

SCOMM

126:17

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB148
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affect: Revenue
 Title: Foreclosure moratorium BRU: Alaska Housing Finance Corp
 Component: Operations
 Sponsor: Rep. Chenault
 Requester: House Special Committee on Fisheries Component Number: 110

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 1(b) prohibits AHFC from foreclosing on a mortgage loan if the borrower is a commercial fisherman who has been adversely impacted by poor fishing seasons in the years 2000 and 2001. The language in HB148 is very broad and would impact AHFC.

AHFC is not able to ascertain how many mortgage loans have been made to people classified as commercial fishermen or in a business affected by commercial fishing. Revenues to AHFC from these borrowers making mortgage loan payments would be postponed through forbearance. Under HB148, AHFC is simply prevented from foreclosing -- the legislation does not require AHFC to "forgive" the loan. As such, interest on the mortgage would accrue during the forbearance period. At such time when the economy from commercial fishing improved or as of July 1, 2002 when this Act is repealed, payments would resume, including accrued interest.

Prepared by: John Bitney, Legislative Liaison Phone 330-8445
 Division: Alaska Housing Finance Corp Date/Time 3/16/01 12:00 AM
 Approved by: Larry Persily, Deputy Commissioner Date 03/16/2001
 Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

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Session:

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Representative Mike Chenault **District 9**

Sponsor Statement for House Bill 148

House Bill 148 was introduced to grant relief to individuals and businesses who have been devastated by the poor fishing returns statewide. My district has been negatively distressed by the poor fishing seasons since 1995.

There are hundreds of fishermen over the past few seasons who have mortgaged their homes for either permit or boat loans. Scores of fishermen have asked for assistance over the past few months and this bill allows for the relief requested for fishing families.

This bill is important for fishing based communities and business that have been negatively impacted by poor fishing returns. Many fishermen may not survive without this assistance and appreciate your consideration.

LEGAL SERVICES

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MEMORANDUM

March 12, 2001

SUBJECT: Sectional Summary of HB 148 relating to a moratorium on foreclosures (Work Order No. 22-LS0571\C)

TO: Representative Mike Chenault
Attn: Sue

FROM: Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Establishes a moratorium on foreclosures for certain loans. Applies to certain loans made by the Department of Community and Economic Development, the Alaska Housing Finance Corporation, and the Alaska Commercial Fishing and Agriculture Bank.

To qualify for the moratorium the debtor must request that the lender not foreclose and must demonstrate that the borrower cannot make the payments because of the adverse economic effect of a poor fishing season in 2000 of 2001.

Provides that during the moratorium the loan continues to accrue interest but not penalties.

Section 2. Makes the moratorium retroactive to January 1, 2001. Requires a lender to reverse a foreclosure occurring in that retroactive time period and to return to the debtor the interest that the debtor had in the property securing the loan at the time of foreclosure.

Section 3. Repeals sections 1 and 2 July 1, 2002.

Section 4. Gives the Act an immediate effective date.

If I may be of further assistance, please advise.

TLB:glc
01-241.glc



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March 8, 2001

Edward E. Crane
President

Representative Gary Stevens, Co-Chair
Representative Peggy Wilson, Co-Chair
House Special Committee on Fisheries
Alaska State Legislature
Juneau, Alaska 99801-1182

Dear Representatives Stevens and Wilson,

House Bill No. 148 has been referred to the House Special Committee on Fisheries, and we understand a hearing may soon be pending. This is to respectfully request that Committee to consider a Committee Substitute for HB 148 which will delete its effects on Alaska Commercial Fishing and Agriculture Bank (CFAB) on Page 2, Lines 9-16, and Page 3, Lines 14-15, for the following reasons:

(1) As provided in AS 44.81.010 - 44.81.350, CFAB is a private cooperative corporation. Its lending activities are funded by borrowings from a private-sector lender and by its own capital, which is owned solely and totally by past and present borrowers. Its fiduciary responsibility to those owners is met, in part, by its administration of the lending relationship with each individual borrower and would be impaired by the imposition of non-commercial constraints as contemplated by HB 148.

(2) Although we have not as yet sought counsel, we feel quite certain that the referenced portions of HB 148 violate Article I, Section 15, of the Alaska State Constitution. A CFAB loan is a legal and valid commercial contract between two private parties.

(3) AS 44.81.101 provides that "... the state will not limit or alter the rights and powers given to the bank by this chapter to fulfill the terms of a contract made by the bank with the lender to the bank...". CFAB's assets - primarily, its loans - are pledged to secure its borrowing, and the loan contract contemplates and requires responsible and unfettered administration by CFAB of its loan portfolio.

Thank you for your consideration. Please call or write should you or your colleagues require more information.

Very truly yours,

Edward E. Crane
President

cc: Representative Mike Chenault

Alaska Commercial Fishing and Agriculture Bank