Alaska's fishing and agriculture industries may develop), while removing language from AS 44.81.010(a) which seems to indicate that CFAB is some kind of an instrumentality of the State. Language added to AS 44.81.010(a) also makes it clear that CFAB is not engaged in "banking" as contemplated by the Alaska Banking Code as it seems clear that the Legislature intended that CFAB serve a different function than that of the commercial banks in the state. Regulation under the Alaska Banking Code would be inappropriate.

Section 2 clarifies the status of employees of CFAB. They are not employees of the State, but it does seem desirable, as with employees of many political subdivisions of the State, that CFAB employees be allowed to avail themselves of membership in the Public Employees Retirement System and the supplementary employee benefits on withdrawal from social security (to the extent that they may be eligible for the latter program).

Section 3 makes certain that members of the CFAB Board of Directors continue to be eligible for per diem and travel allowances.

Section 4 of the Bill amends AS 44.81.160, Pledge of the State, by removing a number of references to bonds and holders of bonds, while retaining the State's pledge to other creditors of CFAB that it will not take an action which might be considered to jeopardize the terms of a CFAB contract with that creditor.

Section 5 of the proposed Bill contains two housekeeping matters which are not necessarily connected with the purposes of the other amendments proposed in the Bill. The first of these is a change in terminology from "shareholders" to "members" which was overlooked in legislation passed by the Second Session of the Eleventh Legislature. The second change is an attempt to clarify the information which the Legislature expects will be contained in the annual report of CFAB. This change has been suggested by, among others, CFAB's independent outside auditors and as proposed uses language more appropriate to CFAB's activities.

Section 6 provides for confidentiality of CFAB's records while allowing for necessary disclosures to various agencies and government groups. It also provides for an audit of CFAB by the bank examiners. This is designed to provide for audit oversight at the State level.

Section 7 adds legislative findings necessary to establish intent and legislative history.

Section 8 repeals the several sections listed below:

Section AS 44.81.080 which classified CFAB employees in the exempt service.

AS 44.81.120, AS 44.81.130, AS 44.81.140, AS 44.81.150 which detailed the sale of tax-exempt bonds.

AS 44.81.170, AS 44.31.180 which classified CFAB as exempt from taxation and allows state agencies to purchase CFAB bonds.

AS 44.81.220 which provided that after repayment to the State CFAB would revert to the cooperative statutes. Removal of that will allow CFAB to continue to operate under this statute.

RE House Bill 413

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

Summary: HB 413 is sought to correct certain ambiguities in CFAB's originating legislation which make it both a private and a public corporation. The act allows it to be a private corporation while preserving oversight capabilities for the State.

CFAB cannot be both private and public. The constitutional rights of its private, risk-taking stockholders are conflictive with the public rights to access in a public body. As a public body, CFAB is severely impaired in its abilities to develop. Both the Farmers Home Administration and the SBA are constrained from dealing with the Cooperative and its principle funding source, the Farm Credit System, would be unable to continue. Additionally, various potential borrowers have expressed hesitancy to borrow from CFAB if their records are open to the public.

Section Description

\*Section 1. The confusing wording describing CFAB as an instrumentality of the State and its operations as an essential government function are removed.

An exemption from the Alaskan Banking Code is added. This exemption is a housekeeping matter designed to assure CFAB's continuance after CFAB has repurchased all Class C stock from the State of Alaska.

The last paragraph of CFAB's originating legislation states that upon repurchase of the original Class C stock, the legislation lapses and CFAB is to operate totally under the cooperative statutes of the State. However, the first section of the cooperative statute prohibits a cooperative from engaging in banking or insurance. Therefore, once the current legislation ceases, CFAB could be construed as being an illegal operation under the strictest definition of banking.

As a lending institution only, and without deposit-taking abilities, many of the current banking laws do apply to CFAB. Most banking regulations are designed

to protect the depositor, either directly or through conservative assurance of a safe organization. CFAB meets the test of being a bank only so far as it makes loans.

