

SB 92

HOUSE COMMITTEE REPORT

(11) ..

Date Referred: May 15, 1991

FURTHER REFERRALS:

Date of Committee Action: 5/17/91

The FINANCE Committee considered:

CSSB 92(FIN)

CS FOR SENATE BILL NO. 92 (FINANCE)

LOANS SECURED BY LIMITED ENTRY PERMITS

"An Act relating to the lending authority and loans of the Commercial Fishing and Agriculture Bank and to the use of limited entry permits as security for those loans; and providing for an effective date."

RECOMMENDATIONS:

be replaced with _____ the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Duse)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

2- zero fiscal note(s) DCED 3/27/91 ACF:9 5/17/91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
EP Meehan <u>Mackay</u>	<input checked="" type="checkbox"/>	<u>George F. Jacob</u> <u>Kimman</u>		<input checked="" type="checkbox"/>	
Mike Havane <u>Navarre</u>	<input checked="" type="checkbox"/>	<u>George F. Jacob</u> <u>JACKO</u>		<input checked="" type="checkbox"/>	
Ma. VOYSE <u>Bay</u>		<u>Samana Barnes</u> <u>Barnes</u>		<input checked="" type="checkbox"/>	
Jan Brown <u>Brown</u>	<input checked="" type="checkbox"/>	<u>Bert</u> <u>Thompson</u>		<input checked="" type="checkbox"/>	
<u>Wimmer</u>		<u>George F. Jacob</u> <u>Phillip</u>		<input checked="" type="checkbox"/>	
		<u>George F. Jacob</u> <u>Wason</u>		<input checked="" type="checkbox"/>	

Mike Havane EP Meehan
 CHAIRMAN'S SIGNATURE
 MACKAY

STATE OF ALASKA
1991 LEGISLATIVE SESSION

NO. _____

Version: SB 92

(b) Publish Date: 3/27/91

Revision Date: _____

Department Affected: Commerce/Econ Dev.

Title: An Act relating to the lending authority and loans of CFAB

BRU: Banking, Securities & Corporations

Sponsor: Sen. Zharoff

Component: Banking & Securities

Requestor: _____

COMPONENT SERIAL NO.

1	2	3	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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
REVENUE	0	0	0	0	0	0

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						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521
 Division: Banking, Securities & Corporations Date: 3/26/91
 Approved by Commissioner: Glenn A. Olds Asst Comm
 Agency: Department of Commerce & Economic Development Date: 3-26-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 2
Bill Version: CSSB 92 (FIN)

Revision Date: 3/13/91
Title: Loans Secured by Limited
Entry Permits

Department Affected: F (S) Publish Date: 5/13/91
BRU: Commercial Fisheries
Component: Commercial Fisheries

Sponsor: Sen. Zharoff
Requestor: Governor

COMPONENT SERIAL NO.

	4	5	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Bob Clasby Phone: 465-4210

Division: Commercial Fisheries Date: 3/13/90

Approved by Commissioner: RON SEMMILLER Agency: ADF&G Date: 3/25/91

Distribution (by preparer): Let Changes in CSSB 92 have no fiscal impact. This fiscal note is appropriate. Investor, OMB, & Impacted Agency(ies).

CS FOR SENATE BILL NO. 92 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/13/91
Referred: Rules

Sponsor(s): SENATORS ZHAROFF, Sturgulewski, Hoffman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the lending authority and loans of the Commercial Fishing and
2 Agriculture Bank and to the use of limited entry permits as security for those loans; and
3 providing for an effective date."

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

5 * Section 1. AS 16.43.150(g) is amended to read:

6 (g) Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.210, 44.81.225, and
7 44.81.230 - 44.81.250, an entry permit may not be

8 (1) pledged, mortgaged, leased, or encumbered in any way;

9 (2) transferred with any retained right of repossession or foreclosure, or on any
10 condition requiring a subsequent transfer; or

11 (3) attached, distrained, or sold on execution of judgment or under any other
12 process or order of any court.

13 * Sec. 2. AS 44.81 is amended by adding a new section to read:

14 Sec. 44.81.225. SMALL LOANS. (a) To facilitate the development of commercial

1 fisheries in geographic areas in which factors such as geographic considerations, uncertainties of
2 communication, or limited demands do not encourage normal lending activities, the bank may
3 make small loans to qualified borrowers who are not members of the bank.

4 (b) The provisions of this chapter apply to loans authorized by this section except that

5 (1) the borrower is not required to be a member of the bank at the time the loan
6 is approved; and

7 (2) the principal amount of the portion of the loan made by the bank may not
8 exceed \$25,000.

9 (c) The total amount of money that may be loaned under this section may not exceed
10 eight percent of the total capital of the bank.

11 (d) To service loans made under this section, the bank may contract or make other
12 arrangements with a public agency or with a legal entity that the bank determines to be
13 responsible and competent to administer the loan.

14 * Sec. 3. AS 44.81.230(a) is amended to read:

15 (a) A loan under AS 44.81.210(a)(20) or 44.81.225 for the purchase of a limited entry
16 permit may be made only upon certification by the commission that the fisherman is a person
17 who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted by the
18 commission.

