

HB

284

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/19/96

DATE TURNED INTO OFFICE: 5-4-96

The Finance Committee considered CS FOR HOUSE BILL NO. 284(FIN)

Relating to the Alaska Commercial Fishing and Agriculture Bank.

and recommends:

- be replaced with 5 CS CS HB 284 (FIN)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
		<i>[Signature]</i>	<input checked="" type="checkbox"/>		
Co-Chair: <i>[Signature]</i>		Co-Chair:			
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
#3 DF+G	3/8/96	0	
#5 DOR Treasury	3/18/96	0	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Revision Date: March 18, 1996 Dept. Affected: Revenue
Title: An Act relating to the Alaska Commercial Fishing and Agriculture Bank (CFAB) BRU: Revenue Operations
Component: Treasury Division
Sponsor: House Special Committee on Fisheries
Requestor: Finance COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES:						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (CFAB)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Betty Martin, Comptroller *Betty Martin* Phone: 465-2350
Division: Treasury Date: March 18, 1996
Approved by Commissioner: Wilson L. Condon, Commissioner *W. Condon* Date: March 18, 1996
Agency: Department of Revenue

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Revision Date: March 8, 1996 Dept. Affected: Revenue
 Title: An Act relating to the Alaska Commercial Fishing and Agriculture Bank (CFAB) BRU: Revenue Operations
 Sponsor: House Special Committee on Fisheries Component: Treasury Division
 Requestor: Finance COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (CFAB)		-1,000.0				

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

CFAB is currently repurchasing non-voting, preferred shares of stock originally sold to the State in 1980 for \$32 million. The repurchase, which is required to be complete by the year 2000, is currently scheduled to be completed by FY 1998. The effect of this bill, which establishes a \$1 million minimum level of capital at the bank, will be to reduce the total final payment to the State by \$1 million.

Prepared by: Betty Martin, Comptroller *Betty Martin* Phone: 465-2350
 Division: Treasury Date: 3/8/96
 Approved by Commissioner: Wilson L. Condon, Commissioner *Wilson L. Condon* Date: 3/8/96
 Agency: Department of Revenue

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

REPORTED OUT OF
5/4/96

No. 3
Bill Version: CSHB 284(FIN)
(H) Publish Date: 3/18/96

Revision Date: 3/3/96 Dept. Affected: Fish and Game
Title: An Act relating to the Commercial Fishing and Aquaculture Bank BRU: Commercial Fisheries (Limited) Entry Commission
Sponsor: House Special Committee on Fisheries Component: Limited Entry Program Administration
Requester: House Finance Committee COMPONENT SERIAL NO. 9471

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1.0	0.0	1.0	1.0	1.0	1.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
002 Federal Receipts						
003 GF Match						
004 GF						
005 GF/Program Receipts	1.0	0.0	1.0	1.0	1.0	1.0
006 GF/MHTIA						
Other						
TOTAL	1.0	0.0	1.0	1.0	1.0	1.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
House Bill 284 is a housekeeping bill which streamlines, clarifies and improves many of the operations of CFAB and is not expected to have a fiscal impact on this agency.

Prepared By: Roger Kolden Phone: 789-6160
Agency: Commercial Fisheries (Limited) Entry Commission Date: 3/8/96
Approved by Commissioner: Frank Houston Date: 3/8/96
Agency: Commercial Fisheries (Limited) Entry Commission

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COMMITTEE COPY

MEMORANDUM

TO: Legal Services

FROM: Kathy
Senate Finance Committee

DATE: May 4, 1996

RE: Final SCS CSHB 284 (Fin)

Using CSHB 284 (Fin) (9-LS0584\K) as the base, please prepare a final SCS CSHB 284 (Fin) incorporating the following changes and attached amendments and return the final to Room 520, Capitol Building:

Page 4, Line 30

Delete: "chronically and irredeemably"
Insert: "chronic"

Page 4, Line 31

Delete: "may"
Insert: "shall"

Page 4, Line 31 and Page 5, Line 1

Delete: "by affirmative vote of a majority of the members of the board"

Page 17, Line 31

Delete: "on or"

(Two pages of amendments follow. Please call either Jerry or Kathy (465-2618) if you have questions. We probably won't be able to answer, but we'll try to help.)

Sen Zharoff moved
w/o objection,
adopted

adopted N/O

AMENDMENT #1

Amend #3

OFFERED IN THE HOUSE

BY REPRESENTATIVE AUSTERMAN

TO: HB 284

1 Page 3, line 31, following "purpose":

2 Insert "In the exercise of its powers under AS 44.81.215(7), the bank is acting as
3 an agent under the express authority and reservations of the state as the issuer of
4 limited entry permits under AS 16.43."

5 Page 4, lines 8 - 9:

6 Delete "If the cumulative value of the shares [SHARES]"

7 Insert "Shares"

8 Page 4, lines 9 - 10:

9 Delete "exceeds \$1,000,000. the shares representing the excess"

10 Page 4, line 11:

11 Delete "representing the excess"

12 Page 4, line 14:

13 Delete "representing the excess"

5/4/96
② moved
Failed

AMENDMENT #4

TO: CS HB 284 (Fin)

BY: Sen. Zharoff

Page 11, line 15:

Add new subsections to read:

~~"(5) the payment of obligations incurred in the support of a borrower and the persons who are dependent upon that borrower if the majority of the borrower's earned income is derived through commercial fishing under the borrower's permit;~~

~~(6) the enhancement of the productivity or diversification of the commercial fishing activities of a borrower;~~

(7) the payment of obligations whose status places the permit of a borrower in jeopardy ^{of} attachment, distraint, or sale on execution of judgment or under a process or order of a court;"

Amend # ⑤

② moved just (7) withdrawn

RH
Suggested rewording

② moved

as Amend # ⑥

Adopted only subsec. (7) as reworded.

Renumber subsections accordingly.

503 - CS FOR HOUSE BILL NO. 284(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/18/96

Referred: Rules

Sponsor(s): HOUSE SPECIAL COMMITTEE ON FISHERIES

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Commercial Fishing and Agriculture Bank."

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

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

4 (g) Except as provided in AS 16.10.333 - 16.10.338, AS 44.81.215
5 [AS 44.81.210], 44.81.225, and 44.81.231 - 44.81.250 [44.81.230 - 44.81.250], an
6 entry permit may not be

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

8 (2) transferred with any retained right of repossession or foreclosure,
9 or on any condition requiring a subsequent transfer; or10 (3) attached, distrained, or sold on execution of judgment or under any
11 other process or order of any court, except as provided in AS 16.43.170(g) and (h).

12 * Sec. 2. AS 16.43.150(h) is amended to read:

13 (h) Unless an entry permit holder has expressed a contrary intent in a will that
14 is probated, the commission shall, upon the death of the permit holder, transfer the
15 permanent permit by right of survivorship directly to the surviving spouse or, if no

1 spouse survives, to a natural person designated by the permit holder on a form
2 provided by the commission. If no spouse survives and if the person designated on
3 the form, if any, does not survive, the permit passes as part of the permit holder's
4 estate. A designation under this subsection must be acknowledged before a person
5 authorized to administer an oath under AS 09.63.010 or must be witnessed by two
6 persons who are qualified under AS 13.11.170 to witness the will of the permit holder.
7 Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.215 [AS 44.81.210], and
8 44.81.231 - 44.81.250 [44.81.230 - 44.81.250], the permit is exempt from the claims
9 of creditors of the estate.

10 * Sec. 3. AS 16.43.170(a) is amended to read:

11 (a) Except as provided in AS 16.10.333 - 16.10.338 and in AS 44.81.231 -
12 44.81.250 [AS 44.81.230 - 44.81.250], entry permits and interim-use permits are
13 transferable only through the commission as provided in this section and AS 16.43.180
14 and under regulations adopted by the commission. An involuntary transfer of an entry
15 permit in a manner inconsistent with the statutes of this state and the regulations of the
16 commission is void.

17 * Sec. 4. AS 16.43.170(b) is amended to read:

18 (b) Except as provided in (c) and (e) of this section, the holder of an entry
19 permit may transfer the permit to another person or to the commission upon 60 days
20 notice of intent to transfer under regulations adopted by the commission. No sooner
21 than 60 days nor later than 12 months from the date of notice to the commission, the
22 holder of an entry permit may transfer the permit. If the proposed transferee, other
23 than the commission, can demonstrate the present ability to participate actively in the
24 fishery and the transfer does not violate any provision of this chapter or regulations
25 adopted under it, and if a certificate for the permit under AS 16.10.333(b)(1) - (2),
26 16.10.338, or AS 44.81.231(a) [AS 44.81.230(b)(1) - (2)] is not in effect, the
27 commission shall approve the transfer and reissue the entry permit to the transferee
28 provided that neither party is prohibited by law from participating in the transfer.

29 * Sec. 5. AS 16.43.170(g) is amended to read:

30 (g) A person may request the commission to transfer an entry permit due to
31 an execution on the holder's interest in that permit. The request shall be made in the

1 form and manner provided in this chapter and regulations adopted under this chapter.
2 The commission may deny a request for transfer of an entry permit due to an
3 execution of a holder's interest in that permit if

4 (1) the execution does not comply with legal requirements or otherwise
5 is not valid;

6 (2) the transfer violates this chapter or regulations adopted under this
7 chapter;

8 (3) the proposed transferee or other party to the transfer is prohibited
9 by law from participating in the transaction;

10 (4) a certificate for the permit under AS 16.10.333(b)(1) - (2),
11 16.10.338, or AS 44.81.231(a) [AS 44.81.230(b)(1) - (2)] is in effect at the time of
12 the proposed transfer;

13 (5) the proposed transferee of the entry permit, other than the
14 commission, cannot demonstrate the present ability to actively participate in the
15 fishery; or

16 (6) the holder of the entry permit as shown by the records of the
17 commission demonstrates, under regulations adopted by the commission, that the entry
18 permit is a necessary means of support for the holder and those dependent upon the
19 holder.

20 * Sec. 6. AS 16.43.960(i) is amended to read:

21 (i) An entry permit revoked by the commission under this section that is
22 pledged as security for a loan under AS 16.10.333 or AS 44.81.231 [AS 44.81.230]
23 shall be reassigned or sold as provided in AS 16.10.337 or AS 44.81.250.

24 * Sec. 7. AS 16.43.970(f) is amended to read:

25 (f) An entry permit forfeited under this section that is taken as security for a
26 loan under AS 16.10.333 or AS 44.81.231 [AS 44.81.230] shall be reassigned as
27 provided in AS 16.10.337 or AS 44.81.250.

