

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672  
5451 SB 8 - SB 16

1-23-86 Anch. Times

# CFAB's future brightening

by Mary Scarpinato  
Times Writer

Alaska's Commercial Fishing and Agriculture Bank once looked like it was in the bad loan business. But a financial turnaround may now be forthcoming, according to president Ed Crane.

New borrowers will help to push along those recovery prospects out of their own pockets with a requirement that they also purchase stock in the bank.

After reporting a \$9.9 million loss for 1984 (primarily due to bad loans in the fishing and timber industries), the 1985 reckoning for CFAB should show a "dramatic improvement, very close to a break-even position," said Crane.

Crane based this picture on

unaudited figures and preferred to hold back on any specific numbers until the audit is completed sometime in February.

"The only remedy is hard work," he said of past and continuing efforts to get CFAB on the upswing.

Much of this has concentrated on attempting to restructure loans verging on repayment problems, he said.

Only last fall, CFAB was warning that its own \$32 million obligation to the state hardly looked like it could be repaid on schedule.

CFAB was created in 1981 to serve fisherman and farmers unable to secure loans from conventional banks. It was essentially launched when the state bought \$32 million worth of CFAB stock on condition that this be repurchased by the year 2000.

"I've always had hope," Crane said, when asked if CFAB's brightening prospects might bode better for return of the state's investment.

New borrowers, in one sense, will be making investments similar to the state's.

As of Jan. 1, anyone taking out a CFAB loan (including previous borrowers taking out additional loans) must purchase stock with a value equal to 5 percent of the loan.

But, unlike the state, these borrowers have no repurchase arrangement.

"We are asking, we are requiring, that people take a risk if they are going to be borrowers," Crane said, adding that these individuals also have an interest in the financial health of the institution.

Meanwhile, CFAB has been doing its own belt-tightening. Last summer, four of its branch offices were closed. Staff was cut from 39 to 24. No salary levels were reduced for remaining personnel but employees are working to cut overhead in their various departments, Crane said.

"Essentially, it's been the efforts of our staff," he said, "particularly with creditors, dealing with non-performing loans. This was being done in the past, but we're attempting to react sooner now."

During 1984, CFAB had delinquent loans amounting to roughly \$32 million, or more than one-third of its entire loan portfolio. Its interest rates range between 13.5 percent and 14.25 percent, Crane said.

3-4-86 Anch. Daily News

# CFAB rebounds from loss with small profit

By JIM ERICKSON  
Daily News business reporter

The Commercial Fishing and Agriculture Bank has rebounded from the largest losses in its six-year history and posted a small profit in 1985.

Ed Crane, president of CFAB, said Monday the company made significant strides last year in controlling a slew of bad fishing loans that resulted in a \$10 million loss in 1984 and pushed the bank to the brink of failure.

"As far as non-performing loans are concerned, we really made a lot more progress than I thought we would," Crane said.

Audited financial results for 1985 show CFAB posted operating earnings of \$114,000. The bank lost \$9.97 million the previous year.

Through more aggressive collection action, restructuring of problem loans and foreclosures, CFAB has cut the amount of bad loans by half.

As of Dec. 31, 1984, the bank had \$32 million in loans classified "non-performing," or 90 days past due. That was 36 percent of its \$89 million loan portfolio.

A year later, nearly \$16 million of the bank's \$62 million loan portfolio were non-performing, or 25 percent.

The legislature created CFAB in 1978 to provide loans to farmers, fishermen and the timber industry that traditionally have had trouble getting loans from conventional lenders. About 85 percent of CFAB's loans finance vessels for individual fishermen.

To launch CFAB, the state in 1960 purchased \$32 million worth of the cooperative's stock, essentially providing an interest-free loan due in the year 2000.

Crane informed the state last year that the bank's troubles would make it impossible to repay the state on time.

On Monday, he said the improved financial outlook "enhanced the possibility (of repaying the state), but we've got to do a lot better than \$114,000 a year to realistically project repaying that \$32 million 14 years from now."

Crane said hard work by employees and a good year overall for the fishing industry contributed to the turnaround. The bank also closed four offices and reduced staff from 39

to 24 last year.

"If you look at this as a struggle for survival, I see it as us driving from Anchorage to New York City and we pulled into Edmonton a half day ahead of schedule. That's good, that's satisfying, but we've still got a long way to go."

However, CFAB assets shrunk from about \$110 million in 1984 to \$75 million last year. Crane said that was partly because of fewer borrowers due to uncertainty in the fishing industry.

In addition, CFAB has been forced by its loan problems to keep its interest rates about 2 to 3.5 percentage points higher than competing lenders, Crane said. CFAB's highest rate is about 14.75 percent, he said.

That has resulted in the flight of some of CFAB's most-profitable and less-risky customers to other lenders, he said.

"What I find most troublesome is that we're forced by statute and expectations into such a very narrow corner as far as lending activity is concerned," he said.