19 * Sec. 4. AS 44.81.230(b) is amended to read:

20 (b) Upon approval by the bank, a [THE] permit [TO BE PURCHASED] may be pledged
21 as security for a loan made under (a) of this section, AS 44.81.225, or 44.81.235 [,] if

22 (1) the certificate for the pledged permit lists the bank as the legal owner of the
23 permit;

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

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

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

30 (5) co-signers or other sureties for performance under the note are not vested with
31 any rights in the pledged permit and their obligation is limited to satisfaction of the note and

1 payment of costs directly incurred by the bank in administering the loan.

2 * Sec. 5. AS 44.81.230(f) is amended to read:

3 (f) In anticipation of possible foreclosure on an entry permit under AS 44.81.250, the
4 debtor may nominate a person to assume a note for a loan made [GIVEN] under
5 AS 44.81.210(a)(20), 44.81.225, or 44.81.235. If the person nominated qualifies under (a) of this
6 section at the time of the foreclosure, the person may assume all rights and liabilities of the
7 debtor in the event the bank forecloses on the entry permit.

8 * Sec. 6. AS 44.81.250(d) is amended to read:

9 (d) Nothing in this section affects the right of the bank to institute legal action for a
10 deficiency resulting from a default on a note for a loan made [GIVEN] under
11 AS 44.81.210(a)(20), 44.81.225, [OR] 44.81.230, or 44.81.235. In addition to any deficiency,
12 the debtor is liable for the costs of administering the note and for costs and attorney fees.

13 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

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

DURING SESSION:


P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 485-3473 • 485-3474

DISTRICT N

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

MEMORANDUM

TO: Representative Mike Navarre
Co-Chair
Representative Eileen MacLean
Co-Chair
House Finance Committee

FROM: Senator Fred F. Zharoff 

DATE: May 15, 1991

RE: CS For Senate Bill 92 (Finance) - "An Act relating to the lending authority and loans of the Commercial Fishing and Agriculture Bank and to the use of limited entry permits as security for those loans; and providing for an effective date."

CSSB 92 is the Senate companion bill and an identical version of CSHB 111. CSHB 111 -- introduced by Rep. Mike Navarre -- moved out of the House Finance Committee on May 10 and is now in the House Rules Committee.

CSSB 92 has a zero fiscal note.

Both CSSB 92 and CSHB 111 would allow the Alaska Commercial Fishing and Agriculture Bank (CFAB) to develop a small loan program specifically targeted at rural commercial fishermen.

CFAB is a cooperative lending institution that was created by the Alaska Legislature in 1978 to serve Alaska's commercial fishing and agriculture industries. In recently evaluating CFAB's effectiveness, the officers concluded the institution was not doing as good a job as it could in Western Alaska and the Arctic-Yukon-Kuskokwim area. The commercial fishermen in these regions generally are engaged in relatively low income fisheries in which a relatively small capital investment is required for participation.

Financing for these fisheries operations, in general, has been difficult to obtain because of the regions' remoteness (all business must be transacted by phone or mail), language difficulties, less exposure to financial systems and institutions, the fishermen's lack of alternate income, and the annual fluctuations in salmon returns and income.

To serve these people, CFAB plans to start a program for small loans of less than \$25,000. CFAB envisions establishing relationships with rural businesses and agencies (village corporations, Native associations, etc.) for originating and servicing these small loans.

CFAB could set up the program for small loans without legislation. The program is included in the bill so the legislature will have a full understanding of what is being proposed. The operative change CFAB requires in statute to go forward with its plans is in (b)(1) of Section 1, an exemption from CFAB's membership requirement.

As a cooperative, CFAB requires its borrowers to become members/owners. This involves the purchase of capital stock, extensive documentation, and a recordkeeping/communication burden. The administrative requirements are complicated and costly for both CFAB and its borrowers, and an impediment to small loans.

Through CSSB 92, CFAB is requesting the legislature to make the small loans program more feasible -- both for CFAB and the borrowers -- by granting a membership exemption under the limited circumstances proposed in the bill.

CSSB 92 also makes clarifying changes in CFAB's existing statute by confirming that using permits for collateral, nominating another person to assume a note, and instituting legal action to recover deficiencies applies to CFAB loans for fishing-related needs as well as loans for the purchase of entry permits.

CSSB 92 passed the Senate 18-0 on May 14.

The following backup information is attached:

1. Sectional analysis.
2. Position paper and zero fiscal note from the Department of Commerce and Economic Development.
3. Zero fiscal note from the Department of Fish and Game.
4. Letter of support from the Community Enterprise Development Corporation of Alaska.
5. Information sheet about CFAB.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

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DURING SESSION:
P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

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

SECTIONAL ANALYSIS

CS FOR SENATE BILL 92 (Finance)

"An Act relating to the lending authority and loans of the Commercial Fishing and Agriculture Bank and to the use of limited entry permits as security for those loans; and providing for an effective date."

SECTION 1

Amends 16.43.150(g) (Entry permit requirements) to add the new statute created by this bill -- 44.81.225 -- to the list of statutes that are exempted from the prohibition on using entry permits as collateral. CFAB already has this exemption in 44.81.230 - 44.81.250. This is a technical change.

