

ALASKA LEGISLATURE

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HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

Representative Alan Austerman

February 22, 1995

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Section 27 repeals certain present CFAB provisions.

Section 28 provides transition guidelines for the new provisions.

If I may be of further assistance, please advise.

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CFAB SUMMARY - HB 284

Sec. 1

thru

Sec. 7

These are not substantive changes. The only purpose of these sections is to conform references in the Limited Entry Act to AS 44.81 as renumbered by this legislation.

Sec. 8 AS 44.81.010(a) This is essentially a restatement, but also clarifies and makes more comprehensive the exemptions from the banking code and cooperative code.

Sec. 9 AS 44.81.010(b) This addresses the technical difference between "operating funds" and "capital funds"; it modifies the 20-year repurchase requirement to provide that the state will remain a permanent owner of CFAB at a minimal level of \$1.0 million, which rationalizes CFAB's "special" status (and which also eliminates the irresolvable conflict between the existing statute as a whole and its Sec. 44.81.220); it identifies the department of revenue as the nominal owner of the state's stock (a reflection of the existing reality); and it expresses a means for the state to take control and assure repurchase of its stock, if necessary, without resorting to a process which would place it in conflict with CFAB's individual member-owners. Finally, it makes clear that in liquidation all other owners' interests are subordinate to that of the state.

Sec. 10 AS 44.81.020(a) This clarifies that the board's role is one of governance rather than of active management of CFAB. It provides for limited expansion of the board, to accommodate practical necessities as may be determined by the board, while permanently retaining a state presence through two gubernatorial appointments.

(b) thru (e) These paragraphs are intended to group board-related matters in this section, and they incorporate -- with minor changes -- the substance and provisions of existing Secs. 44.81.020(a), 44.81.090, 44.81.100, and 44.81.190.

(f) This paragraph re-states existing Sec. 44.81.110. It also provides for recognition of the need for directors to commit time for travel to and from meetings and/or to occasionally (1) represent the bank for business, ceremonial, or promotional purposes; (2) provide testimony in litigation to which the bank is a party; or (3) attend business-related seminars, conferences, and training sessions.

Sec. 11 AS 44.81.031(a)

thru (c) This covers essentially the same matters as in existing Sec. 44.81.070(a)-(c). The principal differences are to provide more flexibility in official titles; to make clear that active officers may not be directors; to remove the requirement for the board to prescribe the duties of employees (which the board is not competent to do); and to leave the matter of professional services engagements to be addressed as policy.

Sec. 12 AS 44.81.041(a)

thru (c) This establishes that CPAB is structured, and operates, as a cooperative -- a matter which has heretofore been addressed only by inference in existing Sec. 44.81.060 and by legislative history.

Sec. 13 AS 44.81.051. This parallels existing Sec. 44.81.040.

Sec. 14 AS 44.81.061. This is a revision of existing Sec. 44.81.210(a)(21), which is 15-year-old language, and makes available to CFAB the same indemnity provisions as are available to private corporations generally and as were expressed in 1989 amendments to the state's Corporation Code.

Sec. 15 AS 44.81.101(a) This is a revision of existing Sec. 44.81.160. It eliminates cumbersome language, it recognizes that CFAB has access to a range of potential lenders, and it clarifies that the state's "pledge" is a simple non-disturbance provision.

(b) This emphasizes that the state's "pledge" does not relieve CFAB of sole responsibility for its obligations.

Sec. 16 AS 44.81.200. This is changed little from existing Sec. 44.81.200. The primary difference is elimination of a somewhat presumptuous and unrealistic requirement for a discourse on the macro-effects of CFAB's activities.

Sec. 17 AS 44.81.210. (1) Existing Sec. 44.81.210(a)(5).
(2) Existing Sec. 44.81.210(a)(6).
(3) Existing Sec. 44.81.210(a)(15).
(4) Existing Sec. 44.81.210(a)(16).
(5) Existing Sec. 44.81.210(a)(18).
(6) A new paragraph which confirms CFAB's ability to actively and/or financially support the efforts of individual fishermen or farmers, or groups

thereof, to pursue such things as new products, alternative markets, new harvesting techniques, etc.

- (7) Existing Sec. 44.81.210(a)(11).
- (8) Existing Sec. 44.81.210(a)(17).
- (9) Existing Sec. 44.81.210(a)(13).
- (10) Existing Sec. 44.81.210(a)(14).
- (11) Existing Sec. 44.81.210(a)(9).
- (12) Existing Sec. 44.81.210(a)(12).
- (13) Existing Sec. 44.81.210(a)(8).
- (14) A new paragraph which will permit CFAB to accomplish necessary or desirable purposes through activities which may be burdened with inherent potential liabilities or other exposures which are inappropriate to its basic function as a lender or to the interests of its members. An example might be a situation in which CFAB has acquired a fish processing plant through foreclosure and cannot find a buyer but encounters an operator willing to lease and operate the plant for a season. Fear of jeopardizing CFAB's total assets through ownership of an operating facility has caused CFAB to consider transferring ownership to a subsidiary in the past; this paragraph clearly establishes the right to do so. Another application of this authority would be creation of an entity whereby CFAB might offer its expertise and capacity in vessel and marine mortgage documentation as a service to fishermen and other lenders.
- (15) A new paragraph which would permit CFAB to function as a venture capitalist in certain

situations related to commercial fishing or agriculture.

- (16) A slight broadening of the provisions of existing Sec. 44.81.210(a)(4).
- (17) Existing Sec. 44.81.210(a)(19).

Sec. 18 AS 44.81.215.

- (1) A revision to the first part of existing Sec. 44.81.210(a)(1); the inserted reference to married couples and the somewhat different approach to membership are to confirm CFAB's ability to deal with instances where, purely for credit purposes, CFAB requires a non-fishing spouse or other person to be a co-borrower on a loan.
- (2) The second part of existing Sec. 44.81.210(a)(1) with slight revision.
- (3) Existing Sec. 44.81.210(a)(20), except that a two-year residency requirement is removed in response to litigation which has occurred since enactment of the original statute.
- (4) Existing Sec. 44.81.210(c).
- (5) Existing Sec. 44.81.210(a)(23), except for removal of a limitation which can place CFAB in conflict with the Uniform Commercial Code and work to the disadvantage of the original borrower and CFAB's member-owners.
- (6) Existing Sec. 44.81.210(a)(17), except for a language change to permit CFAB to subordinate its position to other kinds of creditors than "a private lending institution."
- (7) Existing Sec. 44.81.210(a)(22).

- (8) A revision of existing Sec. 44.81.210(a)(10). The revision permits CFAB to participate in loans to qualified applicants for eligible purposes while eliminating the sometimes insurmountable complications of coordinating CFAB's cooperative features with the more basic requirements of other lenders. (The potential volume of such participations is limited by Federal tax law and IRS Code treatment of CFAB as a cooperative.)
- (9) A new subparagraph which extends CFAB's authority under the preceding subparagraph to situations where another lender has a loan in place and subsequently seeks a participant.
- (10) Existing Sec. 44.81.210(a)(24).

Sec. 19 AS 44.81.231

and

Sec. 20 AS 44.81.236.

These are revisions to existing Secs. 44.81.230 and 44.81.235. Although the legislative intents and philosophical/political inferences of the current sections have been maintained, there are both technical or procedural adjustments as well as changes to substance incorporated into the revisions. An example of a technical adjustment appears in the substitution of "boat(s)" for "vessel" in Sec. 236. "Boat" is used throughout other sections of the proposed versions of AS 44.81. and is a generic term. "Vessel" has a particular meaning under some Federal law, a meaning which would arguably exclude certain kinds of "boats" used by many Alaska fishermen. This

change, therefore, is simply to eliminate the potential for costly legal contentiousness.

Another such adjustment appears in the elimination of language in existing Sec. 44.81.230(a) which addresses a certification by the Limited Entry Commission. This is an unnecessary step since the effect is achieved "automatically" -- the Commission will not transfer a permit to a purchaser who is not qualified under AS 16.43 and under its regulations.

The substantive changes, all of which appear in Sec. 44.81.236, are more meaningful and may be summed up as broadening the circumstances or purposes for which a permit may be used as loan collateral. They reflect (1) developments affecting both commercial law and fishermen's operating practices since CPAB's statute was originally enacted; (2) the fact that investments in permits have become, and continue to be, an increasingly significant portion of most fishermen's capital bases; and (3) the difficulty of distinguishing the "total lifestyle" requirements from the "commercial fishing" requirements of a resident Alaska fisherman who is wholly, or nearly wholly, dependant upon commercial fishing income.

The most significant substantive changes in Sec. 44.81.236 are:

Par. (2). This reflects the current and potential imposition of new schemes for the allocation or limitation of harvesting rights, which tend to

represent opportunities or requirements for increased participation, diversification, and/or stability for resident fishermen.

Par. (5). Many resident fishermen have by choice or necessity committed most of their families' financial resources to their commercial fishing operations. Under the existing statute, CFAB may not make a loan to a resident fisherman -- secured by a permit pledge -- to pay for cancer treatment for his/her spouse, for example. But the fisherman could sell the permit, use the proceeds to pay the medical expense, and then borrow from CFAB to buy another permit! The latter approach is not only cumbersome and burdened with direct costs and risks, but its timing could quite easily result in unnecessary and costly tax consequences for the fisherman. Under the proposed revision, CFAB could accept a pledge of the permit to secure a loan to pay for the cancer treatment.