28 * Sec. 8. AS 44.81.010(a) is amended to read:

29 (a) There is established the Alaska Commercial Fishing and Agriculture Bank.
30 The exercise by the bank of the powers conferred by this chapter is considered to be
31 for a public purpose. The bank is exempt from the provisions of AS 06.05 (Alaska

1 Banking Code) and AS 10.15 (Alaska Cooperative Corporation Act) in its structure
2 and operations and in the exercise of powers granted by this chapter.

3 * Sec. 9. AS 44.81.010(b) is amended to read:

4 (b) For the purpose of acquiring and accumulating capital [THE FUNDING]
5 of the bank [BANK'S OPERATIONS], the board [OF DIRECTORS] may issue
6 nonvoting, preferred shares of stock in the bank and determine the value of each share.
7 The state, through the Department of Revenue [APPROPRIATE AGENCIES], may
8 purchase the nonvoting, preferred shares issued by the bank. If the cumulative value
9 of the shares [SHARES] purchased by the state exceeds \$1,000,000, the shares
10 representing the excess shall be repurchased by the bank within 20 years after their
11 purchase. If the bank fails to repurchase the shares representing the excess within
12 20 years after their purchase by the state, the commissioner of commerce and
13 economic development may appoint a receiver to direct, manage, and operate
14 [DISSOLVE] the bank until the shares representing the excess have been
15 repurchased. Upon voluntary or involuntary liquidation of the bank, and upon
16 repayment of all legal debts and obligations of the bank, all shares of nonvoting,
17 preferred stock owned by the state have priority for redemption over all other
18 forms and amounts of ownership of the bank.

19 * Sec. 10. AS 44.81.020 is repealed and reenacted to read:

20 Sec. 44.81.020. BOARD OF DIRECTORS. (a) The bank shall be governed
21 by a board of directors consisting of seven to nine natural persons. The number is
22 determined by the bank's bylaws. Two board members shall be appointed by the
23 governor of the state. The other board members shall be elected by the members of
24 the bank as provided in the bank's bylaws, except that at least one of the elected board
25 members must be a resident farmer.

26 (b) The members of the board shall serve for terms of three years and may
27 serve successive terms. Terms must be staggered. A member of the board who
28 releases confidential information in violation of AS 44.81.260, commits serious ethical
29 misconduct that relates to the member's fitness to serve as a member of the board, or
30 maintains a ^{chronic} ~~chronically~~ and ~~irredeemably~~ substandard borrowing relationship with the
31 bank ^{shall be} ~~may be~~ removed from the board, ~~by affirmative vote of a majority of the~~

Amend¹ (a) w/o objection adopted
Amend² (b) 31

Failed
yea { Rieger
Sharp } no
no { Zahoff
Phillips } yea { Helford
Sharp
Donelson
nease }

CSHB 284(FIN)
rescinded w/o objection
revoted by Sharp
adopted

1 ~~members of the board:~~

2 (c) A majority of the members of the board constitutes a quorum for the
3 transaction of business and the exercise of the powers and duties of the board.

4 (d) A member of the board may not vote on a transaction of the bank under
5 this chapter if the member is a party to the transaction.

6 (e) The members of the board shall annually elect from among themselves a
7 chair and vice-chair and other board officers as may be provided in the bank's bylaws.

8 (f) Members of the board shall receive compensation not to exceed \$250 for
9 each day of a board meeting if they attend the meeting. Directors may also receive
10 compensation for personal time and efforts expended to further the bank's interests or
11 business other than on meeting days as may be determined by the chair under the
12 bank's bylaws.

13 * Sec. 11. AS 44.81 is amended by adding a new section to read:

14 Sec. 44.81.031. OFFICERS AND EMPLOYEES. (a) The board shall employ
15 a president. The president may not be a member of the board and serves at the
16 pleasure of the board. The president is the chief executive officer of the bank.

17 (b) The board shall appoint those officers of the bank that are provided for in
18 the bank's bylaws and as the board determines to be necessary for the effective
19 operations of the bank. An executive, operating, administrative, or other salaried
20 officer of the bank may not be a member of the board.

21 (c) The president may hire employees of the bank as may be determined
22 necessary for the efficient performance of the functions of the bank. The board shall
23 approve the compensation of the employees. Employees of the bank are not
24 employees of the state and are not considered to be employees of a public organization
25 for the purposes of AS 39.35.

26 * Sec. 12. AS 44.81 is amended by adding a new section to read:

27 Sec. 44.81.041. STRUCTURE AND MEMBERSHIP OF THE BANK. (a)
28 The bank shall be structured and operated as a cooperative corporation.

29 (b) The board shall issue shares of membership stock in the bank in the
30 amounts and with the value determined by the board and stated in the articles of
31 incorporation. The membership stock may be issued under this chapter and under the

1 bylaws of the bank to persons determined to be eligible to transact business with the
2 bank.

3 (c) The board may establish one or more mechanisms by which persons or
4 entities, or classes of persons or entities, who transact business with the bank are
5 required to provide or establish capital ownership in the bank. The mechanisms may
6 include the issuance of capital stock or other equity instruments or the allocation or
7 retention of net proceeds from the operations of the bank. The mechanisms shall be
8 established and imposed in a manner that the board determines equitably reflects the
9 nature and amount of business transacted with the bank.

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

11 Sec. 44.81.051. BYLAWS. The board may adopt bylaws for the bank for the
12 regulation and management of the affairs of the bank, and may alter, amend, or repeal
13 them. The bylaws shall be consistent with this chapter and other laws that apply to
14 the bank.

15 * Sec. 14. AS 44.81 is amended by adding a new section to read:

16 Sec. 44.81.061. INDEMNIFICATION OF DIRECTORS, OFFICERS, AND
17 EMPLOYEES. The bank may indemnify directors, officers, and employees, or may
18 purchase and maintain insurance on behalf of directors, officers, and employees. The
19 indemnification and the insurance purchase and maintenance shall comply with
20 AS 10.06.490.

21 * Sec. 15. AS 44.81 is amended by adding a new section to read:

22 Sec. 44.81.101. PLEDGE OF THE STATE. (a) The state pledges to and
23 agrees with any lender to the bank that the state will not limit or alter the rights and
24 powers given to the bank by this chapter to fulfill the terms of a contract made by the
25 bank with the lender to the bank, or in any way impair the rights and remedies of the
26 lender to the bank. The bank is authorized to include this pledge and agreement of the
27 state in a contract with any lender to the bank.

28 (b) The pledge of the state is limited to the express provisions of (a) of this
29 section and is not a guarantee, surety, promise, undertaking, or assurance of repayment
30 or performance of any obligation of the bank.

31 * Sec. 16. AS 44.81.200 is amended to read:

1 Sec. 44.81.200. REPORTS AND PUBLICATIONS. The board [OF
2 DIRECTORS] shall publish an annual report to the bank's members. The report shall
3 be made available to the governor, the legislature, and the public. The report
4 [AND] must include financial statements audited by independent outside auditors, a
5 discussion [STATEMENT] of the bank's circumstances and operations
6 [INVESTMENTS, A DESCRIPTION OF THE BANK'S LOAN ACTIVITY] during
7 the period covered by the report [, AN ANALYSIS OF ECONOMIC AND OTHER
8 EFFECTS OF LOAN DECISIONS ON THE STATE'S COMMERCIAL FISHING
9 AND AGRICULTURE INDUSTRIES], and any other information that the board
10 believes would be of interest to the governor, the legislature, and the public, or that
11 the legislature requests the board to include. The board may [ALSO] publish other
12 reports considered appropriate [IT CONSIDERS DESIRABLE] to [CARRY OUT]
13 its purposes.

14 * Sec. 17. AS 44.81.210 is repealed and reenacted to read:

15 Sec. 44.81.210. GENERAL POWERS OF THE BANK. The bank may

- 16 (1) adopt, alter, and use a corporate seal;
- 17 (2) sue and be sued in the name of the bank;
- 18 (3) appoint officers, employees, trustees for certificate holders, and
19 agents, and establish their powers and duties;
- 20 (4) provide technical services to members of the bank; in this
21 paragraph, "technical services" includes services that will enhance the ability of a
22 member to obtain financial assistance from the bank;
- 23 (5) participate with state departments and agencies in formulating
24 policy and in planning for the development of commercial fishing and agriculture in
25 the state;
- 26 (6) engage in programs to support the efforts of resident fishers or
27 farmers in order to enhance the further development, efficiency, stability, or
28 profitability of commercial fishing or agriculture in the state;
- 29 (7) make contracts and execute instruments necessary to or convenient
30 for the exercise of its corporate powers;
- 31 (8) issue bonds to carry out its corporate purposes and powers;

1 (9) borrow money and issue secured and unsecured evidence of
2 indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding
3 obligations, and enter into agreements and contracts relating to these obligations;

4 (10) secure the payment of its obligations by pledge, mortgage, or other
5 lien on its contracts, revenue, income, or property;

6 (11) incur secondary liability by guaranty or endorsement of the
7 obligations of a person, except for natural persons, when, in the judgment of the board,
8 the action furthers the bank's corporate purposes;

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

12 (13) sell, lease as lessor or lessee, exchange, donate, convey, or
13 encumber in any manner by mortgage or by creation of another security interest, real
14 or personal property owned by it, or in which it has an interest, when, in the judgment
15 of the board, the action furthers its corporate purposes;

16 (14) establish wholly-owned or majority-owned subsidiary corporations
17 or limited liability companies to acquire, hold, operate, maintain, or liquidate property
18 received by the bank in a foreclosure action or other loan collection process or to
19 provide services to resident fishers or farmers, or other persons, if the services are
20 consistent with the corporate purposes and powers expressed in this chapter;

21 (15) acquire equity or other ownership interest in a domestic
22 corporation or limited liability company if the purpose of the acquisition is to enhance
23 the further development, efficiency, stability, or profitability of commercial fishing or
24 agriculture in the state;

25 (16) enter into agreements with public or private lenders or other
26 entities, or with state agencies or agencies of the federal government, to carry out the
27 purposes of this chapter;

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

30 * Sec. 18. AS 44.81 is amended by adding a new section to read:

31 Sec. 44.81.215. LENDING POWERS OF THE BANK. The bank may

1 (1) make loans to individuals, including married couples, who are
2 residents of the state and who are engaged in commercial agriculture or fishing,
3 including harvesters, processors, suppliers, and marketers, if at least one of the primary
4 obligors on the loan is a member of the bank;