\*Section 2. CFAB employees are currently participants in PERS. One qualification for PERS participation is that the participating organization draw its powers from the Legislature, which CFAB does.

The section forestalls any troubles with PERS and protects the employees previous investments at no cost to the State.

\*Section 3. This section clarifies the expense allowances for members of the Board. It allows compensation for actual expenses rather than fixed per diem. In most instances, this will result in savings to CFAB.

\*Section 4. Extends the legislative assurance to all lenders to and participants with CFAB that its powers and capacity will not be detrimentally altered. This assurance is increasingly more important as CFAB expands its correspondent relationships and becomes involved in more complex transactions.

\*Section 5. Amends the wording in three places. It changes the word shareholder to member, conforming to changes made in all but this section last year. It more importantly clarifies the reporting requirements of our annual report. These changes are upon the recommendation of our outside auditors, Price Waterhouse and Co. The requirement to report income from each source is deleted. Strict adherence to this sentence would require complete itemization of each interest payment. It is also felt that the Legislature is more interested in the disbursement of our loans by type, size, purpose, and geography than in our very limited investment activity. The requirement for investment information has been changed to loan activity.

\*Section 6. Provides for confidentiality of CFAB's records while allowing for necessary disclosures to various agencies and government groups.

It also provides for an audit of CFAB by the bank examiners. This is designed to provide for audit oversight at the State level by an audit group experienced in looking at loan files.

\*Section 7. Adds legislative findings necessary to establish intent and legislative history.

Original sponsor: Gardiner

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 413 (Judiciary)

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 <sup>Co-Op</sup> ~~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 <sup>Co-Op</sup> ~~Bank~~. [THE BANK IS A PUBLIC CORPORATION AND GOVERNMENT INSTRUMENTALITY  
14 IN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BUT HAS A LEGAL  
15 EXISTENCE INDEPENDENT OF AND SEPARATE FROM THE STATE.] The exercise by  
16 the bank of the powers conferred by this chapter is considered to be  
17 for a public purpose [AN ESSENTIAL GOVERNMENTAL FUNCTION OF THE STATE].  
18 Except as otherwise provided in this chapter, the bank is subject to  
19 the provisions of AS 10.15.005 - 10.15.600. The bank is exempt from  
20 the provisions of the Alaska Banking Code (AS 06.05) in the exercise  
21 of powers granted by this chapter.

22 \* Sec. 2. AS 44.81.070(c) is amended to read:

23 (c) The president may hire employees of the bank reasonably  
24 necessary for the efficient performance of the functions of the bank.  
25 Subject to the approval of the board of directors, the president may  
26 also contract for and engage the services of professional and technical  
27 advisors. The board of directors shall prescribe the duties and  
28 compensation of employees of the bank. Employees of the bank are not  
29 employees of the state but are considered to be employees of a public

1 organization for purposes of AS 39.30.150 - 39.30.180 and AS 39.35.

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

3 Sec. 44.81.110. COMPENSATION OF BOARD MEMBERS. Members of the  
4 board receive compensation and are entitled to per diem and travel  
5 allowances at a rate determined by the board for each day the board  
6 ~~meets if they attend the meeting~~ [AND ARE ENTITLED TO PER DIEM AND  
7 TRAVEL ALLOWANCES AS PROVIDED BY LAW FOR MEMBERS OF STATE BOARDS AND  
8 COMMISSIONS].

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

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

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

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

15 \* Sec. 6. AS 44.81 is amended by adding new sections to read:

16           Sec. 44.81.260. DATA REGARDING RECORDS OF THE BANK. (a) Except  
17 as provided in (b) of this section, the directors, officers, and em-  
18 ployees of the bank shall hold in strict confidence all information  
19 regarding the business records of the bank, including information as to  
20 the character, credit standing and property of members and applicants  
21 for loans. They shall not exhibit or quote from the bank's business  
22 records, including documents regarding personnel of the bank or pertain-  
23 ing to members or applicants for loans.