Par. (6). On numerous occasions, CFAB has been approached by individual resident fishermen, or groups of such fishermen, for loans to finance involvement in enterprises such as added value processing, new market development, chartering or tendering, diversification into new fisheries, etc. Many, but not all, such proposals appear to be commercially feasible and bankable but are stymied by the fact that there is little or no collateral available to be offered other than a pledge of permits. This provision would allow fishermen in such situations to build upon their established capital bases.

Par. (7). There is a popular perception, supported in part by historical fact, that fishermen's permits are totally insulated from the intrusions or predations of creditors. However, evolving case law -- as well as acts of the Alaska state legislature itself -- has resulted in an increasingly broad range of vulnerability. This paragraph gives creditworthy resident fishermen an opportunity to avoid a permit loss through seizure by borrowing to meet the offending obligation. Potential seizure is not the only threat addressed, however. A not uncommon circumstance is for a Court in a divorce proceeding to order that a permit be sold so that proceeds might be split; this paragraph offers an alternative source of cash proceeds.

Par. (8). As with any lender, there are costs associated with borrowing from CFAB (including an investment required by its cooperative structure). This paragraph confirms that payment of those costs and investments is an appropriate use of proceeds of a loan secured by the pledge of a permit.

Sec. 21 AS 44.81.241

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AS 44.81.249.

These sections address CFAB's formal response to a default on a loan secured by pledge of a permit as well as the foreclosure process which must be followed and constitute a revision to existing Sec. 44.81.240. Again the original legislative intents and philosophies have been maintained. The procedures have been restructured, however, to reflect changes in CFAB's status since the original statute was enacted; to

permit CFAB to proceed against other collateral prior to resorting to foreclosure of the permit pledge; to provide more time (120 days rather than 90 days) for the borrower to respond to initiation of the process; and to allow CFAB to suspend the foreclosure process in the event of promising "last-minute" actions by the borrower to develop an alternative. The revision does not change the circumstances under which CFAB may declare a default or proceed against a permit pledge.

The language of this part of CFAB's original statute paralleled that of the law governing the state's own commercial fishing loan program. Elsewhere in its statute, CFAB was then identified as "an instrumentality of the state." For reasons unrelated to this issue, CFAB's statute was almost immediately amended to establish its current status as a private commercial lender.

Under applicable law, and as the issuer of a limited entry permit, the state may reserve to itself certain rights and privileges related to that permit; this principle effectively gives the state's commercial fishing loan program a "special" status with regard to foreclosure of a permit pledge. As a private commercial lender, however, CFAB is held to somewhat different standards under both case law and relevant statutes. As reflected in this section, CFAB must follow a more complex and more precise foreclosure procedure than is contemplated by existing Sec. 44.81.240.

Sec. 22 AS 44.81.250.

This section deals primarily with the disposition of a limited entry permit following the foreclosure of its pledge. No aspect of the ultimate outcome, as it affects the original borrower, is changed by this revision, but some disordered or illogical steps in the process have been changed or eliminated.

The nomination feature, a somewhat odd concept (odd in the sense that it is almost impossible to imagine a commercial lender ignoring the potential for a viable assumption whether or not there is a statutory right of nomination), has been changed. Under the existing statute, it is only after a minimum of 30 days following foreclosure that the borrower is given a 30-day right of nomination. Furthermore, it is not clear that CFAB presently has the right to require creditworthiness on the part of a proposed assumptor in all cases.

This revised section establishes the borrower's right to propose an assumptor at any time prior to foreclosure and during a 30-day period immediately following foreclosure. It also establishes that CFAB may require a finding of the proposed assumptor's creditworthiness.

This revised section also eliminates the existing discussion of assumption of the loan by a person chosen by lottery from a list maintained by the entry commission. The commission does not maintain such a list. Moreover, this process could only work to the disadvantage of the (former) borrower. An aspiring

assumptor, chosen by lottery, would presumably assume the loan only if his or her perception were that the permit's value exceeded the total indebtedness. If that perception were valid, the excess value would accrue to the benefit of the assumptor rather than becoming excess proceeds to be paid to the original borrower upon sale of the permit, by the bank, for an amount equal to or close to the perceived value.

Sec. 23 AS 44.81.270. This incorporates the provisions of existing Secs. 44.81.270 and 44.81.280, and provides a more logical and structured treatment of the three kinds of audits and examinations to which CFAB is subject. It retains and confirms accountability to the state, primarily through reports to the legislature. A significant addition appears in the third sentence of paragraph (c), which statutorily memorializes an existing policy under which CFAB's auditors are responsible to the board of directors rather than to management.

Sec. 24 AS 44.81.300. This is a totally new subject and section, occasioned by CFAB's existence as a cooperative, and its language is taken from the Alaska Cooperative Corporation Act. It addresses unclaimed property which arises from a member's participation as a cooperative member, and provides for such property to revert to the benefit of all other existing and future members. All other forms of unclaimed property would remain subject to forfeiture to the state under the general unclaimed property statute.

Sec. 25 AS 44.81.350(3) This revises the definition of "member of the bank" and is intended to recognize that members and patrons may, and usually do, own residual interests in the bank other than retained patronage earnings.

Sec. 26 AS 44.81.350. This defines "commercial agriculture" to provide context within which CFAB can resolve questions which have repeatedly arisen throughout its history. There are also three new definitions, added for the purpose of clarity.

SECTIONAL REFERENCES TO HB

§ 44.81.010

ALASKA STATUTES

§ 44.81.010

Chapter 81. Commercial Fishing and Agriculture Bank.

Section	Section
10. Alaska Commercial Fishing and Agriculture Bank	220. Transition
20. Board of directors	226. Small loans to nonmembers
40. Bylaws	230. Loans for purchase of Alaska limited entry permits
60. Membership meetings	236. Limitations on pledge of permits
60. Membership stock	240. Default and foreclosure of certain loans secured by limited entry permits
70. President, officers and employees	250. Deficiencies and transfer of entry permits after foreclosure
90. Term of office and removal	260. Confidentiality of records
100. Quorum	270. Audit of bank
110. Compensation of board members	280. Prohibition on disclosure
160. Pledge of the state	360. Definitions
180. Conflicts of interest	
200. Reports and publications	
210. Powers of the bank	

Cross references. — For legislative findings and purpose in connection with the enactment of this chapter, see 11 and 2, ch. 169, SLA 1978 in the Temporary and Special Acts.

8
 Sec. 44.81.010. Alaska Commercial Fishing and Agriculture Bank. (a) There is established the Alaska Commercial Fishing and Agriculture Bank. The exercise by the bank of the powers conferred by this chapter is considered to be for a public purpose. The bank is exempt from the provisions of AS 06.05 (Alaska Banking Code) and AS 10.15 (Alaska Cooperative Corporation Act) in the exercise of powers granted by this chapter.

9
 (b) For the purpose of the funding of the bank's operations, the board of directors may issue nonvoting, preferred shares of stock in the bank and determine the value of each share. The state, through appropriate agencies, may purchase the nonvoting, preferred shares issued by the bank. Shares purchased by the state shall be repurchased by the bank within 20 years after their purchase. If the bank fails to repurchase the shares within 20 years, the commissioner of commerce and economic development may dissolve the bank.

(c) *Repealed, § 43 ch 86 SLA 1988.* (§ 3 ch 169 SLA 1978; am § 1 ch 63 SLA 1979; am § 12 ch 122 SLA 1980; am § 1 ch 109 SLA 1981; am § 66 ch 21 SLA 1986; am § 1 ch 49 SLA 1987; am § 43 ch 86 SLA 1988)

Revisor's notes. — Formerly AS 44.51.010. Renumbered in 1980.
 Cross references. — For legislative findings in connection with the 1981 amendments to this section, see § 9, ch. 109, SLA 1981 in the Temporary and Special Acts.

§ 44.81.020

STATE GOVERNMENT

§ 44.81.050

NOTES TO DECISIONS

Status for maritime foreclosure proceedings. — The Alaska Commercial Fishing and Agriculture Bank is not a state agency for purposes of maritime lien foreclosure proceedings. Alaska Com. Fishing & Agric. Bank v. O/S Alaska Coast, 715 P.2d 707 (Alaska 1986).

10
 Sec. 44.81.020. Board of directors. (a) The bank shall be managed by a board of directors consisting of seven members. Five board members shall be elected by the members of the bank, with at least one of the elected board members being an Alaska farmer, and two board members shall be appointed by the governor until the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state. After repurchase is completed, all board members shall be elected by the members of the bank. The board members shall annually elect a chairman from among themselves. The purpose of the board is to manage the assets of the bank.

(b) The governor shall designate the two members whose positions on the board will remain appointive for the period set out in (a) of this section. (§ 3 ch 169 SLA 1978; am § 2 ch 63 SLA 1979; am § 3 ch 61 SLA 1980; am § 2 ch 49 SLA 1987)

Revisor's notes. — Formerly AS 44.54.020. Renumbered in 1980.

Sec. 44.81.030. Articles of incorporation. *[Repealed, § 66 ch 21 SLA 1986.]*

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 27
 Sec. 44.81.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend, or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 169 SLA 1978)

Revisor's notes. — Formerly AS 44.54.040. Renumbered in 1980.

27
 Sec. 44.81.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or the commissioner's designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 169 SLA 1978)

Revisor's notes. — Formerly AS 44.64.050. Renumbered in 1980.

Sec. 44.81.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to members of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares of capital stock. (§ 3 ch 169 SLA 1978; am § 4 ch 61 SLA 1980)

Revisor's notes. — Formerly AS 44.64.060. Renumbered in 1980.