5 (2) make loans to corporations, partnerships, or limited liability
6 companies engaged in commercial agriculture or fishing if the majority interest of the
7 corporation, partnership, or limited liability company is beneficially owned by residents
8 of the state and a majority of the owners are residents of the state, and if at least one
9 of the primary obligors on a loan is a member of the bank; however, the bank may not
10 make a loan under this paragraph to a corporation, partnership, or limited liability
11 company for the purchase of a new or existing fishing boat or for the repair or
12 renovation of an existing fishing boat if the primary purpose of the fishing boat is to
13 commercially harvest fishery resources, unless the corporation, partnership, or limited
14 liability company is wholly owned and controlled by residents of the state, and unless
15 at least one of the primary obligors on the loan is a member of the bank;

16 (3) make loans for limited entry permits to individuals who fish
17 commercially if the individual is a state resident; loans made under this paragraph are
18 subject to AS 44.81.231;

19 (4) make a loan for capital investment or operating capital to a
20 shore-based fish processor, a timber processor, or an agricultural processor or harvester
21 who does not meet the resident ownership requirements of (1) or (2) of this section if
22 a facility of the processor or harvester is located in the state and the majority interest
23 in the processor or harvester is beneficially owned by residents of the United States;

24 (5) make a loan to a person, regardless of residency, if the board
25 determines that the loan is necessary to preserve the value of property held by the bank
26 as security for a loan that was made under AS 44.81.210 or this section and that is in
27 default;

28 (6) make loans, as provided in (1), (2), or (4) of this section, that are
29 secured by liens subordinate to valid first liens and security agreements granted to
30 another creditor;

31 (7) accept the pledge of a limited entry permit as security for a loan

1 made under this chapter subject to the conditions set out in AS 44.81.236 on pledges
2 of limited entry permits;

3 (8) make loans in participation with other lenders as provided in (1),
4 (2), or (4) of this section, whether or not an obligor is a member of the bank;

5 (9) purchase or acquire participations in loans from other lenders if the
6 participations conform to the provisions of (1), (2), or (4) of this section, whether or
7 not an obligor is a member of the bank;

8 (10) issue certificates of loan participation to members and to other
9 individuals, corporations, partnerships, and limited liability companies, but the bank
10 may not issue a certificate of loan participation if the certificate would allow
11 participation by the member, individual, corporation, partnership, or limited liability
12 company in loans that individually or cumulatively involve more than 20 percent of
13 the commercial fishery entry permits issued for one type of gear in a specific fishery
14 resource administrative area.

15 * Sec. 19. AS 44.81 is amended by adding a new section to read:

16 Sec. 44.81.231. PLEDGE OF PERMITS. (a) A limited entry permit issued
17 under AS 16.43 may be pledged by the holder as security for a loan authorized under
18 AS 44.81.236 if the certificate for the pledged permit lists the bank as the legal owner
19 of the permit and the pledger as the equitable owner of the permit.

20 (b) Annual permit cards issued under the pledged permit must be in the name
21 of the equitable owner who shall be responsible for compliance with the laws that
22 govern the permit as if the equitable owner were the holder of the permit.

23 (c) Co-borrowers or guarantors on a loan secured by one or more pledged
24 permits do not have a right in the pledged permit of the equitable owner, whether by
25 subrogation or other manner.

26 (d) Upon payment of the loan, the bank shall certify to the Commercial
27 Fisheries Entry Commission that the loan has been repaid, and the commission shall
28 amend the permit certificate to list the equitable owner as the holder, and the legal
29 interest of the bank shall terminate.

30 (e) In anticipation of a possible foreclosure under AS 44.81.241 - 44.81.250,
31 the equitable owner of a permit that is pledged as security for the loan may nominate

1 a person to whom the permit may be transferred if the pledge is foreclosed under
2 AS 44.81.245.

3 * Sec. 20. AS 44.81 is amended by adding a new section to read:

4 Sec. 44.81.236. LIMITATIONS ON THE PLEDGE OF PERMITS. A loan
5 may not be secured by the pledge of a limited entry permit unless the proceeds of the
6 loan are used for

7 (1) the purchase of a permit;

8 (2) the purchase or lease of quota shares, individual fishing quotas, or
9 another license, permit, or other grant of commercial fisheries harvesting entitlements
10 that is issued and regulated under state or federal law;

11 (3) the purchase, construction, maintenance, repair, or improvement of
12 commercial fishing boats, sites, gear, or equipment;

13 (4) working capital, including insurance premiums, supplies, food, fuel,
14 bait, boat storage, and boat launching;

15 (5) the purchase of the bank's stock or other equity instruments and
16 loan costs; or

17 (6) refinancing of debts incurred for a purpose listed in (1) - (5) of this
18 section.

19 * Sec. 21. AS 44.81 is amended by adding new sections to read:

20 Sec. 44.81.241. INITIAL NOTICE OF DEFAULT. If there is a default on a
21 loan secured by a permit pledged under AS 44.81.231, the bank shall notify the
22 borrowers and guarantors on the loan of the default and of the right to cure the default
23 by sending a notice by certified mail to their last known address or addresses on file
24 with the bank. The notice must include

25 (1) the date of the notice;

26 (2) a description of the security given for the loan, including the
27 number assigned by the commission and the name of the equitable owner of each
28 permit pledged to secure the loan;

29 (3) the date and nature of the default;

30 (4) the amount of arrearages as of the date of the notice;

31 (5) the total indebtedness, including interest, penalties, and costs of

1 collection, remaining owing on the loan as of the date of the notice;

2 (6) the amount of daily interest to accrue from the date of the notice;

3 (7) a statement that the costs of collection of the loan incurred by the
4 bank after the date of the notice will be added to the total amount of the indebtedness
5 owing on the loan;

6 (8) a statement that the default may be cured within 60 days from the
7 date of the notice or within an extended time period that is specified in an extension
8 notice provided by the bank within the 60-day period under AS 44.81.249;

9 (9) the place where payment of arrearages or other cure may be made;

10 and

11 (10) a statement in at least 10 point bold type stating:

12 "IMPORTANT: UNLESS YOU CURE THE LOAN DEFAULT
13 WITHIN THE TIME SPECIFIED BY THIS NOTICE, THE TOTAL
14 INDEBTEDNESS OWING ON THE LOAN SHALL BE
15 IMMEDIATELY DUE AND PAYABLE TO THE BANK WITHOUT
16 FURTHER NOTICE TO YOU. ALSO, THE BANK SHALL THEN
17 BE ENTITLED TO TAKE ANY LEGAL ACTION AGAINST YOU
18 TO COLLECT THE LOAN, INCLUDING THE INSTITUTION OF
19 LAWSUITS AND THE FORECLOSURE OF THE PLEDGE OF ANY
20 PERMIT PLEDGED TO SECURE THIS LOAN."

21 Sec. 44.81.243. BANK REMEDIES AFTER FAILURE TO CURE. If the
22 borrowers and guarantors on a loan secured by a permit pledged under AS 44.81.231
23 fail to cure a default within the time stated in the notice given under AS 44.81.241,
24 the total indebtedness owing on the loan immediately becomes due and payable to the
25 bank, and the bank shall be entitled to take any legal action to collect the loan,
26 including the foreclosure under AS 44.81.245 of the permit pledge that secures the
27 loan and the institution of legal action. If the bank forecloses the permit pledge, the
28 bank may proceed in the order the bank selects, whether before, after, or concurrent
29 with other action taken to collect the loan.

30 Sec. 44.81.245. FORECLOSURE NOTICE. The bank may foreclose on a
31 permit pledge that secures a loan by sending to the equitable owner of the permit

1 pledged and any other borrowers and guarantors on the loan a notice of foreclosure.
2 The notice shall be sent by certified mail to their last known address or addresses on
3 file with the bank and must include

- 4 (1) the date of the notice;
- 5 (2) a statement that the total indebtedness owing on the loan became
6 due and payable to the bank because the loan default was not cured within the time
7 specified in the notice of default and right to cure provided under AS 44.81.241, and
8 that as a result the bank is entitled to take legal action to collect the loan, including
9 the forfeiture of a permit pledge that secures the loan and the institution of legal
10 action;
- 11 (3) a description of the permit pledge that is being foreclosed by the
12 notice, including an identification of the permit by the number assigned by the
13 commission and the name of the equitable owner;
- 14 (4) the amount of the total indebtedness owing as of the date of the
15 notice;
- 16 (5) the amount of daily interest that accrues from the date of the notice;
- 17 (6) a statement that the costs of collection of the loan incurred by the
18 bank after the date of the notice will be added to the total amount of the indebtedness
19 due on the loan;
- 20 (7) a statement that to avoid forfeiture of all rights of the equitable
21 owner of the permit identified in the notice, the loan must be paid in full within 60
22 days from the date of the notice or within an extended time period that is specified in
23 an extension notice provided by the bank within the 60-day period under
24 AS 44.81.249;
- 25 (8) a statement that once a forfeiture of all rights of the equitable owner
26 of a permit described in the notice occurs, the permit may not be redeemed;
- 27 (9) a statement of the right of the equitable owner to nominate a person
28 to assume the loan under AS 44.81.245;
- 29 (10) the place where payment in full may be made; and
30 (11) a notice in at least 10 point bold type stating:
31 "IMPORTANT: IF THE LOAN IS NOT PAID IN FULL BY THE

1 DATE SPECIFIED, ALL RIGHTS OF THE EQUITABLE OWNER TO
2 THE PERMIT IDENTIFIED IN THIS NOTICE WILL BE FORFEITED
3 WITHOUT FURTHER NOTICE TO YOU. IN THAT EVENT,
4 THERE WILL NOT BE A RIGHT OF REDEMPTION OF THE
5 PERMIT. IN ADDITION, THE BANK MAY NOW TAKE OTHER
6 ACTION TO COLLECT THE LOAN, INCLUDING THE
7 INSTITUTION OF LEGAL ACTION AGAINST YOU AND THE
8 FORECLOSURE OF OTHER PERMIT PLEDGES THAT SECURE
9 THE LOAN."

10 Sec. 44.81.247. TERMINATION OF PERMIT INTEREST. If a loan is not
11 paid in full within the time specified by the notice provided for the loan under
12 AS 44.81.245, the equitable interest in the permit identified in the notice terminates
13 by operation of law without further notice. The commission shall cancel an entry
14 permit card issued to the equitable owner of the permit immediately upon receipt by
15 the commission of a certificate of termination containing a copy of the notices required
16 by AS 44.81.241 and 44.81.245.

