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82

Publication
Notice
Waived
2/8/89

SENATE COMMITTEE REPORT

FURTHER FINANCE

2/6/89

DATE TURNED INTO OFFICE 2/8/89

Mr. President:

L&C

Committee considered SB 82

loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; efd and recommended.

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and _____) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published 2/6/89

MEMBERS SIGNING DO PASS

[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS

[Signature] No Rec.
[Signature] No Rec.

[Signature]
Chairman signature and recommendation

Committee Backup attached



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

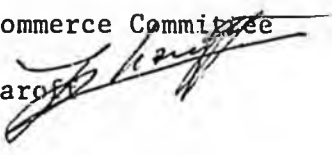
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DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Richard Eliason
Chairman
Senate Labor and Commerce Committee

FROM: Senator Fred F. Zharoff 

DATE: Feb. 6, 1989

RE: Senate Bill 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

I respectfully request you to waive the Labor and Commerce Committee referral for SB 82. The bill passed out of the Senate Resources Committee on Feb. 3 with five "do pass" recommendations.

As you know, SB 82 allows CFAB to set up a new financing program for limited entry permits, involving loan participation certificates. CFAB is under something of a time constraint with regard to the enactment of this legislation. Even though limited entry permits are bought and sold throughout the year, the market sees the most activity and peaks in the period between early March and May. If we can pass SB 32 in a timely manner, CFAB will be able to have this program -- which would help keep limited entry permits in Alaska -- in place in time for this year's main permit buying and selling season.

A waiver of the Labor and Commerce referral would help us meet this deadline and expedite consideration by the Finance Committee, the full Senate, and the House.

As I understand, the aspects of the bill that concern the Division of Banking, Securities and Corporations were reviewed during the Resources Committee hearing.

Thank you for your consideration of this request.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

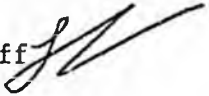
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ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Richard Eliason
Chairman
Senate Labor and Commerce Committee

FROM: Senator Fred F. Zharoff 

DATE: February 8, 1989

RE: Senate Bill 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

SB 82 would allow the Alaska Commercial Fishing and Agriculture Bank (CFAB) to establish a new program that will help keep limited entry permits in the hands of Alaska residents.

The new program will be especially applicable to those situations in which a commercial fisherman wishes to liquidate his fishing operation by selling his or her limited entry permit to a specific resident fisherman -- frequently a younger family member -- who has little cash and who, alone, is not perceived to be sufficiently creditworthy to be granted a permit purchase loan. Under the new program, a seller may share in the credit risk of a CFAB-financed permit purchase by using a portion of the sale proceeds to purchase a participation in the loan involved. The seller's financial interest is protected because of CFAB's ability to foreclose its permit lien in the event of irremediable default. Also, if desired, the seller can retrieve the permit by having the purchaser (the borrower) designate the seller as the person to assume the debt in the event of default and foreclosure.

As an investment, the loan participation certificate will allow the seller to receive the market interest rate on the deferred portion of the sale proceeds.

The program offers an alternative to what is commonly called "permit migration" or "permit drain". Under current circumstances, a rural permit holder -- unable to find a local fisherman with the financial capacity to buy the permit -- concludes there is no alternative other than to sell the permit to an urban Alaskan or nonresident who can raise the cash upfront.

The bill also makes a number of miscellaneous amendments to CFAB's statute. The sections related to the program described above are Sec. 2, (f) in Sec. 3, Sec. 6, and Sec. 9.

The following backup information is attached:

1. Sectional analysis.
2. Department of Commerce and Economic Development position paper and fiscal note.
3. Letter from Mr. Bruce Twomley, chairman of the Commercial Fisheries Entry Commission.
4. 1987 Annual Examination Report prepared by the Division of Banking, Securities, Small Loans and Corporation.
5. CFAB 1988 Annual Report.



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99015 (907) 486-5259

DURING SESSION:

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SECTIONAL ANALYSIS

Senate Bill No. 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

SECTION 1 PURPOSE.

Explains the rationale behind the bill.

SECTION 2

New paragraph (12) added to 44.81.210(a).

Gives CFAB the power to issue loan participation certificates.

SECTION 3

New subsections (e) and (f) added to 44.81.230.

(e) Allows a borrower to pledge more than one limited entry permit as security for a loan. This will be of benefit to fishermen who have multiple permits and are trying to expand their operations. They will be able to use their limited entry permits as financial assets to leverage the funds they need to purchase vessels, gear, etc. They can diversify and spread fixed costs over more fisheries. This will be of particular benefit to fishermen who have little liquidity, but substantial equity in existing permits.