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

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

(c) The president may hire employees of the bank reasonably necessary for the efficient performance of the functions of the bank. Subject to the approval of the board of directors, the president may also contract for and engage the services of professional and technical advisors. The board of directors shall prescribe the duties and compensation of employees of the bank. Employees of the bank are not employees of the state and are not considered to be employees of a public organization for the purposes of AS 39.30.150 — 39.30.180 or AS 39.35. (§ 3 ch 169 SLA 1978; am § 5 ch 61 SLA 1980; am § 2 ch 109 SLA 1981)

Revisor's notes. — Formerly AS 44.64.070. Renumbered in 1980.

Sec. 44.81.080. Exempt status. [Repealed, § 10 ch 109 SLA 1981. For current law see AS 44.81.070(c).]

Sec. 44.81.090. Term of office and removal. The members of the board shall serve for terms of three years, and they may serve successive terms. Terms shall be staggered. An elected member of the board who releases confidential information in violation of AS 44.81.260, commits serious ethical misconduct that relates to the member's fitness to serve as a member of the board, or maintains a chronically and irredeemably substandard borrowing relationship with the bank may be removed from the board by affirmative vote of a majority of the members of the board. (§ 3 ch 169 SLA 1978; am § 3 ch 63 SLA 1976; am § 3 ch 49 SLA 1987)

Revisor's notes. — Formerly AS 44.64.090. Renumbered in 1980.

Sec. 44.81.100. Quorum. A majority of the members of the board constitutes a quorum for the transaction of business and the exercise of the powers and duties of the board. (§ 3 ch 169 SLA 1978)

Revisor's notes. — Formerly AS 44.64.100. Renumbered in 1980.

Sec. 44.81.110. Compensation of board members. Members of the board receive compensation not to exceed \$250 as determined by the board for each day the board meets if they attend the meeting. (§ 3 ch 169 SLA 1978; am § 3 ch 109 SLA 1981)

Revisor's notes. — Formerly AS 44.64.110. Renumbered in 1980.

NOTES TO DECISIONS

Cited in Alaska Com. Fishing & Agric. Bank v. O/S Alaska Coast, 716 P.2d 707 (Alaska 1986).

Secs. 44.81.120 — 44.81.150. Bonds of the bank; trust indentures and trust agreements; validity of pledges; nonliability on bonds. [Repealed, § 10 ch 109 SLA 1981.]

Sec. 44.81.160. Pledge of the state. The state pledges to and agrees with any lender to the bank and with the federal agency or regional institution of the federal farm credit system that loans or contributes funds in respect of a project, that the state will not limit or alter the rights and powers vested in the bank by this chapter to fulfill the terms of any contract made by the bank with the lender to the

bank or federal agency or regional institution of the federal farm credit system, or in any way impair the rights and remedies of the lender to the bank or federal agency or regional institution of the federal farm credit system. The bank is authorized to include this pledge and agreement of the state, insofar as it refers to a lender to the bank in a contract with the maker of a loan, and insofar as it relates to a federal agency or regional institution of the federal farm credit system, in a contract with a federal agency or regional institution of the federal farm credit system. (§ 3 ch 169 SLA 1978; am § 4 ch 109 SLA 1981)

Revisor's notes. — Formerly AS 44.64.160. Renumbered in 1980.

NOTES TO DECISIONS

Cited in Alaska Com. Fishing & Agric. Bank v. U/S Alaska Court, 716 P.2d 707 (Alaska 1986).

Secs. 44.81.170 — 44.81.180. Exemption from taxation; bonds legal investments for fiduciaries. [Repealed, § 10 ch 109 SLA 1981.]

Sec. 44.81.190. Conflicts of interest. A member of the board of directors may not vote on a transaction of the bank under this chapter if the member is a party to the transaction. (§ 3 ch 169 SLA 1978)

Revisor's notes. — Formerly AS 11.51.190. Renumbered in 1980.

Sec. 44.81.200. Reports and publications. The board of directors shall publish an annual report to the bank's members. The report shall be made available to the public and must include financial statements audited by independent outside auditors, a statement of the bank's investments, a description of the bank's loan activity during the period covered by the report, an analysis of economic and other effects of loan decisions on the state's commercial fishing and agriculture industries, and any other information that the board believes would be of interest to the governor, the legislature, and the public, or that the legislature requests the board to include. The board may also publish other reports it considers desirable to carry out its purposes. (§ 3 ch 169 SLA 1978; am § 5 ch 109 SLA 1981)

Revisor's notes. — Formerly AS 44.64.200. Renumbered in 1980.

NOTES TO DECISIONS

Cited in Alaska Com. Fishing & Agric. Bank v. U/S Alaska Court, 716 P.2d 707 (Alaska 1986).

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

(1) make variable rate or fixed rate loans to individuals who are residents and who are engaged in commercial agriculture or fishing, including harvesters, processors, suppliers, and marketers, or to corporations, partnerships or joint ventures engaged in commercial agriculture or fishing, the majority interest of which is beneficially owned by residents of the state and a majority of the owners of which are residents of the state, if the recipient of the loan is a member of the bank; however, the bank may make a loan under this paragraph to a corporation, partnership, or joint venture for the purchase of a new existing fishing vessel or for the repair or renovation of an existing fishing vessel, the primary purpose of which is to commercially harvest fishery resources, only if the corporation, partnership, or joint venture is wholly owned and controlled by residents of the state and if the recipient of the loan is a member of the bank;

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

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

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

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

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

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

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

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

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

- 17 (11) make contracts and execute instruments necessary or convenient in the exercise of its corporate powers;
- 17 (12) acquire by purchase, lease, bequest, devise, gift, the satisfaction of debts, or the foreclosure of mortgages, and hold, maintain, use, operate, and convey real or personal property;
- 17 (13) borrow money and issue secured and unsecured evidence of indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding obligations, and enter agreements and contracts concerning these obligations;
- 17 (14) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;
- 17 (15) appoint officers, employees, trustees for certificate holders, and agents, and prescribe their powers and duties;
- 17 (16) provide technical services to members of the bank; for the purpose of this paragraph, "technical services" includes services that will enhance the ability of the member to obtain financial assistance from the bank;
- 18 (17) make loans, as provided in (1) of this subsection, secured by liens subordinate to valid first liens and security agreements granted to a private lending institution;
- 17 (18) participate with state departments and agencies in formulating policy and in planning for the development of commercial fishing and agriculture in the state;
- 17 (19) do what is necessary or desirable to carry out the corporate purposes and powers expressed or implied in this chapter;
- 18 (20) make loans to individual commercial fishermen for limited entry permits; a loan under this paragraph may be made only to an individual commercial fisherman who has been a state resident for a continuous period of two years immediately preceding the date of application for the loan; loans made under this paragraph are subject to AS 44.81.230;
- 14 (21) indemnify directors, officers, or employees of the bank and their heirs, executors, and administrators against all liabilities and related expenses including, but not limited to, court costs and attorney fees, judgments, and the cost of reasonable settlements, incurred by them in connection with or arising out of an action or proceeding brought against them because of an act or omission in the performance of their official duties as directors, officers, or employees of the bank regardless of whether they were directors, officers, or employees at the time the expenses or liabilities are incurred;
- 18 (22) accept the pledge of a limited entry permit as security for a loan made under this chapter subject to the conditions set out in AS 44.81.230 — 44.81.250 on pledges of limited entry permits;
- 18 (23) make a loan to a person, regardless of residency, if the board of directors of the bank determines that the loan is necessary to preserve

- the value of property held by the bank as security for a loan that was made under (1) of this subsection and that is in default;
- 18 (24) issue certificates of loan participation to members and to other individuals, corporations, partnerships, and joint ventures, but the bank may not issue a certificate of loan participation if the certificate would allow participation by the member, individual, corporation, partnership, or joint venture in loans that individually or cumulatively involve more than 20 percent of the commercial fishery entry permits issued for one type of gear in a specific fishery resource administrative area.
- 14 (b) The provisions of (a)(21) of this section do not authorize the bank to indemnify a director, officer, or employee of the bank who is adjudged liable for negligence or misconduct in the performance of official duties.
- 18 (c) Notwithstanding (a)(1) of this section, the bank may make variable or fixed rate loan to a shore-based fish processor, a timber processor, or an agricultural processor or harvester that does not meet the resident ownership requirements of (a)(1) of this section for capital investment or operating capital if a facility of the processor or harvester is located in the state and the majority interest in the processor or harvester is beneficially owned by residents of the United States. (§ 3 ch 169 SLA 1978; am § 4 ch 63 SLA 1979; am §§ 7 — 10 ch 61 SLA 1980; am § 6 ch 109 SLA 1981; am § 52 ch 113 SLA 1982; am § 17 ch 67 SLA 1983; am § 20 ch 79 SLA 1985; am §§ 4, 6 ch 49 SLA 1987; am § 2 ch 62 SLA 1987; am § 2 ch 70 SLA 1989)

Revisor's notes. — Formerly AS 44.64.210. Renumbered in 1980.
 Cross references. — For legislative findings in connection with the enactment of (c) of this section, see § 1, ch. 62, S.L.A. 1987 in the Temporary and Special Act; for legislative purpose in connection with the enactment of (a)(24) of this section, see § 1, ch. 70, S.L.A. 1989 in the Temporary and Special Act.
 Effect of amendments. — The 1989 amendment, effective May 31, 1989, added paragraph (24) in subsection (a).