17 Sec. 44.81.249. CANCELLATION, EXTENSION, AND DELIVERY OF
18 NOTICES. (a) The bank may cancel a notice provided under AS 44.81.241 or
19 44.81.245 by delivering a written notice of cancellation to the persons who were given
20 the cancelled notice. The notice shall be given in the same manner as is required for
21 the cancelled notice.

22 (b) The bank may extend the 60-day period for curing a default under
23 AS 44.81.243 and the period before a forfeiture occurs under AS 44.81.247 by giving
24 a written notice of extension to the persons who were given the notice. The notice
25 shall be given in the same manner as is required for the giving of the notice being
26 extended.

27 (c) The bank may give a notice required to be provided in AS 44.81.241,
28 44.81.245, or 44.81.247 by personal delivery instead of by certified mail.

29 * Sec. 22. AS 44.81.250 is repealed and reenacted to read:

30 Sec. 44.81.250. TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE.

31 (a) Upon foreclosure of a pledge of an entry permit under AS 44.81.241 - 44.81.249,

1 the bank shall determine if the permit is subject to a buy-back program under
2 AS 16.43.290 - 16.43.330 and, if it is subject to a buy-back program, shall offer the
3 permit to the commission at a price equal to the outstanding indebtedness on the loan.

4 (b) If the permit is not subject to a buy-back program, or if the commission
5 fails to buy back the permit within 30 days after the commission receives the offer, the
6 bank shall sell the permit to a person who qualifies as a transferee of an entry permit
7 under AS 16.43 and the regulations adopted by the commission. The bank shall give
8 preference to an offer to purchase a permit made by a state resident if the price offered
9 is equal to or greater than the price offered by a nonresident. If the proceeds of the
10 sale of a permit exceed the amount necessary to pay the indebtedness in full, the bank
11 shall remit the excess to the borrower.

12 (c) At any time before foreclosure of a pledge of a permit, or within 30 days
13 following foreclosure of a pledge of a permit, the equitable owner or former equitable
14 owner may nominate a person to assume the loan. A person nominated must qualify
15 as a transferee of the permit under AS 16.43 and must qualify to assume the loan
16 under the requirements of the bank. If the person qualifies, the permit shall be
17 transferred to the nominee upon the nominee's assumption of the loan.

18 (d) This section does not affect the right of the bank to institute legal actions
19 against the borrowers, guarantors, or other sureties for performance to collect the
20 indebtedness owing on the loan and to take other legal action on the collateral securing
21 the loan.

22 * Sec. 23. AS 44.81.270 is repealed and reenacted to read:

23 Sec. 44.81.270. AUDITS AND EXAMINATIONS OF BANK. (a) The
24 legislative auditor may cause the bank to be audited in the manner and under the
25 conditions established by AS 24.20.271 for audits performed by the legislative audit
26 division. The legislative audit division has free access to all books and papers of the
27 bank that relate to the business of the bank and books and papers kept by a director,
28 officer, or employee relating to or upon which a record of the business of the bank is
29 kept. The legislative audit division may summon witnesses and administer oaths or
30 affirmations in the examination of directors, officers, or employees of the bank or
31 another person in relation to the affairs, transactions, and conditions of the bank, and

1 may require and compel the production of records, books, papers, contracts, or other
2 documents by court order if not voluntarily produced. At the direction of the legislative
3 budget and audit committee under AS 24.20.271, the legislative auditor may conduct
4 an audit of the bank.

5 (b) The legislative auditor and the auditor's employees may not disclose
6 information acquired by them in the course of an audit of the bank concerning the
7 particulars of the business or affairs of a borrower of the bank or another person,
8 unless the information is required to be disclosed by law or under a court order.

9 (c) The bank shall be audited annually by independent outside auditors. The
10 legislative auditor may confer with the outside auditors and review the work papers of
11 the audit. The board shall engage the outside auditors, who shall be responsible to the
12 board. The bank shall submit copies of each report of the outside auditors to the
13 legislative auditor within 30 days of the report by the bank.

14 (d) The state bank examiners shall perform an annual qualitative examination
15 and evaluation of the bank. The commissioner of commerce and economic
16 development shall assess the bank a fee established under AS 06.01.010(b) for the
17 actual expenses incurred by the Department of Commerce and Economic Development
18 in connection with the examination. The examiners shall report to the board on the
19 examination. The examiners shall prepare a summary report evaluating the bank's loan
20 portfolio quality on a statistical basis and addressing the appropriateness and
21 effectiveness of the bank's policies, practices, and management within the context of
22 the bank's statutory purposes. The examiners shall distribute copies of the summary
23 report to the bank, the legislature, and the governor, and the other records related to
24 the examination of the bank are subject to AS 06.01.025.

25 * Sec. 24. AS 44.81 is amended by adding a new section to read:

26 Sec. 44.81.300. UNCLAIMED DISTRIBUTIONS, REDEMPTIONS, OR
27 PAYMENTS. The bank may revoke a distribution of net proceeds by the bank or a
28 redemption of or payment based upon an allocation of proceeds or upon capital stock
29 issued by the bank if the distribution, redemption, or payment remains unclaimed six
30 years after the date authorized for payment, redemption, or retirement. The amount
31 revoked may revert to an unallocated capital account of the bank if, at least six months

1 before the declared date of revocation, the bank has mailed to the last known address
2 of the person shown by the bank's records to be entitled to the amount a notice that
3 the payment is available to the person; if the address is unknown, the bank shall
4 publish the notice as provided by law for the publication of a summons. A
5 distribution, redemption, or payment subject to this section is not subject to
6 AS 34.45.110 - 34.45.780.

7 * Sec. 25. AS 44.81.350(3) is amended to read:

8 (3) "member of the bank" includes

9 (A) a holder of a share of membership stock of the bank; or

10 (B) a patron of the bank with retained patronage earnings, or
11 other form of capital ownership in the bank, of \$2,500 or more to the
12 patron's credit;

13 * Sec. 26. AS 44.81.350 is amended by adding new paragraphs to read:

14 (5) "commercial agriculture" includes commercially-related activity in
15 connection with producing, harvesting, processing, or marketing an agricultural,
16 maricultural, or horticultural commodity, including the breeding, raising, shearing,
17 feeding, caring for, training, and management of livestock, bees, poultry, shellfish, and
18 fur-bearing animals and wildlife, and the planting, cultivating, caring for, harvesting,
19 or processing of forest products on a sustained yield basis;

20 (6) "permit" means a limited entry permit issued under AS 16.43;

21 (7) "resident farmer" means a person who is a resident of the state and
22 who is engaged in commercial agriculture in the state;

23 (8) "resident fisher" means a person who is a resident of the state and
24 who is engaged in commercial fishing in the state.

25 * Sec. 27. AS 44.81.010(c), 44.81.040, 44.81.050, 44.81.060, 44.81.070, 44.81.090,
26 44.81.100, 44.81.110, 44.81.160, 44.81.190, 44.81.220, 44.81.230, 44.81.235, 44.81.240, and
27 44.81.280 are repealed.

28 * Sec. 28. TRANSITION PROVISIONS. This Act does not affect a contract, cause of
29 action, liability, penalty, or proceeding existing, incurred, or accrued on the effective date of
30 this Act. This Act does not affect an action of the Alaska Commercial Fishing and
31 Agriculture Bank taken ~~on or~~ before the effective date of this Act.

w/o object.

adopted
Amend^{II} 2 Sen. Zharoff
-17-

Hold for
Approval

5/4/96

Approved
by Tom for
Sn. 2. 5:30pm

5/5/96

Larry approved
release.

SENATE CS FOR CS FOR HOUSE BILL NO. 284(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON FISHERIES

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Commercial Fishing and Agriculture Bank."

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

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

4 (g) Except as provided in AS 16.10.333 - 16.10.338, AS 44.81.215
5 [AS 44.81.210], 44.81.225, and 44.81.231 - 44.81.250 [44.81.230 - 44.81.250], an
6 entry permit may not be

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

8 (2) transferred with any retained right of repossession or foreclosure,
9 or on any condition requiring a subsequent transfer; or10 (3) attached, distrained, or sold on execution of judgment or under any
11 other process or order of any court, except as provided in AS 16.43.170(g) and (h).

12 * Sec. 2. AS 16.43.150(h) is amended to read:

13 (h) Unless an entry permit holder has expressed a contrary intent in a will that
14 is probated, the commission shall, upon the death of the permit holder, transfer the
15 permanent permit by right of survivorship directly to the surviving spouse or, if no

Hold
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JCS(Fin)

1 spouse survives, to a natural person designated by the permit holder on a form
2 provided by the commission. If no spouse survives and if the person designated on
3 the form, if any, does not survive, the permit passes as part of the permit holder's
4 estate. A designation under this subsection must be acknowledged before a person
5 authorized to administer an oath under AS 09.63.010 or must be witnessed by two
6 persons who are qualified under AS 13.11.170 to witness the will of the permit holder.
7 Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.215 [AS 44.81.210], and
8 44.81.231 - 44.81.250 [44.81.230 - 44.81.250], the permit is exempt from the claims
9 of creditors of the estate.

10 * Sec. 3. AS 16.43.170(a) is amended to read:

11 (a) Except as provided in AS 16.10.333 - 16.10.338 and in AS 44.81.231 -
12 44.81.250 [AS 44.81.230 - 44.81.250], entry permits and interim-use permits are
13 transferable only through the commission as provided in this section and AS 16.43.180
14 and under regulations adopted by the commission. An involuntary transfer of an entry
15 permit in a manner inconsistent with the statutes of this state and the regulations of the
16 commission is void.

17 * Sec. 4. AS 16.43.170(b) is amended to read:

18 (b) Except as provided in (c) and (e) of this section, the holder of an entry
19 permit may transfer the permit to another person or to the commission upon 60 days
20 notice of intent to transfer under regulations adopted by the commission. No sooner
21 than 60 days nor later than 12 months from the date of notice to the commission, the
22 holder of an entry permit may transfer the permit. If the proposed transferee, other
23 than the commission, can demonstrate the present ability to participate actively in the
24 fishery and the transfer does not violate any provision of this chapter or regulations
25 adopted under it, and if a certificate for the permit under AS 16.10.333(b)(1) - (2),
26 16.10.338, or AS 44.81.231(a) [AS 44.81.230(b)(1) - (2)] is not in effect, the
27 commission shall approve the transfer and reissue the entry permit to the transferee
28 provided that neither party is prohibited by law from participating in the transfer.