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

26           (1) Examiners and other authorized representatives of the  
27 commissioner of commerce and economic development and other authorized  
28 regulatory agencies have free access to all information, records and  
29 files.

1 (2) The board of directors or the president of the bank <sup>shall</sup> may  
2 supply statistical and other impersonal information pertaining to  
3 members, applicants, <sup>employees</sup> and loans in response to requests from the legisla-  
4 ture or a state agency, members of the federal farm credit system, or a  
5 responsible private organization.

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

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

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

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

20 Sec. 44.81.270. POWERS OF COMMISSIONER OF COMMERCE AND ECONOMIC  
21 DEVELOPMENT TO EXAMINE BANK. The commissioner of commerce and economic  
22 development may cause the bank to be examined in the manner and under  
23 the conditions prescribed by the Alaska Banking Code (AS 06.05) for  
24 examination of state banks. The commissioner or his examiner have free  
25 access to all books and papers of the bank which relate to its business  
26 and books and papers kept by a director, officer, or employee relating  
27 to or upon which a record of its business is kept, and may summon  
28 witnesses and administer oaths or affirmations in the examination of  
29 the directors, officers, or employees of the bank or any other person

1 in relation to its affairs, transactions, and conditions, and may  
2 require and compel the production of records, books, papers, contracts,  
3 or other documents by court order if not voluntarily produced.

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

9 \* Sec. 7. AS 44.81.210(a) is amended by adding a new paragraph to read:

10 *New Section* (22) use Alaska limited entry permits as security for loans  
11 under (1) of this subsection for the repair, restoration, or upgrading  
12 of existing vessels and gear, for the purchase of entry permits and  
13 gear, and for the construction and purchase of vessels; the provisions  
14 of AS 44.81.230 - 44.81.250 apply to Alaska limited entry permits  
15 pledged as security for loans in accordance with this paragraph.

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

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

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

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

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

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

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

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

Section

- 170. Exemption from taxation
- 180. Bonds legal investments for fiduciaries
- 190. Conflicts of interest
- 200. Reports and publications
- 210. Powers of the bank
- 220. Transition

Section

- 230. Loans for purchase of Alaska limited entry permits
- 240. Default and foreclosure of loans for limited entry permits
- 250. Deficiencies and transfer of entry permits after foreclosure
- 350. Definitions

Editor's note. — As to legislative findings and the purposes of the enabling act, see §§ 1 and 2, ch. 159, SLA 1978,

respectively, in the 1978 Temporary and Special Acts and Resolves.

**Sec. 44.81.010. 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 funding of the bank's operations, the board of directors may issue nonvoting, preferred shares of stock in the bank and determine the value of each share. The State of Alaska, through appropriate agencies, may purchase the nonvoting, preferred shares 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 AS 44.81.030 — 44.81.040, 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; am § 12 ch 122 SLA 1980)

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

The 1980 amendment deleted "initial" preceding "funding" near the beginning of subsection (b) substituted "may" for

"purchase" near the beginning of the second sentence of subsection (b), deleted "shall" preceding "determine" near the middle of the first sentence of subsection (b), and deleted "initially" following "preferred shares" near the middle of the

**Sec. 44.81.020. 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 Alaskan 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 members of the bank, 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 members of the bank. 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; am § 3 ch 51 SLA 1980)

Effect of amendments. — 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).

The 1980 amendment substituted

"members of the bank" for "shareholders" near the beginning and at the end of the fifth sentence in subsection (a).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.81.020 and 44.81.090, 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 44.81.090."

**Sec. 44.81.030. 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. 44.81.040. 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. 44.81.050. Membership meetings.** Upon filing the articles of

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. 44.81.060. 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 members 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 on proportional ownership of shares of capital stock. (§ 3 ch 159 SLA 1978; am § 4 ch 51 SLA 1980)

**Effect of amendment.** — The 1980 amendment substituted "members" for "shareholders" near the beginning of subsection (b), and added "of capital stock" at the end of subsection (b).