NOTES TO DECISIONS

Cited in Alaska Com. Fishing & Agril. Bank v. US Alaska Coast, 716 F.2d 707 (Alaska 1986).

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Sec. 44.81.220. Transition. Notwithstanding the provisions of AS 10.16.005, upon the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state, the provisions of this chapter lapse and the bank may proceed to operate solely as a private cooperative corporation under the terms of its bylaws and the provisions of AS 10.16.010 — 10.16.600. (§ 3 ch 169 SLA 1978; am § 7 ch 109 SLA 1981)

Revisor's notes. — Formerly AS 44.81.220 Renumbered in 1980.

NOTES TO DECISIONS

Cited in Alaska Com. Fishing & Agric. Bank v. O/S Alaska Coast, 716 P.2d 707 (Alaska 1986).

Sec. 44.81.225. Small loans to nonmembers. (a) To facilitate the development of commercial fisheries in geographic areas in which factors such as geographic considerations, uncertainties of communication, or limited demands do not encourage normal lending activities, the bank may make small loans to qualified borrowers who are not members of the bank.

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

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

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

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

(d) To service loans made under this section, the bank may contract or make other arrangements with a public agency or with a legal entity that the bank determines to be responsible and competent to administer the loan. (5 2 ch 39 SLA 1991)

Sec. 44.81.230. Loans for purchase of Alaska limited entry permits. (a) A loan under AS 44.81.210(a)(20) or 44.81.225 for the purchase of a limited entry permit may be made only upon certification by the commission that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted by the commission.

(b) Upon approval by the bank, a permit may be pledged as security for a loan made under (a) of this section, AS 44.81.225, or 44.81.236 if

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

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

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

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

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

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(c) Upon satisfaction of the note by the debtor, the bank shall certify to the commission that the note has been satisfied.

(d) Upon certification as provided in (c) of this section, the commission shall amend the permit certificate to list the debtor as the legal owner.

(e) In addition to the permit of the debtor pledged as security for a loan under (a) of this section, the debtor may pledge another limited entry permit as security for that loan if the bank approves and the permit to be pledged meets the requirements of (b) of this section.

(f) In anticipation of possible foreclosure on an entry permit under AS 44.81.260, the debtor may nominate a person to assume a note for a loan made under AS 44.81.210(a)(20), 44.81.225, or 44.81.236. If the person nominated qualifies under (a) of this section at the time of the foreclosure, the person may assume all rights and liabilities of the debtor in the event the bank forecloses on the entry permit. (5 6 ch SLA 1979; am §§ 11 — 13 ch 51 SLA 1980; am § 3 ch 70 SLA 1989; am §§ 3 — 5 ch 39 SLA 1991)

Revisor's notes. — Formerly AS 44.81.230. Renumbered in 1980.

Cross references. — For reassignment or sale of entry permits pledged as security after revocation of the permit by the commission, see AS 16.43.960(l); for legislative purpose in connection with the enactment of (e) and (f) of this section, see § 1, ch. 70, SLA 1989 in the Temporary and Special Acts.

Effect of amendments. — The 1989 amendment, effective May 31, 1989, added subsections (e) and (f).

The 1991 amendment, effective June 13, 1991, in subsection (a), inserted "or 44.81.225"; in subsection (b), substituted "a permit may be pledged" for "the permit to be purchased may be pledged," inserted "made" and "AS 44.81.225, or 44.81.236," and made a punctuation change; and, in subsection (f), substituted "a note for a loan made" for "a note given" and added "44.81.225, or 44.81.236" to the end of the first sentence.

NOTES TO DECISIONS

Cited in Anderson v. Anderson, 738 P.2d 320 (Alaska 1987).

Sec. 44.81.235. Limitations on pledge of permits. (a) The bank may issue a loan secured by a limited entry permit for

(1) purchase, repair, restoration, or improvement of a commercial fishing vessel or commercial fishing gear;

(2) construction of a commercial fishing vessel;

(3) working capital, including insurance premiums, fuel, bait, and boat storage and launching expenses; or

(4) purchase and improvement of set net sites and associated equipment.

(b) A limited entry permit may be used as security for more than one loan if each loan meets the requirements of AS 44.81.210(a)(20) or (a) of this section.

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(c) A limited entry permit may be used as security for a loan to refinance existing debts if the proceeds of each original loan were used in accordance with AS 44.81.210(a)(20) or (a) of this section. (§ 6 ch 49 SLA 1987; am §§ 4, 6 ch 70 SLA 1989)

Cross references. — For legislative purpose in connection with the 1989 amendments to (b) and (c) of this section, see § 1, ch 70, SLA 1989 in the Temporary and Special Acts.

Effect of amendments. — The 1989 amendment, effective May 31, 1989, inserted "AS 44.81.210(a)(20) or" in subsections (b) and (c).

Sec. 44.81.240. Default and foreclosure of certain loans secured by limited entry permits. (a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under AS 44.81.230, the bank shall provide the debtor, by registered or certified mail sent to the debtor's last known address on file with the bank, with a notice of default that includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the commission;

(2) the date upon which the default occurred;

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

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

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

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

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

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

(b) Upon the debtor's failure to reinstate or satisfy the note within the time specified in (a) of this section, the debtor's equitable interest is terminated by operation of law without further notice. Any entry permit cards issued to the debtor under the permit shall be canceled immediately upon receipt by the commission of a certificate of termination containing a copy of the notice required by (a) of this section issued by the bank. (§ 6 ch 53 SLA 1979; am § 14 ch 51 SLA 1980)

Revisor's notes. — Formerly AS 44.64.240. Renumbered in 1980.

Sec. 44.81.250. Deficiencies and transfer of entry permits after foreclosure. (a) Upon a foreclosure on an entry permit as provided in AS 44.81.240, the bank shall offer the commission a right of first refusal if the permit is subject to a buy-back program under AS 16.43.290 — 16.43.330 at a price equal to the amount outstanding on the note plus any costs the bank directly incurred in administering the loan.

(b) If the commission does not exercise its right of first refusal within 30 days after it receives the offer, or if the permit is not subject to a buy-back program under AS 16.43.290 — 16.43.330, the bank shall promptly notify the debtor of this fact. If the debtor has not previously nominated a qualified person to assume the note under 44.81.230(f), the debtor has 30 days from the postmark date of the notice to nominate a person qualified to assume the note. The person nominated must qualify under the requirements of AS 44.81.230(a). If qualified, the person nominated may assume all rights and liabilities of the original debtor.

(c) If the debtor is unable to nominate a qualified person to assume the note under (b) of this section, the permit must be made available to a qualified person, chosen as provided in this section, who shall assume the note subject to all rights and liabilities of the original debtor. The commission shall provide the bank with a list of persons chosen by lottery who qualify as transferees of entry permits under AS 16.43 and regulations adopted by the commission and who have met the residency requirements of AS 44.81.210(a)(20). The bank shall then determine, in order of presentation, any remaining qualifications. The bank shall allow the first applicant meeting all qualifications to assume the note.

(d) Nothing in this section affects the right of the bank to institute legal action for a deficiency resulting from a default on a note for a loan made under AS 44.81.210(a)(20), 44.81.226, 44.81.230, 44.81.236. In addition to any deficiency, the debtor is liable for the costs of administering the note and for costs and attorney fees.

(e) If the commission is unable to provide a list of one or more qualified persons as provided in (c) of this section within 15 days, or if no person listed is determined by the bank to be qualified to assume the note, the bank may sell the permit to an individual commercial fisherman who has been a state resident for two years immediately preceding the date of the sale. If the proceeds of the sale of a permit exceed the amount necessary to pay the note in full, plus interest to date of sale, penalties, costs, and attorney fees, the bank shall remit the excess to the original debtor. (§ 6 ch 53 SLA 1979; am §§ 15 — 17

ch 61 SLA 1980; am §§ 6 — 8 ch 70 SLA 1989; am § 6 ch 39 SLA 1991; am § 37 ch 30 SLA 1992)

Revisor's notes. — Formerly AS 44.81.260 Renumbered in 1980.

Cross references. — For legislative purpose in connection with the 1989 amendments to (b) and (d) of this section, and the enactment of (a), see § 1, ch. 70, SLA 1989 in the Temporary and Special Acts.

Effect of amendments. — The 1989 amendment, effective May 31, 1989, added "If the debtor has not previously nominated a qualified person to assume the role under AS 44.81.2300" at the beginning of the second sentence in subsection (b); inserted the reference to "44.81.210(a)(20)" in the first sentence in subsection (d); and added subsection (e). The 1991 amendment, effective June 13, 1991, in subsection (d), substituted "note for a loan made under" for "note given under" and inserted "44.81.225," and "or 44.81.235," and made a stylistic change. The 1992 amendment, effective May 10, 1992, deleted "and commercial fishing participation" following "met the residency" in the second sentence of subsection (c).

The 1991 amendment, effective June 13, 1991, in subsection (d), substituted "note for a loan made under" for "note given under" and inserted "44.81.225," and "or 44.81.235," and made a stylistic change.

The 1992 amendment, effective May 10, 1992, deleted "and commercial fishing participation" following "met the residency" in the second sentence of subsection (c).

The 1992 amendment, effective May 10, 1992, deleted "and commercial fishing participation" following "met the residency" in the second sentence of subsection (c).