29 * Sec. 5. AS 16.43.170(g) is amended to read:

30 (g) A person may request the commission to transfer an entry permit due to
31 an execution on the holder's interest in that permit. The request shall be made in the

1 form and manner provided in this chapter and regulations adopted under this chapter.
2 The commission may deny a request for transfer of an entry permit due to an
3 execution of a holder's interest in that permit if

4 (1) the execution does not comply with legal requirements or otherwise
5 is not valid;

6 (2) the transfer violates this chapter or regulations adopted under this
7 chapter;

8 (3) the proposed transferee or other party to the transfer is prohibited
9 by law from participating in the transaction;

10 (4) a certificate for the permit under AS 16.10.333(b)(1) - (2),
11 16.10.338, or AS 44.81.231(a) [AS 44.81.230(b)(1) - (2)] is in effect at the time of
12 the proposed transfer;

13 (5) the proposed transferee of the entry permit, other than the
14 commission, cannot demonstrate the present ability to actively participate in the
15 fishery; or

16 (6) the holder of the entry permit as shown by the records of the
17 commission demonstrates, under regulations adopted by the commission, that the entry
18 permit is a necessary means of support for the holder and those dependent upon the
19 holder.

20 * Sec. 6. AS 16.43.960(i) is amended to read:

21 (i) An entry permit revoked by the commission under this section that is
22 pledged as security for a loan under AS 16.10.333 or AS 44.81.231 [AS 44.81.230]
23 shall be reassigned or sold as provided in AS 16.10.337 or AS 44.81.250.

24 * Sec. 7. AS 16.43.970(f) is amended to read:

25 (f) An entry permit forfeited under this section that is taken as security for a
26 loan under AS 16.10.333 or AS 44.81.231 [AS 44.81.230] shall be reassigned as
27 provided in AS 16.10.337 or AS 44.81.250.

28 * Sec. 8. AS 44.81.010(a) is amended to read:

29 (a) There is established the Alaska Commercial Fishing and Agriculture Bank.
30 The exercise by the bank of the powers conferred by this chapter is considered to be
31 for a public purpose. In the exercise of its powers under AS 44.81.215(7), the bank

Amend# 3

1 is acting as an agent under the express authority and reservations of the state as
2 the issuer of limited entry permits under AS 16.43. The bank is exempt from the
3 provisions of AS 06.05 (Alaska Banking Code) and AS 10.15 (Alaska Cooperative
4 Corporation Act) in its structure and operations and in the exercise of powers
5 granted by this chapter.

6 * Sec. 9. AS 44.81.010(b) is amended to read:

7 (b) For the purpose of acquiring and accumulating capital [THE FUNDING]
8 of the bank [BANK'S OPERATIONS], the board [OF DIRECTORS] may issue
9 nonvoting, preferred shares of stock in the bank and determine the value of each share.
10 The state, through the Department of Revenue [APPROPRIATE AGENCIES], may
11 purchase the nonvoting, preferred shares issued by the bank. Shares purchased by the
12 state shall be repurchased by the bank within 20 years after their purchase. If the bank
13 fails to repurchase the shares within 20 years after their purchase by the state, the
14 commissioner of commerce and economic development may appoint a receiver to
15 direct, manage, and operate [DISSOLVE] the bank until the shares have been
16 repurchased. Upon voluntary or involuntary liquidation of the bank, and upon
17 repayment of all legal debts and obligations of the bank, all shares of nonvoting,
18 preferred stock owned by the state have priority for redemption over all other
19 forms and amounts of ownership of the bank.

Amend # 3
w/ appropriate
deletions

20 * Sec. 10. AS 44.81.020 is repealed and reenacted to read:

21 Sec. 44.81.020. BOARD OF DIRECTORS. (a) The bank shall be governed
22 by a board of directors consisting of seven to nine natural persons. The number is
23 determined by the bank's bylaws. Two board members shall be appointed by the
24 governor of the state. The other board members shall be elected by the members of
25 the bank as provided in the bank's bylaws, except that at least one of the elected board
26 members must be a resident farmer.

27 (b) The members of the board shall serve for terms of three years and may
28 serve successive terms. Terms must be staggered. A member of the board who
29 releases confidential information in violation of AS 44.81.260, commits serious ethical
30 misconduct that relates to the member's fitness to serve as a member of the board, or
31 (a) maintains a chronic substandard borrowing relationship with the bank shall be removed

(b)

1 from the board.

2 (c) A majority of the members of the board constitutes a quorum for the
3 transaction of business and the exercise of the powers and duties of the board.

4 (d) A member of the board may not vote on a transaction of the bank under
5 this chapter if the member is a party to the transaction.

6 (e) The members of the board shall annually elect from among themselves a
7 chair and vice-chair and other board officers as may be provided in the bank's bylaws.

8 (f) Members of the board shall receive compensation not to exceed \$250 for
9 each day of a board meeting if they attend the meeting. Directors may also receive
10 compensation for personal time and efforts expended to further the bank's interests or
11 business other than on meeting days as may be determined by the chair under the
12 bank's bylaws.

13 * Sec. 11. AS 44.81 is amended by adding a new section to read:

14 Sec. 44.81.031. OFFICERS AND EMPLOYEES. (a) The board shall employ
15 a president. The president may not be a member of the board and serves at the
16 pleasure of the board. The president is the chief executive officer of the bank.

17 (b) The board shall appoint those officers of the bank that are provided for in
18 the bank's bylaws and as the board determines to be necessary for the effective
19 operations of the bank. An executive, operating, administrative, or other salaried
20 officer of the bank may not be a member of the board.

21 (c) The president may hire employees of the bank as may be determined
22 necessary for the efficient performance of the functions of the bank. The board shall
23 approve the compensation of the employees. Employees of the bank are not
24 employees of the state and are not considered to be employees of a public organization
25 for the purposes of AS 39.35.

26 * Sec. 12. AS 44.81 is amended by adding a new section to read:

27 Sec. 44.81.041. STRUCTURE AND MEMBERSHIP OF THE BANK. (a)
28 The bank shall be structured and operated as a cooperative corporation.

29 (b) The board shall issue shares of membership stock in the bank in the
30 amounts and with the value determined by the board and stated in the articles of
31 incorporation. The membership stock may be issued under this chapter and under the

1 bylaws of the bank to persons determined to be eligible to transact business with the
2 bank.

3 (c) The board may establish one or more mechanisms by which persons or
4 entities, or classes of persons or entities, who transact business with the bank are
5 required to provide or establish capital ownership in the bank. The mechanisms may
6 include the issuance of capital stock or other equity instruments or the allocation or
7 retention of net proceeds from the operations of the bank. The mechanisms shall be
8 established and imposed in a manner that the board determines equitably reflects the
9 nature and amount of business transacted with the bank.

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

11 Sec. 44.81.051. BYLAWS. The board may adopt bylaws for the bank for the
12 regulation and management of the affairs of the bank, and may alter, amend, or repeal
13 them. The bylaws shall be consistent with this chapter and other laws that apply to the
14 bank.

15 * Sec. 14. AS 44.81 is amended by adding a new section to read:

16 Sec. 44.81.061. INDEMNIFICATION OF DIRECTORS, OFFICERS, AND
17 EMPLOYEES. The bank may indemnify directors, officers, and employees, or may
18 purchase and maintain insurance on behalf of directors, officers, and employees. The
19 indemnification and the insurance purchase and maintenance shall comply with
20 AS 10.06.490.

21 * Sec. 15. AS 44.81 is amended by adding a new section to read:

22 Sec. 44.81.101. PLEDGE OF THE STATE. (a) The state pledges to and
23 agrees with any lender to the bank that the state will not limit or alter the rights and
24 powers given to the bank by this chapter to fulfill the terms of a contract made by the
25 bank with the lender to the bank, or in any way impair the rights and remedies of the
26 lender to the bank. The bank is authorized to include this pledge and agreement of the
27 state in a contract with any lender to the bank.

28 (b) The pledge of the state is limited to the express provisions of (a) of this
29 section and is not a guarantee, surety, promise, undertaking, or assurance of repayment
30 or performance of any obligation of the bank.

31 * Sec. 16. AS 44.81.200 is amended to read:

1 Sec. 44.81.200. REPORTS AND PUBLICATIONS. The board [OF
2 DIRECTORS] shall publish an annual report to the bank's members. The report shall
3 be made available to the governor, the legislature, and the public. The report
4 [AND] must include financial statements audited by independent outside auditors, a
5 discussion [STATEMENT] of the bank's circumstances and operations
6 [INVESTMENTS, A DESCRIPTION OF THE BANK'S LOAN ACTIVITY] during
7 the period covered by the report [, AN ANALYSIS OF ECONOMIC AND OTHER
8 EFFECTS OF LOAN DECISIONS ON THE STATE'S COMMERCIAL FISHING
9 AND AGRICULTURE INDUSTRIES], and any other information that the board
10 believes would be of interest to the governor, the legislature, and the public, or that
11 the legislature requests the board to include. The board may [ALSO] publish other
12 reports considered appropriate [IT CONSIDERS DESIRABLE] to [CARRY OUT]
13 its purposes.