(f) Allows a borrower to nominate another person to assume the debt on a permit loan. This way the individual who holds a loan participation certificate can take over the loan in the case of foreclosure.

SECTION 4

Amendment to subsection (b) in 44.81.235.

Corrects an oversight in the existing statute by allowing a loan made to purchase a limited entry permit to be included when a single permit is pledged to secure multiple loans.

SECTION 5

Amendment to subsection (c) in 44.81.235.

Corrects an oversight in the existing statute by allowing CFAB to refinance a loan which is made to purchase a limited entry permit. Under the current statute, CFAB may accept a permit as collateral when refinancing loans for fishing vessels, fishing gear, set net sites, and working capital, but not loans which are for the purchase of a permit.

SECTION 6

Amendment to subsection (b) in 44.81.250.

Makes this section of the existing CFAB statute consistent with the amendment in paragraph (f) of Section 3, above, by including a reference to the nomination of a person to assume debt.

SECTION 7

Amendment to subsection (d) in 44.81.250.

Adds reference to loans for the purchase of limited entry permits to the statute regarding CFAB's legal rights during foreclosure.

SECTION 8

New subsection (e) added to 44.81.250.

Describes the procedure CFAB shall follow when it has repossessed a limited entry permit.

SECTION 9

New paragraph (12) added to 45.55.140(a).

Exempts CFAB from the state's securities registration requirements. This restores the exemption CFAB had in statute when it was originally created. The exemption is currently granted to banks, savings institutions, savings and loan associations, trust companies, foreign governments, employee benefit plans, insurance companies, credit unions, nonprofit organizations, and others. The exemption will allow CFAB to offer loan participation certificates and remove the question of whether this transaction must comply with the extensive requirements for securities registration. CFAB will still be subject to annual audits by the Division of Banking, Securities and Corporations, an independent outside auditor, and, upon legislative instruction, by the Legislative Audit Division, as provided for in 44.81.270.

SECTION 10

Immediate effective date.

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

RECEIVED JAN 12 1989

STEVE COWPER, GOVERNOR

P.O. BOX 18
JUNEAU, ALASKA 99811-0302
PHONE: (907) 485-4081

January 11, 1989

The Honorable Fred F. Zharoff
Alaska State Legislature
M/S 3100

Re: CFAB Legislation
SB 82

Dear Senator Zharoff:

Thank you for the opportunity to review your legislation introduced on behalf of the Alaska Commercial Fishing and Agriculture Bank, which I understand has become SB 82.

CFAB's president, Mr. Ed Crane, developed the idea behind the legislation about a year ago, and we have discussed the proposal with him a number of times since then. We are very pleased that CFAB perceived the need and took the initiative to develop this remedy. We also commend you for having introduced this legislation.

SB 82 appears to the Entry Commission to be sound. For those Alaskan fishermen wishing to take advantage of such an opportunity, this legislation should be helpful. In direct response to your question, we would be happy to support this legislation. Please do not hesitate to contact us, if we can provide you with any further information.

Cordially,

COMMERCIAL FISHERIES ENTRY COMMISSION

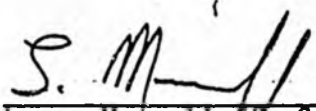
Bruce Twomley, Chairman
Rich Listowski, Commissioner
Phil Smith, Commissioner

by: 

cc: Bob Evans
Deputy Chief of Staff
Office of the Governor
M/S 0101

SB 82: An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank.

The banking section is neutral on this measure. The intent is to facilitate transfers of Limited Entry Permits held as loan security by CFAB. This bill will remove CFAB from securities law regulation for issue of its stock and/or other securities in conjunction with loans to members.


Larry Mercuriello, Commissioner

Date: 1-18-1989

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Commercial Fishing and Agriculture Bank
Sponsor: Zarhoff, Sturgulewski, et al
Requestor: Senate Resources

Agency Affected: Commerce & Econ. Dev.
BRU: Banking and Securities
Components: Securities

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: L.P. Carroll, Senior Securities Examiner
Division: Banking and Securities

Phone: 465-2521
Date: 01/17/89

Approved by Commissioner: Larry Mercurieff
Agency: Dept. of Commerce and Economic Development

Date: 1/18/1989

Distribution (by preparer):

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