Sec. 44.81.260. Confidentiality of records. (a) The records of the bank that are identified with, or identifiable as being derived from the records of, a specific borrower, member of the bank, or applicant for a loan are confidential and may not be disclosed by the bank or by its directors, officers, employees, or agents to a person other than the directors, officers, employees, or agents of the bank, except

- (1) when required by a federal or state statute;
- (2) under AS 44.81.270;
- (3) under a search warrant issued under federal law or the law of this state;
- (4) under a subpoena or court order issued in a civil action under federal law or the law of this state;
- (5) under a subpoena or court order issued in connection with a proceeding before a federal grand jury or grand jury of this state;
- (6) under a summons or subpoena issued by an agency or a department of the United States or this state, or an officer, employee, or agent of the agency or department;
- (7) under a request by a financial institution, if the request is solely for the stated written purpose of determining the credit worthiness of a member or borrower as an applicant for credit, and if the information disclosed by the bank pertains only to the payment history of the member or borrower;
- (8) under a request by a lender that has extended or is considering extending credit to the bank if the credit is or may be secured by the pledge of a loan by the bank;
- (9) when disclosed to the attorney general of the United States or to a law enforcement agency of this state if the records may be relevant to a report or investigation of a possible violation of federal law or a law of this state.

(b) The records of the bank that are not subject to (a) of this section may be kept confidential by the bank, subject to the exceptions listed in (a)(1) — (5) of this section.

(c) Notwithstanding (a) — (b) of this section, a borrower, a member of the bank, or an applicant for a loan may authorize the bank in writing to disclose records provided to the bank by the borrower, member, or applicant.

(d) In this section,

(1) "member" includes past and present members;

(2) "records" means financial and other records, including information known to have been derived from the records, in any form, including original documents and copies. (§ 2 ch 109 SLA 1981; am § 1 ch 16 SLA 1991)

Effect of amendments. — The 1991 amendment, effective June 13, 1991, rewrote the section.

Sec. 44.81.270. Audit of bank. (a) At the direction of the Legislative Budget and Audit Committee under AS 24.20.271, the legislative auditor may conduct an audit of the bank. The legislative audit division has free access to all books and papers of the bank that relate to its business and books and papers kept by a director, officer, or employee relating to or upon which a record of its business is kept, and may summon witnesses and administer oaths or affirmations in the examination of the directors, officers, or employees of the bank or any other person in relation to its affairs, transactions, and conditions, and may require and compel the production of records, books, papers, contracts, or other documents by court order if not voluntarily produced.

(b) The bank shall be audited annually by independent outside auditors. The legislative auditor may confer with the outside auditors and review the workpapers of the audit.

(c) The state bank examiners shall perform an annual qualitative examination and evaluation of the bank. The commissioner of commerce and economic development shall assess the bank a fee established under AS 06.01.010(b) for the actual expenses incurred by the Department of Commerce and Economic Development in connection with the examination. The examiners shall report to the board of directors on the examination. The examiners shall prepare a summary report evaluating the bank's loan portfolio quality on a statistical basis and addressing the appropriateness and effectiveness of the bank's policies, practices, and management within the context of the bank's statutory purposes. The examiners shall distribute copies of the summary report to the bank, the legislature, and the governor. (§ 8 ch 109 SLA 1981; am § 7 ch 49 SLA 1987; am §§ 40, 41 ch 85 SLA 1988)

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NOTES TO DECISIONS

Cited in Alaska Com. Fishing & Agric.
Bank v. U.S. Alaska Coast, 716 F.2d 707
(Alaska 1983).

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Sec. 44.81.280. Prohibition on disclosure. The legislative auditor and the auditor's employees may not disclose information acquired by them in the course of an audit of the bank concerning the particulars of the business or affairs of a borrower of the bank or another person, unless the information is required to be disclosed by law or under a court order. (§ 8 ch 109 SLA 1981)

Sec. 44.81.350. Definitions. In this chapter

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

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

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

(4) "supplier" means a person whose main source of income is from providing goods or services that are directly related to commercial fishing or agriculture to individuals, corporations, partnerships, or joint ventures engaged in commercial fishing or agriculture. (§ 18 ch 51 SLA 1980)

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Revisor's notes. — Formerly AS
1154.260. Renumbered in 1980.

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

Section	Section
10. Creation of authority	115. Nomination of a member of the board
20. Membership	120. Trust indentures and trust agreements
30. Officers and quorum	130. Nullability on bonds
40. Compensation	140. Pleas of the state
50. Staff	150. Exemption from taxation
60. Legal counsel	160. Bonds legal investments for fiduciaries
70. Purpose of authority	170. Regulations
80. General powers	180. Annual audit
90. Bonds of the authority	190. Annual report
100. Submission of financial and Alaska impact plan	200. Definitions

~~Cross reference. For legislative findings in connection with the enactment of this chapter, see § 1, ch. 90, SLA 1978.~~

Sec. 44.82.010. Creation of authority. There is created the Alaska Gas Pipeline Financing Authority. The authority is a public corporation of the state. It is an instrumentality of the state within the Department of Revenue, but has a legal existence independent of and separate from the state. Exercise by the authority of the power conferred by this chapter is an essential governmental function of the state. (§ 2 ch 90 SLA 1978)

Revisor's notes. — Formerly AS
44.66.010. Renumbered in 1980.

Sec. 44.82.020. Membership. The membership of the authority consists of the commissioner of revenue, the commissioner of commerce and economic development, and the commissioner of natural resources. The commissioner of revenue is chairman of the authority. If a member is unable for any reason to attend a meeting of the authority, the member may, by a written instrument filed with the authority, designate a person within the member's department to act in the member's place at the meeting. For all purposes of this chapter, the designee is a member of the authority at the meeting. (§ 2 ch 90 SLA 1978)

Revisor's notes. — Formerly AS
44.66.020. Renumbered in 1980.

Sec. 44.82.030. Officers and quorum. The members of the authority may elect other officers. Two members constitute a quorum. Action may be taken and motions and resolutions adopted by the authority at a meeting by the affirmative vote of at least two members. (§ 2 ch 90 SLA 1978)

Revisor's notes. — Formerly AS
44.66.030. Renumbered in 1980.

Sec. 44.82.040. Compensation. The members of the authority serve without compensation but are entitled to the same travel pay and per diem as provided by law for board members who are state employees. (§ 2 ch 90 SLA 1978)

Revisor's notes. — Formerly AS
44.66.040. Renumbered in 1980. Cross reference. For per diem and travel expenses, see AS 30.20.190.

TESTIMONY TO THE HOUSE FINANCE COMMITTEE

May 3, 1995

House Bill 284

Mr. Chairman and members of the committee. My name is Cheryl Sutton, aide to Representative Carl E. Moses, and will be presenting testimony on House Bill 284 this evening on behalf of the House Fisheries Committee.

House Bill 284 seeks to modify and refit the Commercial Fishing and Agriculture Bank 's (CFAB) enabling statute to reflect evolving commercial law and present day fishing economies' needs. CFAB was created in 1978 and much has changed in commercial law and fishing economies since that time.

There are two significant changes which would be enacted with the passage of HB 284. The first is permanent ownership by the state through retirement of all but \$1 million of the state's initial investment of \$32 million; and, second, the broadening of the purposes and circumstances for which a fisherman may use his limited entry permit as collateral. The intent of these changes is to make CFAB's loan program more compatible with the needs of the seafood industry.

The bill has two zero fiscal notes and has been heard in the House Fisheries Committee and the House Labor & Commerce Committee.

Ed Crane, president of CFAB, is here and will be able to answer any questions you may have. Thank you.

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STATE OF ALASKA

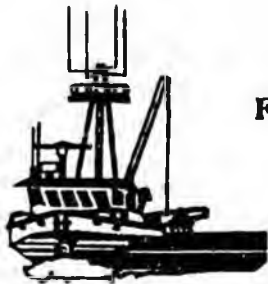
(907) 465-3808
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 400
Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House Finance Committee
May 4, 1995
8:30 A.M.



F/V SEA DANCER

Carl Kerr, Owner
P.O. Box 71
Sitka, Alaska 99835
(907) 747-8231

APR 11 1995

Note Sent to Alan Austerman -

Dear Sir:

We are CFAB members who in 1984 were able to obtain a \$1,000,000 loan. This amount would have been very hard to borrow anywhere else.

We have payed off our loan and now own a excellent fishing boat.

We truly believe in CFAB'S existance & purposes

Please pass AB 284.

Thank You

Allen & Carl Kerr

Box 71

Sitka Alaska

99835

APRIL 10, 1995

8 HOUSE SPECIAL COMMITTEE ON FISHERIES
8 ALASKA STATE LEGISLATURE

AS A COMMERCIAL FISHERMAN AND 18 YEAR
RESIDENT OF ALASKA, I URGE YOU TO SUPPORT
HB 284.

I'VE BEEN A MEMBER / BORROWER OF CFAB
SINCE 1986. I'VE HAD ONE PERMIT LOAN, ONE GEAR LOAN
AND THREE SEASONAL OPERATING LOANS. ALL LOANS
HAVE BEEN PAID IN FULL AND ON TIME.

CFAB HAS BEEN THE ONLY FINANCING OPTION
OPEN TO ME AT TIMES. CFAB PROVIDES
FLEXIBILITY THAT OTHER LENDERS WOULD NEVER
CONSIDER.

WE ARE A RESOURCE STATE, AND NEED LENDERS
THAT CAN RESPOND TO PEOPLE, THAT EARN THEIR
LIVING FROM THOSE RESOURCES.

IN ORDER TO HELP KEEP OUR FISHERIES IN
ALASKAN HANDS, WE NEED LENDING INSTITUTIONS
SUCH AS CFAB, THAT LOAN ONLY TO ALASKANS.