14 * Sec. 17. AS 44.81.210 is repealed and reenacted to read:

15 Sec. 44.81.210. GENERAL POWERS OF THE BANK. The bank may

- 16 (1) adopt, alter, and use a corporate seal;
- 17 (2) sue and be sued in the name of the bank;
- 18 (3) appoint officers, employees, trustees for certificate holders, and
19 agents, and establish their powers and duties;
- 20 (4) provide technical services to members of the bank; in this
21 paragraph, "technical services" includes services that will enhance the ability of a
22 member to obtain financial assistance from the bank;
- 23 (5) participate with state departments and agencies in formulating
24 policy and in planning for the development of commercial fishing and agriculture in
25 the state;
- 26 (6) engage in programs to support the efforts of resident fishers or
27 farmers in order to enhance the further development, efficiency, stability, or
28 profitability of commercial fishing or agriculture in the state;
- 29 (7) make contracts and execute instruments necessary to or convenient
30 for the exercise of its corporate powers;
- 31 (8) issue bonds to carry out its corporate purposes and powers;

1 (9) borrow money and issue secured and unsecured evidence of
2 indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding
3 obligations, and enter into agreements and contracts relating to these obligations;

4 (10) secure the payment of its obligations by pledge, mortgage, or other
5 lien on its contracts, revenue, income, or property;

6 (11) incur secondary liability by guaranty or endorsement of the
7 obligations of a person, except for natural persons, when, in the judgment of the board,
8 the action furthers the bank's corporate purposes;

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

12 (13) sell, lease as lessor or lessee, exchange, donate, convey, or
13 encumber in any manner by mortgage or by creation of another security interest, real
14 or personal property owned by it or in which it has an interest, when, in the judgment
15 of the board, the action furthers its corporate purposes;

16 (14) establish wholly-owned or majority-owned subsidiary corporations
17 or limited liability companies to acquire, hold, operate, maintain, or liquidate property
18 received by the bank in a foreclosure action or other loan collection process or to
19 provide services to resident fishers or farmers, or other persons, if the services are
20 consistent with the corporate purposes and powers expressed in this chapter;

21 (15) acquire equity or other ownership interest in a domestic
22 corporation or limited liability company if the purpose of the acquisition is to enhance
23 the further development, efficiency, stability, or profitability of commercial fishing or
24 agriculture in the state;

25 (16) enter into agreements with public or private lenders or other
26 entities, or with state agencies or agencies of the federal government, to carry out the
27 purposes of this chapter;

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

30 * Sec. 18. AS 44.81 is amended by adding a new section to read:

31 Sec. 44.81.215. LENDING POWERS OF THE BANK. The bank may

1 (1) make loans to individuals, including married couples, who are
2 residents of the state and who are engaged in commercial agriculture or fishing,
3 including harvesters, processors, suppliers, and marketers, if at least one of the primary
4 obligors on the loan is a member of the bank;

5 (2) make loans to corporations, partnerships, or limited liability
6 companies engaged in commercial agriculture or fishing if the majority interest of the
7 corporation, partnership, or limited liability company is beneficially owned by residents
8 of the state and a majority of the owners are residents of the state, and if at least one
9 of the primary obligors on a loan is a member of the bank; however, the bank may not
10 make a loan under this paragraph to a corporation, partnership, or limited liability
11 company for the purchase of a new or existing fishing boat or for the repair or
12 renovation of an existing fishing boat if the primary purpose of the fishing boat is to
13 commercially harvest fishery resources, unless the corporation, partnership, or limited
14 liability company is wholly owned and controlled by residents of the state, and unless
15 at least one of the primary obligors on the loan is a member of the bank;

16 (3) make loans for limited entry permits to individuals who fish
17 commercially if the individual is a state resident; loans made under this paragraph are
18 subject to AS 44.81.231;

19 (4) make a loan for capital investment or operating capital to a
20 shore-based fish processor, a timber processor, or an agricultural processor or harvester
21 who does not meet the resident ownership requirements of (1) or (2) of this section if
22 a facility of the processor or harvester is located in the state and the majority interest
23 in the processor or harvester is beneficially owned by residents of the United States;

24 (5) make a loan to a person, regardless of residency, if the board
25 determines that the loan is necessary to preserve the value of property held by the bank
26 as security for a loan that was made under AS 44.81.210 or this section and that is in
27 default;

28 (6) make loans, as provided in (1), (2), or (4) of this section, that are
29 secured by liens subordinate to valid first liens and security agreements granted to
30 another creditor;

31 (7) accept the pledge of a limited entry permit as security for a loan

1 made under this chapter subject to the conditions set out in AS 44.81.236 on pledges
2 of limited entry permits;

3 (8) make loans in participation with other lenders as provided in (1),
4 (2), or (4) of this section, whether or not an obligor is a member of the bank;

5 (9) purchase or acquire participations in loans from other lenders if the
6 participations conform to the provisions of (1), (2); or (4) of this section, whether or
7 not an obligor is a member of the bank;

8 (10) issue certificates of loan participation to members and to other
9 individuals, corporations, partnerships, and limited liability companies, but the bank
10 may not issue a certificate of loan participation if the certificate would allow
11 participation by the member, individual, corporation, partnership, or limited liability
12 company in loans that individually or cumulatively involve more than 20 percent of
13 the commercial fishery entry permits issued for one type of gear in a specific fishery
14 resource administrative area.

15 * Sec. 19. AS 44.81 is amended by adding a new section to read:

16 Sec. 44.81.231. PLEDGE OF PERMITS. (a) A limited entry permit issued
17 under AS 16.43 may be pledged by the holder as security for a loan authorized under
18 AS 44.81.236 if the certificate for the pledged permit lists the bank as the legal owner
19 of the permit and the pledger as the equitable owner of the permit.

20 (b) Annual permit cards issued under the pledged permit must be in the name
21 of the equitable owner who shall be responsible for compliance with the laws that
22 govern the permit as if the equitable owner were the holder of the permit.

23 (c) Co-borrowers or guarantors on a loan secured by one or more pledged
24 permits do not have a right in the pledged permit of the equitable owner, whether by
25 subrogation or other manner.

26 (d) Upon payment of the loan, the bank shall certify to the Commercial
27 Fisheries Entry Commission that the loan has been repaid, and the commission shall
28 amend the permit certificate to list the equitable owner as the holder, and the legal
29 interest of the bank shall terminate.

30 (e) In anticipation of a possible foreclosure under AS 44.81.241 - 44.81.250,
31 the equitable owner of a permit that is pledged as security for the loan may nominate

1 a person to whom the permit may be transferred if the pledge is foreclosed under
2 AS 44.81.245.

3 * Sec. 20. AS 44.81 is amended by adding a new section to read:

4 Sec. 44.81.236. LIMITATIONS ON THE PLEDGE OF PERMITS. A loan
5 may not be secured by the pledge of a limited entry permit unless the proceeds of the
6 loan are used for

7 (1) the purchase of a permit;

8 (2) the purchase or lease of quota shares, individual fishing quotas, or
9 another license, permit, or other grant of commercial fisheries harvesting entitlements
10 that is issued and regulated under state or federal law;

11 (3) the purchase, construction, maintenance, repair, or improvement of
12 commercial fishing boats, sites, gear, or equipment;

13 (4) working capital, including insurance premiums, supplies, food, fuel,
14 bait, boat storage, and boat launching;

15 (5) the payment of obligations whose status places the permit of a
16 borrower in jeopardy of sale on execution of judgment;

17 (6) the purchase of the bank's stock or other equity instruments and
18 loan costs; or

19 (7) refinancing of debts incurred for a purpose listed in (1) - (4) or (6)
20 of this section.

21 * Sec. 21. AS 44.81 is amended by adding new sections to read:

22 Sec. 44.81.241. INITIAL NOTICE OF DEFAULT. If there is a default on a
23 loan secured by a permit pledged under AS 44.81.231, the bank shall notify the
24 borrowers and guarantors on the loan of the default and of the right to cure the default
25 by sending a notice by certified mail to their last known address or addresses on file
26 with the bank. The notice must include

27 (1) the date of the notice;

28 (2) a description of the security given for the loan, including the
29 number assigned by the commission and the name of the equitable owner of each
30 permit pledged to secure the loan;

31 (3) the date and nature of the default;

Amend # 6

- 1 (4) the amount of arrearages as of the date of the notice;
2 (5) the total indebtedness, including interest, penalties, and costs of
3 collection, remaining owing on the loan as of the date of the notice;
4 (6) the amount of daily interest to accrue from the date of the notice;
5 (7) a statement that the costs of collection of the loan incurred by the
6 bank after the date of the notice will be added to the total amount of the indebtedness
7 owing on the loan;
8 (8) a statement that the default may be cured within 60 days from the
9 date of the notice or within an extended time period that is specified in an extension
10 notice provided by the bank within the 60-day period under AS 44.81.249;
11 (9) the place where payment of arrearages or other cure may be made;
12 and

13 (10) a statement in at least 10 point bold type stating:
14 "IMPORTANT: UNLESS YOU CURE THE LOAN DEFAULT
15 WITHIN THE TIME SPECIFIED BY THIS NOTICE, THE TOTAL
16 INDEBTEDNESS OWING ON THE LOAN SHALL BE
17 IMMEDIATELY DUE AND PAYABLE TO THE BANK WITHOUT
18 FURTHER NOTICE TO YOU. ALSO, THE BANK SHALL THEN
19 BE ENTITLED TO TAKE ANY LEGAL ACTION AGAINST YOU
20 TO COLLECT THE LOAN, INCLUDING THE INSTITUTION OF
21 LAWSUITS AND THE FORECLOSURE OF THE PLEDGE OF ANY
22 PERMIT PLEDGED TO SECURE THIS LOAN."

23 Sec. 44.81.243. BANK REMEDIES AFTER FAILURE TO CURE. If the
24 borrowers and guarantors on a loan secured by a permit pledged under AS 44.81.231
25 fail to cure a default within the time stated in the notice given under AS 44.81.241,
26 the total indebtedness owing on the loan immediately becomes due and payable to the
27 bank, and the bank shall be entitled to take any legal action to collect the loan,
28 including the foreclosure under AS 44.81.245 of the permit pledge that secures the
29 loan and the institution of legal action. If the bank forecloses the permit pledge, the
30 bank may proceed in the order the bank selects, whether before, after, or concurrent
31 with other action taken to collect the loan.

1 Sec. 44.81.245. FORECLOSURE NOTICE. The bank may foreclose on a
2 permit pledge that secures a loan by sending to the equitable owner of the permit
3 pledged and any other borrowers and guarantors on the loan a notice of foreclosure.
4 The notice shall be sent by certified mail to their last known address or addresses on
5 file with the bank and must include

6 (1) the date of the notice;

7 (2) a statement that the total indebtedness owing on the loan became
8 due and payable to the bank because the loan default was not cured within the time
9 specified in the notice of default and right to cure provided under AS 44.81.241, and
10 that as a result the bank is entitled to take legal action to collect the loan, including
11 the forfeiture of a permit pledge that secures the loan and the institution of legal
12 action;

13 (3) a description of the permit pledge that is being foreclosed by the
14 notice, including an identification of the permit by the number assigned by the
15 commission and the name of the equitable owner;

16 (4) the amount of the total indebtedness owing as of the date of the
17 notice;

18 (5) the amount of daily interest that accrues from the date of the notice;

19 (6) a statement that the costs of collection of the loan incurred by the
20 bank after the date of the notice will be added to the total amount of the indebtedness
21 due on the loan;

22 (7) a statement that to avoid forfeiture of all rights of the equitable
23 owner of the permit identified in the notice, the loan must be paid in full within 60
24 days from the date of the notice or within an extended time period that is specified in
25 an extension notice provided by the bank within the 60-day period under
26 AS 44.81.249;

27 (8) a statement that once a forfeiture of all rights of the equitable owner
28 of a permit described in the notice occurs, the permit may not be redeemed;

29 (9) a statement of the right of the equitable owner to nominate a person
30 to assume the loan under AS 44.81.245;

31 (10) the place where payment in full may be made; and

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(11) a notice in at least 10 point bold type stating:

"IMPORTANT: IF THE LOAN IS NOT PAID IN FULL BY THE DATE SPECIFIED, ALL RIGHTS OF THE EQUITABLE OWNER TO THE PERMIT IDENTIFIED IN THIS NOTICE WILL BE FORFEITED WITHOUT FURTHER NOTICE TO YOU. IN THAT EVENT, THERE WILL NOT BE A RIGHT OF REDEMPTION OF THE PERMIT. IN ADDITION, THE BANK MAY NOW TAKE OTHER ACTION TO COLLECT THE LOAN, INCLUDING THE INSTITUTION OF LEGAL ACTION AGAINST YOU AND THE FORECLOSURE OF OTHER PERMIT PLEDGES THAT SECURE THE LOAN."