**Sec. 44.81.070. President; officers and employees.** (a) The board of directors shall employ a president. The president may not be a member of the board of directors. The president serves at the pleasure of the board of directors. The president is the chief executive officer of the bank.

(b) The board of directors shall appoint one or more vice-presidents, as prescribed in the bylaws of the bank, a secretary, a treasurer and other officers as the board of directors considers necessary. The board of directors may appoint one person to more than one of the positions described in this subsection. The officers described in this subsection are not required to be members of the board of directors.

(c) The president may hire employees of the bank reasonably necessary for the efficient performance of the functions of the bank. Subject to the approval of the board of directors, the president may also contract for and engage the services of professional and technical advisors. The board of directors shall prescribe the duties and compensation of employees of the bank. (§ 3 ch 159 SLA 1978; am § 5 ch 51 SLA 1980)

**Effect of amendment.** — The 1980 amendment rewrote the section.

**Sec. 44.81.080. Exempt status.** Employees of the bank are in the exempt service under AS 89.25. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.090. Term of office.** The members of the board shall serve for terms of three years, and they may serve successive terms. The first five members of the first five members

the second annual membership meeting of the bank, and one member serving until the third annual membership meeting of the bank. Initial terms of the two members appointed at the time of the first annual membership meeting of the bank shall be one member serving until the second annual membership meeting of the bank and one member serving until the third annual membership meeting of the bank. (§ 3 ch 159 SLA 1978; am § 3 ch 53 SLA 1979)

**Effect of amendment.** — The 1979 amendment substituted "serve for terms" for "be appointed for terms" and "serve successive terms" for "be reappointed" in the first sentence, inserted "of the first five members appointed to the board" and substituted "until the first annual membership meeting of the bank" for "for one year," "until the second annual membership meeting of the bank" for "for two years," and "until the third annual membership meeting of the bank" for "for three years" in the third sentence, and added the fourth sentence.  
**Editor's note.** — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.81.020 and AS 44.81.090, 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 44.81.090."

**Sec. 44.81.100. Quorum.** A majority of the members of the board constitutes a quorum for the transaction of business and the exercise of the powers and duties of the board. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.110. Compensation of board members.** Members receive compensation at a rate determined by the board for each day the board meets if they attend the meeting and are entitled to per diem and travel allowances as provided by law for members of state boards and commissions. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.120. Bonds of the bank.** (a) The bank may borrow money and may issue bonds for that purpose, including but not limited to bonds on which the principal and interest are payable

(1) exclusively from the income and receipts or other money derived from the project financed with the proceeds of the bonds;

(2) exclusively from the income and receipts or other money derived from designated projects whether or not they are financed in whole or in part with the proceeds of the bonds; or

(3) from its income and receipts or other assets generally, or a designated part or parts of them.

(b) Bonds shall be authorized by resolution of the board of directors, and be dated and shall mature as the resolution may provide, except that no bond may mature more than 30 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

(d) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the board of directors may determine.

(e) The superior court shall have jurisdiction to hear and determine suits, actions or proceedings relating to the bank, including suits, actions or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment or security of a holder of its bonds or by a trustee for or other representative of the holders. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.130. Trust indentures and trust agreements.** In the discretion of the board of directors an issue of bonds may be secured by a trust indenture or trust agreement between the bank and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the bank may

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the board of directors may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the bank or of money or other property of the bank or in which it has an interest;

(B) the terms and conditions upon which additional bonds of the bank may be issued;

(2) pledge, mortgage or assign money, leases, agreements, property or other assets of the bank either presently in hand or to be received in the future, or both; and

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.140. Validity of pledge.** It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the bank shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the bank irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a

**Sec. 44.81.150. Nonliability on bonds.** (a) Neither the members of the board of directors, the president, staff, nor a person executing the bonds is liable personally on the bonds or subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the bank may not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the bank, but shall be payable solely from the income and receipts or other funds or property of the bank. The bank may not pledge the faith or credit of the state or of a political subdivision of the state, except the bank, to the payment of a bond, and the issuance of a bond by the bank shall not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 3 ch 159 SLA 1978; am § 6 ch 51 SLA 1980)

*Effect of amendment.* — The 1980 amendment substituted "president" for "executive director" following "board of directors, the" near the beginning of subsection (a).