I THANK YOU

Peter

Royal

PETER ROYAL
202 E. DIAMOND BLVD. #304
ANCHORAGE, ALASKA 99515

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

SEWARD SHEA
PO BOX 1835
SEWARD, AK 99664-1835

April 1, 1975

Representative Alan Westerman, Chair
House Special Committee on Diseases
Alaska State Legislature
Juneau, Alaska 99801-1122

Dear Sir:

I am presently a member of CFAB and
have borrowed money from them in the past.
I am very happy they wish to loan for me
in the future if I have need of their services.
I urge the passage of H.B. 284.

Sincerely

David C. Shea

C. C. CFAB

FN Dolphin

Attn: Dan Berkshire

Ed

April 10, 1995

Representative Alan Austerman, Chair
House Special Committee on Fisheries
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Mr. Austerman:

In regard to HB284, I feel that CFAB is needed in Alaska - It is important. I borrowed over 1/2 million dollars in late 1983. It was needed very much to enhance and take care of my business needs. I have never missed a monthly payment and will be paid off in 1995. I am very grateful for CFAB's cooperation and help in fulfilling my needs. They have made me feel important and useful.

Please consider the continued need of CFAB!

Sincerely Yours,

Roland Moody

Roland Moody

P.S. I have lived in Alaska since 1931. I have been a commercial fisherman since 1932 and have lived at Aleknagik most of the time.

Bill Choate
Box 493
Homer, Alaska 99603
April 6, 1995

Chairman Alan Austerman
House Special Committee on Fisheries
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Chairman Austerman,

I strongly urge you to support HB 284. As a member of CFAB and three time user of the institution, it is hard for me to imagine my success in the fishing business without them. It is clear to me that CFAB has grown and evolved over the years, and besides, Ed Crane need the kind of job security that most of you legislators enjoy.

Sincerely,



P.S. CFAB---disregard last line. hal hal

APR 07 1995
As'd.....

April 6, 1995

Representative Alan Austerman, Chair
House Special Committee on Fisheries
Alaska State Legislature
Juneau, AK 99801-1182

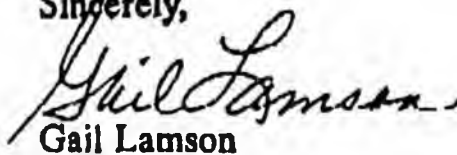
HB 284 is important to the fishing and farming industries. It corrects inconsistent language in AS 44.81 to prevent the unintended dissolution of the Alaska Commercial Fishing and Agriculture Bank (CFAB). HB 284 also clears up several other weaknesses in the statute so CFAB can function more effectively in meeting the increasingly complex financial needs of fishermen and farmers.

My husband and I became CFAB borrowers/shareholders in 1982. Without CFAB's help I doubt we could have started our salmon setnet business. Several other lenders denied our loan requests; the volatility and seasonal nature of fishing were inconsistent with their lending guidelines. Now we borrow from CFAB every spring to get set up for the upcoming season.

CFAB and its borrowers/owners work hard to pay their own way. As provided in the statute, CFAB is repaying the \$32 million initial capital provided by the State of Alaska. Borrowers pay market interest rates; we are not subsidized.

Please pass HB 284. CFAB successfully loaned over \$600 million in the past 15 years. Please help us continue playing a major role in Alaska's economy by filling a gap left by conventional lenders.

Sincerely,

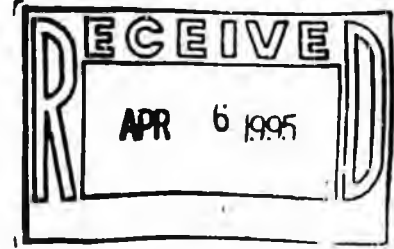


Gail Lamson

16101 Genevieve

Anchorage, AK 99516

April 5, 1995



The Honorable Alan Austerman
Chairman
House Special Committee on Fisheries
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Mr. Chairman:

As a commercial fisherman and a CFAB member, I am writing to urge the Alaska State Legislature to pass HR 284 to continue the existence of CFAB and to make some changes CFAB needs to continue its operations.

I grew up in the village of Ugashik where my parents, brothers, sister and I all fished commercially, and I still vote in that district as well as spend summers fishing for salmon. When I left to attend college, my permit went to a younger brother. Later when my brother had to sell his permit, I was able to purchase it through a CFAB loan and was able to keep the permit in the family when so many permits are being sold to "outsiders" leaving fewer and fewer permits in the hands of Alaskans who need jobs and money in the rural areas.

I tried to borrow money through the Alaska Department of Commerce and Economic Development, but they said I was ineligible. So I turned to CFAB which helped me, and I think the work that CFAB is doing for Alaskans and the state are very important and should be continued. When CFAB was created, it was a wonderful plan to assist fishermen/women. We do not receive a "free ride" because we pay interest on the money we borrow.

Thank you for your consideration of my comments.

Sincerely,

Marie Matsuno Nash
P.O. Box 101918
Anchorage, Alaska 99510-1918

cc: The Honorable Lyman Hoffman
The Honorable Carl Moses
bcc: Ed Crane, CFAB



SEWARD WATERFRONT LODGING
550 Railway (On-The-Bay)
P.O. Box 618
SEWARD, ALASKA 99664

(907) 224-5563

MEMO

DATE	4/3/95
SUBJECT	HB 284

TO: Rep. Alan Austerman, chair
House Spec. Comm on Fisheries
AK state legislature
Juneau, AK 99801-1182

Please pass **[HB 284]** As members of CFAB we support the efforts and the presence of CFAB's existence & purpose. In our lives as fishermen we appreciate and take pride in being part of the CFAB ownership & have benefited by their assistance in years past & we look forward to working with them again in the upcoming season.

Thank you for your support.

Michael & Arlene Wiley

P.O. Box 618 - Seward

Commercial setnetters

For E.B. Crane

PLEASE REPLY

NO REPLY NECESSARY

60% Pre-Consumer Content
10% Post-Consumer Content

April 12, 1994

Representative Alan Austerman, Chair
House Special Committee on Fisheries
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Sir,

We would like to take the opportunity to express our opinion regarding HB 284.

It is of the utmost importance that this Bill pass. If it fails, Alaskans may lose one of it's most successful and necessary institutions.

Interestingly enough, the rationale for the creation of CFAB back in 1980 is even more apparent today. Without a doubt CFAB serves as the lender of last resort to certain members (specifically independent non-Japanese affiliated companies) of the Alaskan seafood industry whom for whatever reason cannot obtain credit from commercial banks in either Alaska or Seattle.

Our company's recent experience serves as a perfect example. ADF was formed in 1985 to operate the existing APA plant in Chignik. For several years ADF operated quite profitably, reinvesting most of it's profit in capital improvements to increase capacity and quality, along with the upgrades necessary to keep up with the ever more stringent health and safety requirements imposed by both the State and Federal governments. We had also become the largest Salmon buyer in Chignik and one of the largest Cod buyers in Alaska.

During those years, the Seattle banks were happy to make credit available as requested. The salmon industry was healthy in general with few clouds on the horizon.

In 1989 however, the Exxon Valdez oil spill became the first of several successive disturbances which proved difficult for ADF to overcome. If the spill was insufficient cause by itself to have done so by impugning the reputation of Alaskan salmon, the meteoric rise and consequent overproduction of farm raised salmon caused the market value of Sockeye salmon to fall by up to 50%, squeezing margins for processors and fishermen.

By 1992, ADF began to suffer losses. By themselves these losses weren't sufficient to cause the loss of bank credit. ADF's fundamentals were strong and had a blemishless credit history.

But when coupled with the difficulty of recovering capital previously loaned to fishermen (due to low grounds prices), and the avalanche of bad press surrounding numerous bankruptcies in the Alaskan groundfish business, ADF's bank lost faith and chose to beat a hasty retreat from the industry in general. In point of fact, virtually the entire Seattle banking community had shunned the industry by that time.

We at ADF had come to know several members of the CFAB staff over the years through interactions regarding their financing of various Chignik fishermen. When our problem surfaced, we approached them.

We found a willingness to listen by a group whose expertise and insight far exceeds any other Bank's seafood department. Despite their best efforts, and due to the almost unreasonable demands made by our existing bank, CFAB was understandably unable to effect a refinancing.

This left ADF with no other choice but to reorganize, which it accomplished quite successfully. Almost one year later, ADF is strong again. We maintained our #1 position in Chignik, are paying dividends to shareholders, and are poised for further growth.

None of this would have been possible without CFAB. Upon reorganization and as promised, ADF received a modest but sufficient Line of Credit from CFAB when there was not another bank in the Northwest who was willing to do so.

Their credit standards are tight (as well they should be), but they are the only financial institution committed to supporting independent members of Alaska's seafood industry despite its cyclical nature, irrespective of whether better short term returns might be had elsewhere at any given moment.

As our industry adjusts to the multitude of changes on the horizon, the continued existence of CFAB is a prerequisite to maintaining a healthy, competitive environment for one of Alaska's largest industries.

We urge you and all members of the Legislature to support HB 284.