Sec. 44.81.247. TERMINATION OF PERMIT INTEREST. If a loan is not paid in full within the time specified by the notice provided for the loan under AS 44.81.245, the equitable interest in the permit identified in the notice terminates by operation of law without further notice. The commission shall cancel an entry permit card issued to the equitable owner of the permit immediately upon receipt by the commission of a certificate of termination containing a copy of the notices required by AS 44.81.241 and 44.81.245.

Sec. 44.81.249. CANCELLATION, EXTENSION, AND DELIVERY OF NOTICES. (a) The bank may cancel a notice provided under AS 44.81.241 or 44.81.245 by delivering a written notice of cancellation to the persons who were given the cancelled notice. The notice shall be given in the same manner as is required for the cancelled notice.

(b) The bank may extend the 60-day period for curing a default under AS 44.81.243 and the period before a forfeiture occurs under AS 44.81.247 by giving a written notice of extension to the persons who were given the notice. The notice shall be given in the same manner as is required for the giving of the notice being extended.

(c) The bank may give a notice required to be provided in AS 44.81.241, 44.81.245, or 44.81.247 by personal delivery instead of by certified mail.

* Sec. 22. AS 44.81.250 is repealed and reenacted to read:

1 Sec. 44.81.250. TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE.

2 (a) Upon foreclosure of a pledge of an entry permit under AS 44.81.241 - 44.81.249,
3 the bank shall determine if the permit is subject to a buy-back program under
4 AS 16.43.290 - 16.43.330 and, if it is subject to a buy-back program, shall offer the
5 permit to the commission at a price equal to the outstanding indebtedness on the loan.

6 (b) .If the permit is not subject to a buy-back program, or if the commission
7 fails to buy back the permit within 30 days after the commission receives the offer, the
8 bank shall sell the permit to a person who qualifies as a transferee of an entry permit
9 under AS 16.43 and the regulations adopted by the commission. The bank shall give
10 preference to an offer to purchase a permit made by a state resident if the price offered
11 is equal to or greater than the price offered by a nonresident. If the proceeds of the
12 sale of a permit exceed the amount necessary to pay the indebtedness in full, the bank
13 shall remit the excess to the borrower.

14 (c) At any time before foreclosure of a pledge of a permit, or within 30 days
15 following foreclosure of a pledge of a permit, the equitable owner or former equitable
16 owner may nominate a person to assume the loan. A person nominated must qualify
17 as a transferee of the permit under AS 16.43 and must qualify to assume the loan
18 under the requirements of the bank. If the person qualifies, the permit shall be
19 transferred to the nominee upon the nominee's assumption of the loan.

20 (d) This section does not affect the right of the bank to institute legal actions
21 against the borrowers, guarantors, or other sureties for performance to collect the
22 indebtedness owing on the loan and to take other legal action on the collateral securing
23 the loan.

24 * Sec. 23. AS 44.81.270 is repealed and reenacted to read:

25 Sec. 44.81.270. AUDITS AND EXAMINATIONS OF BANK. (a) The
26 legislative auditor may cause the bank to be audited in the manner and under the
27 conditions established by AS 24.20.271 for audits performed by the legislative audit
28 division. The legislative audit division has free access to all books and papers of the
29 bank that relate to the business of the bank and books and papers kept by a director,
30 officer, or employee relating to or upon which a record of the business of the bank is
31 kept. The legislative audit division may summon witnesses and administer oaths or

1 affirmations in the examination of directors, officers, or employees of the bank or
2 another person in relation to the affairs, transactions, and conditions of the bank, and
3 may require and compel the production of records, books, papers, contracts, or other
4 documents by court order if not voluntarily produced. At the direction of the legislative
5 budget and audit committee under AS 24.20.271, the legislative auditor may conduct
6 an audit of the bank.

7 (b) The legislative auditor and the auditor's employees may not disclose
8 information acquired by them in the course of an audit of the bank concerning the
9 particulars of the business or affairs of a borrower of the bank or another person,
10 unless the information is required to be disclosed by law or under a court order.

11 (c) The bank shall be audited annually by independent outside auditors. The
12 legislative auditor may confer with the outside auditors and review the work papers of
13 the audit. The board shall engage the outside auditors, who shall be responsible to the
14 board. The bank shall submit copies of each report of the outside auditors to the
15 legislative auditor within 30 days of the report by the bank.

16 (d) The state bank examiners shall perform an annual qualitative examination
17 and evaluation of the bank. The commissioner of commerce and economic
18 development shall assess the bank a fee established under AS 06.01.010(b) for the
19 actual expenses incurred by the Department of Commerce and Economic Development
20 in connection with the examination. The examiners shall report to the board on the
21 examination. The examiners shall prepare a summary report evaluating the bank's loan
22 portfolio quality on a statistical basis and addressing the appropriateness and
23 effectiveness of the bank's policies, practices, and management within the context of
24 the bank's statutory purposes. The examiners shall distribute copies of the summary
25 report to the bank, the legislature, and the governor, and the other records related to
26 the examination of the bank are subject to AS 06.01.025.

27 * Sec. 24. AS 44.81 is amended by adding a new section to read:

28 Sec. 44.81.300. UNCLAIMED DISTRIBUTIONS, REDEMPTIONS, OR
29 PAYMENTS. The bank may revoke a distribution of net proceeds by the bank or a
30 redemption of or payment based upon an allocation of proceeds or upon capital stock
31 issued by the bank if the distribution, redemption, or payment remains unclaimed six

1 years after the date authorized for payment, redemption, or retirement. The amount
2 revoked may revert to an unallocated capital account of the bank if, at least six months
3 before the declared date of revocation, the bank has mailed to the last known address
4 of the person shown by the bank's records to be entitled to the amount a notice that
5 the payment is available to the person; if the address is unknown, the bank shall
6 publish the notice as provided by law for the publication of a summons. A
7 distribution, redemption, or payment subject to this section is not subject to
8 AS 34.45.110 - 34.45.780.

9 * Sec. 25. AS 44.81.350(3) is amended to read:

10 (3) "member of the bank" includes

11 (A) a holder of a share of membership stock of the bank; or

12 (B) a patron of the bank with retained patronage earnings, or
13 other form of capital ownership in the bank, of \$2,500 or more to the
14 patron's credit;

15 * Sec. 26. AS 44.81.350 is amended by adding new paragraphs to read:

16 (5) "commercial agriculture" includes commercially-related activity in
17 connection with producing, harvesting, processing, or marketing an agricultural,
18 maricultural, or horticultural commodity, including the breeding, raising, shearing,
19 feeding, caring for, training, and management of livestock, bees, poultry, shellfish, and
20 fur-bearing animals and wildlife, and the planting, cultivating, caring for, harvesting,
21 or processing of forest products on a sustained yield basis;

22 (6) "permit" means a limited entry permit issued under AS 16.43;

23 (7) "resident farmer" means a person who is a resident of the state and
24 who is engaged in commercial agriculture in the state;

25 (8) "resident fisher" means a person who is a resident of the state and
26 who is engaged in commercial fishing in the state.

27 * Sec. 27. AS 44.81.010(c), 44.81.040, 44.81.050, 44.81.060, 44.81.070, 44.81.090,
28 44.81.100, 44.81.110, 44.81.160, 44.81.190, 44.81.220, 44.81.230, 44.81.235, 44.81.240, and
29 44.81.280 are repealed.

30 * Sec. 28. TRANSITION PROVISIONS. This Act does not affect a contract, cause of
31 action, liability, penalty, or proceeding existing, incurred, or accrued on the effective date of

- 1 this Act. This Act does not affect an action of the Alaska Commercial Fishing and
- 2 Agriculture Bank taken before the effective date of this Act.

^
deleted "on or"
Amend #2

SENATE FINANCE COMMITTEE

HB 284 AK COMMERCIAL FISHING & AGRICULTURE BANK

PLEASE SIGN IN BELOW

NAME: ED CRAND

Co./DEPT./TITLE: CFAB CEO PHONE: 276-2007

ADDRESS: 2550 DENALI #1201, ANCHORAGE ZIP: 99503

DO YOU WISH TO TESTIFY? YES NO RESPOND TO QUESTIONS

NAME: _____

Co./DEPT./TITLE: _____ PHONE: _____

ADDRESS: _____ ZIP: _____

DO YOU WISH TO TESTIFY? YES NO RESPOND TO QUESTIONS

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Co./DEPT./TITLE: _____ PHONE: _____

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DO YOU WISH TO TESTIFY? YES NO RESPOND TO QUESTIONS

your names please

AMY M. DAUGHERTY

LEGISLATIVE AIDE

TO REP. AUSTERMAN

& THE HOUSE FISHERIES

COMMITTEE

ED CRANE

PRESIDENT OF CFAB

either....." He added that Section #26 (d) references the "dilution" of a mark. He thought that they were both adequately protected.

In response to Co-Chair Foster's concern, Mr. Kirkpatrick indicated that small business' are protected. Given common-law rights, and having clarification without registration, a business in existence for twenty years would assume common-law rights. Representative Therriault agreed that there was protection for the common-law business person, although he would encouraged them to get a registered mark. He stated that it could be more expensive to protect themselves through the common-law route.