**Sec. 44.81.160. Pledge of the state.** The state pledges to and agrees with the holders of the bonds issued under this chapter and with the federal agency or regional institution of the federal farm credit system which loans or contributes funds in respect of a project, that the state will not limit or alter the rights and powers vested in the bank by this chapter to fulfill the terms of any contract made by the bank with the holders or federal agency or regional institution of the federal farm credit system, or in any way impair the rights and remedies of the holders until the bonds, together with interest on them, with interest on unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The bank is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the bank in a contract with the holders, and insofar as it relates to a federal agency or regional institution of the federal farm credit system, in a contract with a federal agency or regional institution of the federal farm credit system. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.170. Exemption from taxation.** The real and personal property of the bank and its assets, income and receipts are declared to be property of a political subdivision of the state and shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts, and other taxing units. All bonds of the bank are declared to be issued by a political subdivision of the state, to be for an essential public and

the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.180. Bonds legal investments for fiduciaries.** The bonds of the bank are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the bank are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.190. Conflicts of interest.** No member of the board of directors may vote on a transaction of the bank under this chapter if he is a party to the transaction. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.200. Reports and publications.** The board of directors shall publish an annual report to the bank's shareholders. The report shall be made available to the public and shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the bank from each source during the period covered, a statement of the bank's investments, a description of the bank's investment activity during the period covered by the report, an analysis of economic and other effects of investment decisions on the state's commercial fishing and agriculture industries, and any other information the board believes would be of interest to the governor, the legislature and the public. The board may also publish such other reports as it considers desirable to carry out its purposes. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.210. Powers of the bank.** (a) The bank may

(1) make variable rate or fixed rate loans to individuals who are residents and who are engaged in commercial agriculture or fishing,

owned by residents of the state and a majority of the owners of which are residents of the state, if the recipient of the loan is a member of the bank; however, the bank may make a loan under this paragraph to a corporation, partnership, or joint venture for the purchase of a new or existing fishing vessel or for the repair or renovation of an existing fishing vessel, the primary purpose of which is to commercially harvest fishery resources, only if the corporation, partnership, or joint venture is wholly owned and controlled by residents of the state and if the recipient of the loan is a member of the bank.

(2) make and alter bylaws necessary or desirable to carry out its corporate functions;

(3) establish amortization plans for repayment of loans, which may include extensions for poor fishing or farming seasons;

(4) enter into agreements with regional institutions of the federal farm credit system, private lending institutions, and other state agencies or agencies of the federal government, to carry out the purposes of this chapter;

(5) adopt, alter, and use a corporate seal;

(6) sue and be sued in the name of the bank;

(7) issue bonds to carry out any of its corporate purposes and powers;

(8) sell, lease as lessor or lessee, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other security interest, real or personal property owned by it, or in which it has an interest, when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(9) incur secondary liability by guaranty or endorsement of the obligations of another corporation or legal entity when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(10) make loans as provided in (1) of this section in participation with financial institutions, and establish and regulate the terms of the loans;

(11) make contracts and execute instruments necessary or convenient in the exercise of its corporate powers;

(12) acquire by purchase, lease, bequest, devise, gift, the satisfaction of debts, or the foreclosure of mortgages, and hold, maintain, use, operate, and convey real or personal property;

(13) borrow money and issue secured and unsecured evidence of indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding obligations, and enter agreements and contracts concerning these obligations;

(14) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(16) provide technical services to members of the bank; for the purposes of this paragraph, "technical services" includes services that will enhance the ability of the member 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;