SECTION 2

Adds a new section to statutes, AS 44.81.225, authorizing the Alaska Commercial Fishing and Agriculture Bank (CFAB) to make small loans to qualified borrowers who are not bank members.

- (a) Explains the reason for the program.
- (b)(1) Allows the small loan borrower to be exempt from the CFAB membership requirement.
- (b)(2) Limits the amount that may be loaned to each borrower under this program to no more than \$25,000.
- (c) Limits the total amount of money that may be used for small loans to no more than eight percent of CFAB's total capital. CFAB's capital is presently about \$37 million, so the amount available for small loans at the present time would not exceed \$2,960,000.
- (d) Allows CFAB to contract with a public agency or legal entity to service small loans.

SECTION 3

Amends 44.81.230(a) to include a reference to 41.81.225. 44.81.230(a) is an existing requirement for the Commercial Fisheries Entry Commission to certify that a fisherman who borrows for the purchase of a limited entry permit qualifies

as a permit transferee under the limited entry statutes and regulations.

SECTION 4

Amends 44.81.230(b) -- which lists the requirements for pledging an entry permit as collateral for a loan -- to include a reference to 44.81.225. Also, by including a reference to 44.81.235, confirms that a permit lien can apply to loans made for fishing-related needs other than the purchase of limited entry permits.

SECTION 5

Amends 44.81.230(f) -- which allows a loan debtor to avoid foreclosure on an entry permit by nominating another person to assume the note -- to include a reference to 44.81.225. Also, by including a reference to 44.81.235, confirms that this method of avoiding foreclosure is applicable to CFAB loans for other fishing-related needs.

SECTION 6

Amends 44.81.250(d) -- which allows CFAB to institute legal action to recover deficiencies -- to include a reference to 44.81.225, thereby extending this section to cover the small loans program. Also, by including a reference to 44.81.235, confirms this section applies to loans for other fishing-related needs.

SECTION 7

Immediate effective date.

What is CFAB?

Alaska Commercial Fishing and Agriculture Bank (CFAB) began operations in 1980. Its sole mission is to provide financing of all kinds to the commercial fishing industry and the agriculture industry (including timber) in Alaska.

What kinds of loans and repayment programs are available from CFAB?

CFAB can make loans for almost any fishing-related or farming-related purpose. The most common purposes are the purchase, modification, or refinancing of a vessel; purchase of a limited entry permit; gear, engine, or equipment replacement or upgrade; general operating capital; and fish processing, etc. There are no "standard" repayment terms or programs — we work with each applicant to determine a repayment schedule appropriate to that particular loan transaction.

Who may borrow from CFAB?

In order to be eligible for consideration as a CFAB borrower, an applicant must be commercially involved in one of the industries mentioned earlier. An individual applicant must be a bona fide Alaska resident. A partnership must be comprised of Alaska residents. If the applicant is a corporation, the majority ownership and control must rest with Alaskans. There are some exceptions to the latter rule for companies which are involved in shorebased fish processing.

Eligibility, however, is only a first step. To obtain a CFAB loan, an applicant must be found by CFAB to be capable and creditworthy within the context of the specific loan request. The standards used by CFAB are essentially the same as those of any responsible lender. However, CFAB's specialized purposes, and the experience we have gained, may permit us to consider a broader range of applicants than do most other lenders.

Who owns CFAB?

CFAB is a cooperative. This means that each borrower becomes an owner through a modest purchase of CFAB stock when a loan is made. The State of Alaska is also an owner. CFAB was established by a special Alaska statute, and the State made an initial investment of "seed money" — that money is expected to be returned to the State as borrowers' ownership grows.

Does that mean the State operates CFAB?

CFAB's statute provides for it to be operated as a private cooperative rather than as a State agency. Its basic policies and directions are established by a seven-person Board of Directors, which hires professional management and staff to operate the business. Five of the Directors must be borrower-owners of CFAB and are elected by the total borrower-ownership. The other two Directors are appointed by the Governor of Alaska. All Directors' terms are for three years. CFAB holds an ownership meeting each year - borrower-owners have the opportunity to vote on important matters, to receive reports from Directors and management, and to elect Directors. The State's stock is non-voting, although CFAB provides periodic reports to State officials.

Where does CFAB get its money to loan?

CFAB is not limited as to its source of funds. Since its inception, CFAB has borrowed funds for re-lending from the Federal Farm Credit System.

What is CFAB's interest rate and how is it set?

Although CFAB occasionally makes fixed rate loans, the vast majority of its loans are on a variable rate basis. That is, the rate will change — up or down — as CFAB's costs change. There is no single initial rate — the initial rate is based on the kind of loan involved. Most important, we use a procedure to objectively analyze the credit-worthiness of each individual applicant, which permits us to offer the most favorable interest rates to the most desirable risks. CFAB's interest rates overall are set to provide sufficient income to pay its own interest costs and operating expenses and to provide a small margin. Since CFAB is a cooperative, any margin which is actually produced is either returned to the borrower-owners or otherwise used to their benefit.

— EXCERPTED FROM A CFAB BROCHURE. —