Representative Mulder MOVED to report CS HB 450 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTIONS, it was adopted. Representative Brown asked why the fee schedule should be set in statute. Representative Therriault responded that the Legislature should be active in raising fee amounts.

CS HB 450 (FIN) was reported out of Committee with "no recommendations" and with a fiscal note by the Department of Commerce and Economic Development dated 2/21/96.

HOUSE BILL 284

"An Act relating to the Alaska Commercial Fishing and Agriculture Bank."

Co-Chair Hanley provided the Committee, the Audit Report for the Alaska Commercial Fishing and Agricultural Bank (CFAB), dated January 12, 1996. [Attachment #1].

REPRESENTATIVE ALAN AUSTERMAN testified in support of the legislation and offered to answer questions regarding the bill. He noted that HB 284 would enact changes to AS 44.81 and AS 16.43. The statutes contain the enabling language of CFAB and set forth the operating procedures, structure and authorities of the bank. Most of the changes contained in HB 284 are for purposes of clarification.

ED CRANE, PRESIDENT, ALASKA COMMERCIAL FISH & AGRICULTURAL BAN (CFAB), ANCHORAGE, offered to answer questions regarding Attachment #1.

Representative Martin MOVED to adopt Amendment #1. [Attachment #2]. Representative Brown questioned the legal effect of leaving in the \$1 million dollars. Mr. Crane remarked that the \$1 million dollars did not have financial significance. That money instead would provide an effort by CFAB to establish service for public purposes. That money would act as an the State's agent for lien concerns. The intention was to lay the foundation to adequately

address future legal arguments. Following discussions with their legal attorney, Mr. Crane pointed out that CFAB supported the language suggested in Amendment #1, which would clearly establish the intent. The amendment would add a new (third) sentence to Section #8 of HB 284. That sentence would provide a more precise and limited expression of CFAB's relationship to the State in the financing of limited entry permits.

There being NO OBJECTION to Amendment #1, it was adopted.

Representative Brown noted that the legislation would limit benefits to a narrow class of Alaskans. She indicated that she would support adding language which could broaden the legislation to include that "others" could be considered for loans to participate in the program.

(Tape Change, HFC 96-71, Side 2).

Mr. Crane advised that the State has provided a special environment for those persons involved in commercial fisheries. He pointed out the significant financial implementations and that CFAB was created in response to those needs. Mr. Crane stated that he was interested in exploring the concerns of Representative Brown, although reminded Committee members that there are other financial institutions in Alaska which address a variety of needs.

Mr. Crane agreed with the need for more fiscal accountability from his agency to the Legislature. He remarked that CFAB is privately owned, and that the State of Alaska is the largest single stock holder with \$7.5 million dollars invested. Other member borrowers have \$18 million dollars equity in the corporation.

Representative Mulder noted that the LBA Committee suggested that CFAB and the Revolving Loan Fund be combined. Mr. Crane corrected Representative Mulder stating that the recommendation was that CFAB and the Division of Investments participate in an analysis. CFAB had no objection to that concept, although, felt the idea needed further investigation. Each of those agencies serve different constituencies and concerns.

Representative Mulder asked what the outcome would be with the deletion of Sections #5 - #7. Mr. Crane replied that action would severely restrict the substantive usefulness of CFAB.

Discussion followed between Representative Mulder and Mr. Crane regarding paying of taxes and the amount used for capital investment in past due obligations. Representative Mulder asked why productivity enhancement or education would be included. Mr. Crane pointed out that CFAB has been approached by commercial fishermen who want to expand beyond the harvesting and delivery of fish. Often times, these fishermen will want to get into processing and/or marketing which could require special training

or equipment. In order to diversify, that portion of the legislation would be essential. He added that the money which CFAB lends, belongs to those fishermen who have equity in the company. Representative Mulder countered that the money was initially outlayed through public funds, and stressed that public interest is involved.

Representative Brown voiced concern with Section #6. She thought that language could provide the capabilities for someone to diversify into an unrelated field. Mr. Crane commented that was not the intent. The by-laws contain a definition of borrowing possibilities. Mr. Crane pointed out that the language reads:

"....diversification 'of' not 'out of' the commercial activities of a borrower."

He summarized that there are more and more fishermen wanting to diversify into other sea harvesting activities.

Representative Brown provided the Committee with Amendment #2. [Attachment #3]. The concept would allow CFAB to expand to small business'. She suggested that the bill would be of better use if it were open to other types of economic activity.

Representative Therriault concluded that a healthy CFAB could eventually be the State's "salvation" to recapitalizing the Agriculture Revolving Loan Fund and the Fisheries Revolving Loan Fund.

HB 284 was HELD in Committee for further consideration.

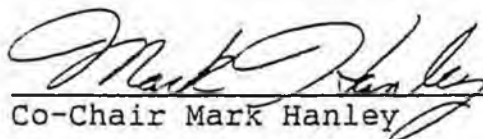
ADJOURNMENT

The meeting adjourned at 4:10 P.M.

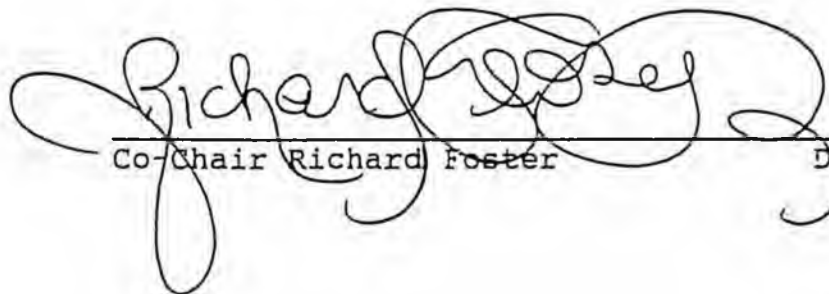
CS HB 284 (FIN)

LETTER OF INTENT

The legislature requests that the board of directors of the Alaska Commercial Fishing and Agriculture Bank investigate the feasibility of providing services authorized under AS 44.81.210 to Alaskans other than those authorized for services under AS 44.81.210, and report the results of that investigation to the legislature by the 15th day of the first session of the twentieth Alaska Legislature.


Co-Chair Mark Hanley

3/15/96
Date


Co-Chair Richard Foster

15MAR96
Date

ADOPTED BY THE HOUSE 3/19/96

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/20/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 3/19/96

The Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 284(FIN)
 Relating to the Alaska Commercial Fishing and Agriculture Bank.

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DEPARTMENT	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John Loggins</i>	✓	<i>Mike Miller</i>	✓		
		<i>Duncan</i>	✓		
		<i>W. S. Saw</i>	✓		
CHAIR: <i>Tim Kelly</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>Dept. of Rev.</i>	<i>3/18/96</i>	X	
<i>Dept. of Rev.</i>	<i>3/18/96</i>	X	
<i>Comm Fisheries Comm</i>	<i>3/6/96</i>	X	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

BILL: HB 284

SHORT TITLE: AK COMMERCIAL FISHING & AGRICULTURE BANK

BILL VERSION: CSHB 284(FIN)

SPONSOR(S): SPECIAL COMMITTEE ON FISHERIES

CURRENT STATUS: (S) FIN

STATUS DATE: 04/19/96

TITLE: "AN ACT RELATING TO THE ALASKA COMMERCIAL FISHING AND AGRICULTURE BANK."

03/27/95	933	(H)	READ THE FIRST TIME - REFERRAL(S)
03/27/95	933	(H)	FSH, LABOR & COMMERCE, FINANCE
04/20/95	1398	(H)	FSH RPT 2DP 2NR
04/20/95	1398	(H)	DP: MOSES, ELTON
04/20/95	1398	(H)	NR: OGAN, AUSTERMAN
04/20/95	1399	(H)	2 ZERO FISCAL NOTES (REV, F&G)
05/02/95	1733	(H)	L&C RPT 3DP 3NR
05/02/95	1733	(H)	DP: ELTON, ROKEBERG, PORTER
05/02/95	1733	(H)	NR: MASEK, KOTT, KUBINA
05/02/95	1733	(H)	2 ZERO FNS (REV, F&G) 4/20/95
03/18/96	3174	(H)	FIN RPT CS(FIN) 9DP 1NR
03/18/96	3174	(H)	DP: FOSTER, HANLEY, MULDER, MARTIN
03/18/96	3174	(H)	DP: PARNELL, GRUSSENDORF, KELLY
03/18/96	3174	(H)	DP: THERRIAULT, NAVARRE
03/18/96	3174	(H)	NR: BROWN
03/18/96	3175	(H)	FISCAL NOTE (REV)
03/18/96	3175	(H)	ZERO FISCAL NOTE (F&G)
03/18/96	3175	(H)	LETTER OF INTENT WITH FIN REPORT
03/19/96	3200	(H)	RULES TO CALENDAR 3/19/96
03/19/96	3200	(H)	ZERO FISCAL NOTE (REV)
03/19/96	3200	(H)	READ THE SECOND TIME
03/19/96	3200	(H)	FIN CS ADOPTED UNAN CONSENT
03/19/96	3201	(H)	ADVANCED TO THIRD READING UNAN CONSENT
03/19/96	3201	(H)	READ THE THIRD TIME CSHB 284(FIN)
03/19/96	3201	(H)	PASSED Y34 A6
03/19/96	3201	(H)	(H) ADOPTED FIN LETTER OF INTENT
03/19/96	3206	(H)	TRANSMITTED TO (S)
03/20/96	2799	(S)	READ THE FIRST TIME - REFERRAL(S)
03/20/96	2799	(S)	L&C, FIN
04/19/96		(S)	L&C RPT 2DP 3NR
04/19/96		(S)	PREVIOUS H FN (REV)
04/19/96		(S)	PREVIOUS H ZERO FNS (F&G, REV)
04/19/96		(S)	REFERRED TO FINANCE

5/4/96

AMENDMENT #4

TO: CS HB 284 (Fin)

BY: Sen. Zharoff

Page 11, line 15:

Add new subsections to read:

"(5) the payment of obligations incurred in the support of a borrower and the persons who are dependent upon that borrower if the majority of the borrower's earned income is derived through commercial fishing under the borrower's permit;

(6) the enhancement of the productivity or diversification of the commercial fishing activities of a borrower;

2 - moved - RH

(7) the payment of obligations whose status places the permit of a borrower in jeopardy of attachment, ~~distrain, or sale~~ on execution of judgment, ~~or under a process or order of a court;~~

2
5
for (7)
withdraw

6
2
2 moved
Affected

Renumber subsections accordingly.