(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 44.81.230;

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

(b) The provisions of (a)(21) of this section do not authorize the bank to indemnify a director, officer or employee of the bank who is adjudged liable for negligence or misconduct in the performance of his official duties. (§ 3 ch 159 SLA 1978; am § 4 ch 53 SLA 1979; am §§ 7—10 ch 51 SLA 1980)

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

The 1980 amendments in paragraph (1) of subsection (a), inserted "suppliers" following "harvesters, processors" and deleted "primarily" following "or joint ventures" near the beginning and

substituted "member" for "shareholder" near the middle and near the end. The amendment also substituted "members of the bank" for "shareholders" and "member" for "shareholder" in paragraph (16) of subsection (a), added paragraph (21) of subsection (a), and added subsection (b).

**Sec. 44.81.220. Transition.** Upon the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased

the terms of its bylaws and subject to the provisions of AS 10.15.005 — 10.15.600. (§ 3 ch 159 SLA 1978)

**Sec. 44.81.230. Loans for purchase of Alaska limited entry permits.** (a) A loan under AS 44.81.210(20) for the purchase of a limited entry permit may be made only upon certification by the commission 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 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 bank 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; am §§ 11—13 ch 51 SLA 1980)

Effect of amendment. — The 1980 amendment substituted "commission" for "Alaska Commercial Fisheries Entry Commission (AS 16.43.020)" in subsection

(a), deleted "the executive director of" following "permit lists" in paragraph (1) of subsection (b), and substituted "bank" for "executive director" in subsection (c).

**Sec. 44.81.240. 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 44.81.230, 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 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;

(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 bank. (§ 5 ch 53 SLA 1979; am § 14 ch 51 SLA 1980)

Effect of amendment. — The 1980 amendment deleted "the executive director of" preceding "the bank" near the middle of the introductory paragraph of subsection (a) and near the end of subsection (b), and substituted "commission" for "Alaska Commercial Fisheries Entry Commission" at the end of paragraph (1) in subsection (a).

**Sec. 44.81.250. Deficiencies and transfer of entry permits after foreclosure.** (a) Upon a foreclosure on an entry permit as provided in AS 44.81.240, the bank shall offer the 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 44.81.230(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

16.43 and regulations adopted by the commission and who have met the residency and commercial fishing participation requirements of AS 44.81.210(20). The bank shall then determine, in order of presentation, any remaining qualifications. The bank shall allow the first applicant meeting all qualifications to assume the note.

(d) Nothing in this section affects the right of the bank to institute legal action for a deficiency resulting from a default on a note given under AS 44.81.230. In addition to any deficiency, the debtor is liable for the costs of administering the note and for costs and attorney fees. (§ 5 ch 53 SLA 1979; am §§ 15--17 ch 51 SLA 1980)

Effect of amendment. — The 1980 amendment, in subsection (a), deleted "the executive director of" preceding "the bank" near the beginning of the subsection and substituted "commission" for "Alaska Commercial Fisheries Entry Commission" near the beginning of the subsection. The amendment also substituted "commission" for "Alaska Commercial Fisheries Entry Commission" in the second sentence in subsection (c), deleted "executive director of the" preceding "bank shall" in the third sentence in subsection (c), substituted "bank" for "executive director" in the last sentence in subsection (c), and deleted "the executive director of" preceding "the bank" near the beginning of subsection (d).

**Sec. 44.81.350. Definitions.** In this chapter

(1) "bank" means the Alaska Commercial Fishing and Agriculture Bank;

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

(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. (§ 18 ch 51 SLA 1980)

**Chapter 82. Alaska Gas Pipeline Financing Authority.**

Section	Section
10. Creation of authority	110. Legislative approval
20. Membership	115. Nomination of a member of the board
30. Officers and quorum	120. Trust indentures and trust agreements
40. Compensation	130. Nonliability on bonds
50. Staff	140. Pledge of the state
60. Legal counsel	150. Exemption from taxation
70. Purpose of authority	160. Bonds legal investments for fiduciaries
80. General powers	
90. Bonds of the authority	

Introduced: 3/26/81  
Referred: Judiciary

1 IN THE HOUSE

BY GARDINER

2 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 <sup>Cooperative</sup> 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 for  
17 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 the  
20 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 but are considered to be employees of a public

1 organization for purposes of AS 39.30.150 - 39.30.180 and AS 39.35.