Respectfully,

Brad A. Resnick
President

ROBERT A. CORREIA
P.O. BOX 729
KASILOF, AK 99610

APRIL 5, 1995

DEAR ALASKA LEGISLATURE,

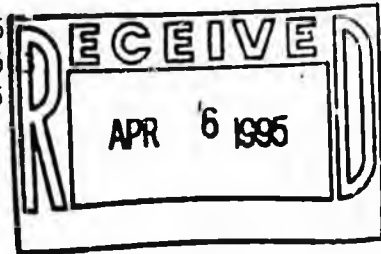
MY NAME IS ROBERT A. CORREIA. I AM A CURRENT MEMBER OF CFAB AND
HAVE BEEN A MEMBER FOR THE LAST 15 YEARS. I LIVE IN KASILOF, ALASKA
AND HAVE COMMERCIALY FISHED IN COOK INLET FOR 30 YEARS. RESIDENT
ALASKA FISHERMEN NEED CFAB AND I URGE YOUR SUPPORT OF HB 284.

SINCERELY

Robert A. Correia

ROBERT A. CORREIA

P.O. Box 4086
Homer, AK 996
April 5, 1995



Representative Alan Austerman, Chair
House Special Committee on Fisheries
Alaska State Legislature
Juneau, AK 99801-1182

Representative Austerman,

I am a CFAB member and believe in the significance of their existence and purposes. I would like to see the passage of HB 284 for CFAB's ongoing existence premised on their own success.

I feel it would provide more flexibility in meeting the increasingly complex financial needs of commercial fishers and farmers in the future.

Please pass HB 284.

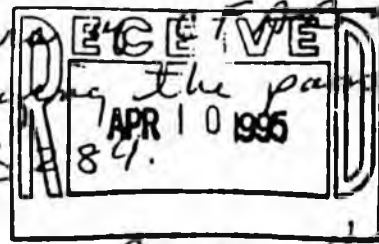
Gratefully,

David Edens
EDENS FISHERIES, INC.

4-5-95

Charles K. Heckman
Barbara M. Heckman
P O Box 79
Pilot Station, AK 99690

My husband and I are
members and
are urging the passage
of HR 84.



Barbara Heckman

11760 Noy Court, Conf. A
Anchorage, AK 99515
April 7, 1995



Rep. Alan Gusterman, Chair
House Special Committee on Fisheries
Alaska State Legislature
Juneau, AK 99801-1182

Dear Rep. Gusterman:

I urge you to support the passage of HB 284. The continued existence of CFAB is essential for many fishermen and farmers in their quest to build viable businesses. I am a CFAB member and can testify that without CFAB's help, I probably could not have built my fishing business!

Sincerely,

Stephen Kurth



4-5-9

To: Rep. Alan Austerman

Mr. Austerman I have been a participating member of CPAB since 1990. I feel it is essential that House Bill 284 Passes.

Thank you,
Terry Mac Donald Sr

Box 424
Petersburg, AK 99833

Terry Mac Donald Sr

Ronald E. & Anne Winters
M/V BERING
P.O. Box 178
Cordova, AK 99574

April 6, 1995



Rep. Alan Austerman, Chair
House Special Services Comm/Fisheries
Alaska State Legislature
Juneau, AK 99801-1182

Dear Rep. Austerman,

As members of CFAB we would like to express our support for the passage of HB284. CFAB has proven to be an asset to the fishing and farming communities of the state and the bank has made significant strides in becoming self-supporting. We support their continued existence and trust that HB284 will clean up some of the language of the original legislation and address other gaps and problems facing the institution today.

Sincerely,

M/V BERING

Ron & Anne Winters

copy

Bob CLARK;

Hey Bob, glad to see spring,
I hope it stops by later in
summer would like to refinance
my vessel. See you then
good fishing too you.



BAY TRADERS, INC.

dba THE FISH HOUSE
P.O. BOX 1209 SEWARD, ALASKA 99664
(907) 224-3874 1-800-257-7760

Rep. (Chairman)

Alan Austerman, I have been notified
of HB 284 since I am a CFAB
owner. This Bill is not written right
it seems like. Any Bill that provides
for the dissolution of CFAB is
unbelievable. CFAB has helped
hundreds of fishermen like myself.
CFAB has created thousands of jobs
in Alaska just in fisheries related
business. I will be watching as will
all fishermen as to how this is
addressed. Do it right, write a
Bill that will continue business as
usually for CFAB. Make yourself a lot
of friends and gain respect from true
Alaskans (Help CFAB).

Thank You
Michael A. Clonnes

APR 10 1995

APR 10 1995



P. O. BOX 784 • KEETCHIKAN, ALASKA 99541 • (907) 225-6044 Fax (907) 225-8636

4-5-95

5561 0 1 2 3

REPRESENTATIVE ALAN AUSTERMANN
CHAIRMAN
HOUSE SPECIAL COMMITTEE ON
FISHERIES
ALASKA STATE LEGISLATURE
JUNEAU, ALASKA 99801-1102

DEAR SIR:

I URGE YOU TO SUPPORT PASSAGE
OF HB 284.

OPAS HAS BEEN A TREMENDOUS
ASSET TO THE COMMERCIAL
FISHING INDUSTRY IN ALASKA.

THE STATE AND THE INDUSTRY NEED
THIS INSTITUTION.

Sincerely,



April 4, 1995

To: Edward E. Crane
From: Bruce Foster Jr.
P. O. Box 34
Sand Point, Alaska 99661

A copy of my letter to Juneau in support of H. B. 284 is enclosed.

Sincerely,

Bruce Foster Jr.

A handwritten signature in cursive script that reads "Bruce Foster Jr." with a flourish at the end.

NO
ENCLOSURES
RECEIVED
?

Thomas Crandall
Box 210849
Anchorage, Ak. 99521

April 9, 1995

Representative Alan Austerman, Chair
House Special Committee on Fisheries
Alaska State Legislature
Juneau, Ak. 99801-1182

Sir:

I am and have been for a considerable time a CFAB member, Alaskan,
and a commercial fisherman.

I am writing to you in regards to HB 284. I am in support of this
legislation and in support of the continued existence of CFAB.

I urge you to do what you can to facilitate the passage of HB 284

CFAB is in a position to provide financing for the benefit of Alaska'
fishermen in a way that other financial institutions are unable or
unwilling to do.

Thank you for your consideration.

Sincerely,


Thomas Crandall

cc: CFAB

RECEIVED

APR 12 1995

Asst.....

Hello Mr. Austerman.

My name is Joel Nimmer,
and I am presently a member
of CFAB.

CFAB made it possible for
me to start a career in
fishing as a younger man.

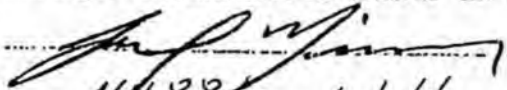
This is an extremely tough
field to break into these
days, and young people need
an institution to look to for
financial opportunity.

Commercial fishing is part
of a vibrant economy and
lends greatly to the "Alaskan Mystique".
It requires a lending institution
to keep its future moving ahead
and help guide new people into
its fisheries.

I certainly hope HB 284
ensuring the ongoing existence
of CFAB will be passed.

Thank you

Joel Nimmer



N4886 Lt/H V

Fond du lac WI

54935

RECEIVED

APR 13 1995

Assoc'd.....

APRIL 12, 1995

REPRESENTATIVE ALAN AUSTERMAN, CHAIR
HOUSE SPECIAL COMMITTEE ON FISHERIES
ALASKA STATE LEGISLATURE
JUNEAU, ALASKA 99801-1182

DEAR REPRESENTATIVE AUSTERMAN:

AS A MEMBER OF CFAB SINCE 1984, I WOULD LIKE TO EXPRESS MY
SUPPORT FOR PASSAGE OF HB 284.

CFAB HAS BEEN VERY IMPORTANT TO THE ALASKA FISHING INDUSTRY.
WITHOUT CFAB I'M SURE MORE OF OUR LIMITED ENTRY PERMITS AND
ALASKA'S FISHING INDUSTRY WOULD GO SOUTH TO SEATTLE AND OTHER
PARTS OF THE LOWER 48.

CFAB HAS BEEN PAYING ITS OWN WAY. ALSO, FOR YOUR INFORMATION,
I HAVE NOT BEEN GIVEN A FREE RIDE. AS AN ACTIVE CFAB MEMBER,
I HAVE PAID SEVERAL THOUSAND DOLLARS IN INTEREST, AND I HAVE
ALSO PURCHASED SEVERAL THOUSAND DOLLARS WORTH OF STOCK THAT
HAS BEEN USED TO PAY OFF THE STATE'S ORIGINAL LOAN TO CFAB.

I RECENTLY TOOK OUT MY THIRD LOAN WITH CFAB TO BUY HALIBUT IFQ.
AGAIN, WITHOUT CFAB, ALASKA CAN COUNT ON MOST OF THE HALIBUT IFQ
GOING SOUTH TO THE BETTER FINANCED SEATTLE FLEET.

MY SON AND I HAVE TWO BOATS AND TWO BRISTOL BAY PERMITS THAT
WERE PURCHASED WITH CFAB LOANS, AND THANKS TO CFAB WE NOW HAVE
A FEW POUNDS OF HALIBUT IFQ. MORE IMPORTANTLY WE EMPLOY SIX
ALASKA CREW MEMBERS EVERY YEAR AND BUY MOST OF OUR GEAR AND
SUPPLIES IN ALASKA. EQUALLY IMPORTANT, WE ALL LIVE IN ALASKA AND
SPEND OUR FISHING INCOME IN ALASKA. LETS KEEP AS MUCH OF THE
FISHING INDUSTRY IN ALASKA AS WE CAN. KEEP CFAB A VIABLE ENTITY
BY PASSING HB 284. FUTURE GENERATIONS OF ALASKA FISHERMAN NEED
CFAB'S LOAN PROGRAMS.