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

3 Sec. 44.81.110. COMPENSATION OF BOARD MEMBERS. Members of the  
4 board receive compensation and are entitled to per diem and travel  
5 allowances at a rate determined by the board for each day the board  
6 meets if they attend the meeting [~~AND ARE ENTITLED TO PER DIEM AND~~  
7 ~~TRAVEL ALLOWANCES AS PROVIDED BY LAW FOR MEMBERS OF STATE BOARDS AND~~  
8 ~~COMMISSIONS~~].

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

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

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

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

15 \* Sec. 6. AS 44.81 is amended by adding new sections to read:

16           Sec. 44.81.260. DATA REGARDING RECORDS OF THE BANK. (a) Except  
17 as provided in (b) of this section, the directors, officers, and em-  
18 ployees of the bank shall hold in strict confidence all information  
19 regarding the business records of the bank, including information as to  
20 the character, credit standing and property of members and applicants  
21 for loans. They shall not exhibit or quote from the bank's business  
22 records, including documents regarding personnel of the bank or pertain-  
23 ing to members or applicants for loans.

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

26           (1) Examiners and other authorized representatives of the  
27 commissioner of commerce and economic development and other authorized  
28 regulatory agencies have free access to all information, records and  
29 files.

1           (2) The board of directors or the president of the bank may  
2 supply statistical and other impersonal information pertaining to  
3 members, applicants, and loans in response to requests from the legisla-  
4 ture or a state agency, members of the federal farm credit system, or a  
5 responsible private organization.

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

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

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

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

20          Sec. 44.81.270. POWERS OF COMMISSIONER OF COMMERCE AND ECONOMIC  
21 DEVELOPMENT TO EXAMINE BANK. The commissioner of commerce and economic  
22 development may cause the bank to be examined in the manner and under  
23 the conditions prescribed by the Alaska Banking Code (AS 06.05) for  
24 examination of state banks. The commissioner or his examiner have free  
25 access to all books and papers of the bank which relate to its business  
26 and books and papers kept by a director, officer, or employee relating  
27 to or upon which a record of its business is kept, and may summon  
28 witnesses and administer oaths or affirmations in the examination of  
29 the directors, officers, or employees of the bank or any other person

1 in relation to its affairs, transactions, and conditions, and may require  
2 and compel the production of records, books, papers, contracts, or  
3 other documents by court order if not voluntarily produced.

4 Sec. 44.81.280. PROHIBITION ON RELEASE OF INFORMATION. The  
5 commissioner of commerce and economic development, his examiner, and  
6 his employees may not divulge information acquired by them in the  
7 process of examination conducted under AS 44.81.270, except insofar as  
8 the information is necessary by law or under court order. [However, the  
9 commissioner may furnish information as to the condition of the bank to  
10 the board of directors of the bank, to the legislature, or to members  
11 of the federal farm credit system.]

12 \* Sec. 7. FINDINGS. The legislature finds that

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

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

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

22 (4) audit and examination of the bank by the state can best be  
23 accomplished by use of bank examiners of the Department of Commerce and  
24 Economic Development to complement the audit conducted by the bank's indepen-  
25 dent outside auditors;

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

Date  
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1 examination.

2 \* Sec. 8. AS 44.81.080, 44.81.120, 44.81.130, 44.81.140, 44.81.150,  
3 44.81.170, 44.81.180, and 44.81.220 are repealed.

4 \* Sec. 9. This Act takes effect immediately in accordance with AS 01.10.-  
5 070(c).

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