ALASKA NEEDS TO KEEP IT'S SECOND BIGGEST INDUSTRY HEALTHY!

SINCERELY,



TOMMY GENE HEINRICH

✓ CC: EDWARD E. CRANE, CFAB

Lock's All Alaskan Seafoods
F/V Chelsea L
P.O. Box 1542
Wrangell , Alaska 99929

Dear Rep. Austerman ,

April 10 , 1995

This letter is to ask for your support in passing HB 284 . I believe this bill is nessesary for the continued operation of CFAB . As a CFAB loan holder and stock holder I know how important it is to have a lending institution that knows and specializes in the fishing industry. I'm at the point in my career and business now , where my local bank and the SBA work very comfortably with me . If CFAB had not been available for me at the beginning I seriously doubt if I could have achieved this level of success . As I said , I'm in a good position now . My son is looking forward to a career in this industry and I would like to see him have at least the options I had when I started . The passage of HB 284 would help insure this . Thank you for your time .

Sincerely ,


Michael T Lockabey

	Date	Page		Action
1	03/27/95	933	(H)	READ THE FIRST TIME - REFERRAL(S)
2	03/27/95	933	(H)	FSH, LABOR & COMMERCE, FINANCE
3	04/05/95		(H)	FSH AT 5:00 PM CAPITOL 124
4	04/19/95		(H)	FSH AT 5:00 PM CAPITOL 124
5	04/19/95		(H)	MINUTE(FSH)
6	04/20/95	1398	(H)	FSH RPT 2DP 2NR
7	04/20/95	1398	(H)	DP: MOSES, ELTON
8	04/20/95	1398	(H)	NR: OGAN, AUSTERMAN
9	04/20/95	1399	(H)	2 ZERO FISCAL NOTES (REV, F&G)
10	04/20/95	1399	(H)	REFERRED TO LABOR & COMMERCE
11	04/28/95		(H)	L&C AT 3:00 PM CAPITOL 17

*PASSED LABOR & COMMERCE
 WAITING UNTIL FOR MINUTES*

Selection=>

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
 HELP SUBJ EXIT MENU TEXT PRINT BWD FWD JRNL FIRST LAST QUIT

HOUSE SPECIAL COMMITTEE ON FISHERIES

April 19, 1995

5:02 p.m.

→ HB 284 - AK COMMERCIAL FISHING & AGRICULTURE BANK

Number 452

CHERYL SUTTON, Administrative Assistant to Representative Carl Moses, testified saying, "HB 284 seeks to modify and refit the Commercial Fishing & Agriculture Bank's (CFAB's) enabling statute to reflect evolving commercial law and present day fishing economies needs. CFAB was created in 1978 and much has changed in both commercial law and fishing economies since that time. There are two significant changes which would be enacted with the passage of HB 284. The first is permanent ownership by the state through retirement of all but \$1 million of the state's initial investment of \$32 million. Second, broadening of the purposes and circumstances for which a fisherman may use his limited entry permit as collateral. Some of these include loans for lease or purchase of quota shares, IFQs, other licenses, and the purchase, construction, maintenance, repair or improvement of commercial fishing boats, sites, gear and improvement."

ED CRANE, President, CFAB, said, "We're really not creating something new here. We're simply redoing and revising, and mechanically this is the easiest way to handle what was intended." He testified, "When CFAB was established by a 1978 act which was implemented in 1980, the state of Alaska invested \$32 million as seed capital in the form of stock in CFAB. And the statute provided for CFAB to retire, that it return all the money, to retire that stock within 20 years, by the year 2000. The theory was as that money was returned by the state, it would be replaced by money invested by members, users, borrowers of CFAB. That process has taken place. Actually seven years ago, the state wrote off the entire \$32 million that has been carried for the last few years as zero on the books of the state. Nevertheless, we have been retiring that stock. We have now retired \$21,750,000 to be specific. And also we have accumulated roughly sixteen and a half million dollars of replacement equity that represents investments of fishermen or borrowers or fisherman and farmers. Unfortunately, there was a catch, as near as I know, an inadvertent catch-22 in the existing statute. On the one hand it says that if CFAB does not retire, fails to retire all of the \$32 million in stock by the year 2000, the Commissioner of Commerce can take steps to dissolve the bank, to liquidate the bank. Then, in another part of the statute, it says that when CFAB has retired all of the \$32 million, the statute lapses. Well, if the statute lapses, there is no CFAB, it's gone. So we had that particular concern that this bill addresses. But in addition to that is the fact that CFAB, as we discussed some time ago, CFAB is the only private entity, nongovernmental entity which has the statutory authority to accept a lien on a limited entry permit and allow fishermen to use permits as devices through which they can finance their operations." He then indicated that in order to justify CFAB's unique status with the state, it is necessary for CFAB to retain \$1 million in CFAB as a "perpetual investment." He pointed out there is considerable responsibility and accountability to the state.

Number 578

REPRESENTATIVE ELTON asked if Mr. Crane was comfortable with the three year terms of board members appointed by the Governor.

MR. CRANE said yes.

REPRESENTATIVE ELTON pointed out that one of the board members is required to be a "resident farmer."

MR. CRANE indicated that the original statute was even more restricting. He said, "The original statute required that it be a farmer with ten years of experience farming in Alaska. Also in the original statute, directors were required to be active members, that is current borrowers, of CFAB." He said CFAB has made very few loans to farmers historically, due to the state's agricultural loan program.

REPRESENTATIVE ELTON asked if that seat would be better designated to a timber harvester or processor.

MR. CRANE indicated that the definition of commercial agriculture can be found on page 17 of the bill and it includes forest products.

REPRESENTATIVE ELTON contended that a timber harvester would not be a resident farmer.

Number 639

MR. CRANE said probably not unless it was on their own land on a sustained yield basis.

REPRESENTATIVE ELTON asked about changes in indemnity for officers and employees of CFAB.

MR. CRANE said, "Our intention here is simply to say that CFAB's directors and employees may have the same indemnification in insurance provisions as any private corporation in the state, no more and no less."

REPRESENTATIVE ELTON said he viewed page 8, paragraphs 14 and 15 as granting questionably "broad authorization" to CFAB.

MR. CRANE replied, "I cannot imagine our board doing anything spectacular, if you will, which would appear to be supportive of one small segment of the total fishing community and not have a significant reaction from other CFAB members. (Indisc.) CFAB members over time, and it has taken us some time to get there, are beginning to be more and more attuned to the fact that what CFAB does directly affects their pocketbook."

TAPE 95-24, SIDE B
Number 000

MR. CRANE continued, "It was written broadly, mostly because we did not have anything specific in mind."

REPRESENTATIVE ELTON indicated that he is somewhat more comfortable with those sections and asked about page 11, section 20, paragraph 5. He said, "With that paragraph, if somebody runs up a huge bill at Nordstroms, they can pledge their permit at your financial institution to pay off a Nordstrom's debt that has absolutely nothing at all to do with fisheries or timber or agriculture."

MR. CRANE replied, "We make loans for the purpose of commercial fishing related purposes and for many fishermen, particularly those that simply operate as sole proprietors as opposed to having their fishing business incorporated. There's essentially no distinction between their personal obligations and their fishing obligations. We have, to my knowledge, we have never been asked to finance the kind of debt which you mentioned." He added, "The other side of it is we, it is not unusual for fishermen or a fisherperson to come to us with kind of a panacea of obligations that often do include credit card debt, miscellaneous, not necessarily Nordstrom's but for the things that all of us use credit cards for and we will include that in the financing, again, for working capital purposes."

Number 160

MR. CRANE continued, "It is difficult for anybody who has perhaps only one payday a year to live from one payday to the next and it is not unusual for persons in those circumstances to wind up in the tenth month of their year with fuel bills, that is home heating fuel bills, payable and credit card debt payable and a bill at the grocery store that they've got to have taken care of before they can actually obtain financing for their upcoming fishing season."

REPRESENTATIVE MOSES said that he suggests to fishermen friends to pay with credit cards so they don't lose receipts, as they might with paying cash.

REPRESENTATIVE OGAN asked if the chairman's intent was to move the bill out of committee today.

CHAIRMAN AUSTERMAN said yes.

Number 215

DICK ELIASON, CFAB Director, testified in support of CFAB, "I was impressed with the operation of the bank. I remember not too many years ago, we looked upon CFAB as maybe even a mistake because things were going wrong and a lot of bad publicity in the legislative bodies, and we were wondering if, in fact, it was going to disappear. However, within the last ten years they've made an astounding comeback." He stressed the importance of the bank to the rural areas of the state where there are often few financing alternatives. He added, "Certainly, I'd have no qualms in saying it was a bad deal if it was a bad deal because I don't have a vested interest, but, I'd just like to reassure you that it's working and I would like to see it continue to work (indisc.) good service for the state and for the industry at large in Alaska."

REPRESENTATIVE ELTON asked, "Are you comfortable with the expansion

of duties into the venture capital kind of realm?"

MR. ELIASON said yes, and added, "There was some speculation, that maybe we shouldn't put this large a bill forward at this time because we know how busy the legislature is, especially this time of the year. But we thought that it has a lot of merit and there is a lot of support out there."

Number: 303

→ REPRESENTATIVE MOSES moved to pass the bill out of committee.

There were no objections.

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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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; or

10 (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 { Sharoff Phillips } yea { Helford Sharp Donnelly }
rescinded w/o objection re-voted 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 # 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
for final
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)