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON



RULES COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, VICE CHAIRMAN  
LEGISLATIVE COUNCIL  
RESOURCES COMMITTEE  
FISHERIES SUBCOMMITTEE, CHAIRMAN

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M E M O R A N D U M

TO: Senator Jack Coghill, Chair  
Senate Resources Committee

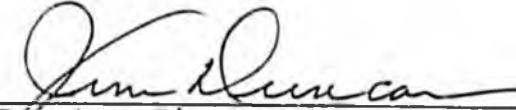
FROM: Senate Resources Fisheries Subcommittee

DATE: March 20, 1987

RE: S.B. 8 and S.B. 9 -- legislation relating to the  
Commercial Fish and Agriculture Bank (CFAB)

The fisheries subcommittee reports back the above mentioned legislation to the Senate Resources Committee and recommends that S.B. 8 and S.B. 9 be considered by the Committee as soon as possible.

  
\_\_\_\_\_  
Senator Dick Eliason, Chair

  
\_\_\_\_\_  
Senator Jim Duncan, Member

  
\_\_\_\_\_  
Senator Fred Zharoff, Member

# Alaska State Legislature

## Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman  
Sen. Paul Fischer, Vice Chairman  
Sen. Lloyd Jones  
Sen. Arliss Sturgulewski  
Sen. Jim Duncan  
Sen. Fred Zhatoff  
Sen. Dick Eliason

Box V  
Juneau, Alaska 99811  
(907) 465-1907

TO: SENATE RESOURCES COMMITTEE  
FROM: COMMITTEE STAFF  
DATE: APRIL 15, 1987  
RE: CFAB INFORMATION

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1. MEMO FROM FISHERIES SUBCOMMITTEE
2. FRED PRATT ARTICLE ON CFAB
3. ANCHORAGE DAILY NEWS CFAB ARTICLE (4/9/87)
4. 1986 FINANCIAL STATEMENT
5. STATUTES REGARDING CFAB

# Alaska State Legislature

## Senate Resources Committee



Sen. John B. (Jack) Coqhill, Chairman  
Sen. Paul Fischer, Vice-Chairman  
Sen. Lloyd Jones  
Sen. Arliss Sturgulewski  
Sen. Jim Duncan  
Sen. Fred Zharoff  
Sen. Dick Eliason

Box V  
Juneau, Alaska 99811  
(907) 465-4907

TO: SENATE RESOURCES COMMITTEE MEMBERS  
FROM: COMMITTEE STAFF  
DATE: APRIL 15, 1987  
RE: SB 8 " An Act Related to the Commercial Fish and  
Agricultural Bank"

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# SENATOR FRED F. ZHAROFF

## ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99816 (907) 486-6259

DURING SESSION:

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### DISTRICT N

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

### SECTIONAL ANALYSIS

Senate Bill No. 8 -- "An Act relating to the Commercial Fishing and Agriculture Bank".

#### SECTION 1

44.81.010(a): Exempts CFAB from the provisions of the Alaska Cooperative Corporation Act (AS 10.15), since the act was not written to apply to cooperative banking institutions such as CFAB. CFAB is governed by its own separate statute (Title 44, Chapter 81), and should not be subject to possible amendments to AS 10.15. CFAB is already exempt from the Alaska Banking Code (AS 06.05).

#### SECTION 2

44.81.020(a): Deletes language that at least one of the Alaska farmer members of the board have "at least 10 years of Alaskan farm experience". Requirement is difficult to meet and, based on CFAB's experience, unnecessary. Deletes outdated language pertaining to board appointments.

#### SECTION 3

44.81.090: Amends statute to allow for removal of members of the board of directors who release confidential information in violation of AS 44.81.260 (Confidentiality of CFAB records), who commit "serious ethical misconduct", or who maintain "a chronically and irredeemably substandard borrowing relationship with the bank". Removal occurs upon a unanimous vote of the remaining members of the board. Deletes outdated language pertaining to board appointments.

#### SECTION 4

44.81.210(a)(20):

Deletes language duplicated from state loan program statutes requiring loan applicants to have experience in the fishery for which they are applying for a loan. As a private institution, CFAB should be free to evaluate loan applications based on its own objective credit standards.

SECTION 5

44.81.210(a)(22):

Deletes unnecessary language. The conditions regarding the acceptance of a pledge of a limited entry permit as security for a loan are spelled out in Section 6.

SECTION 6

44.81.235:

New section. Expands the purposes for which a limited entry permit may be accepted as collateral. Currently, a permit may be pledged as security on a loan to purchase a permit; on a loan for the repair, restoration, or improvement of a commercial fishing vessel or commercial fishing gear; and on a loan for the construction or purchase of a commercial fishing vessel. Language added to reorganize and expand the provisions to read: (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;" and (4) "purchase and improvement of set net sites and associated equipment". Allows a permit to be used as security for more than one loan, and to refinance existing debt on the items listed above. Allows a fisherman to use a permit for one fishery to secure funds to use in another fishery. Expands slightly the exception CFAB was granted to AS 16.43.150, which prevents anyone (except the state or CFAB) from legally seizing a permit-holder's permit. This section would allow fishermen more flexibility in their business plans. Under limited circumstances, they would have a new asset to use to leverage funds for their operations. The circumstances are limited because CFAB -- with its special statutory relationship to the fishing industry -- would still be the only private institution with the ability to accept permits as collateral.

*the same*

*50 no Collateral*

*roughly make working capital loans possible  
they have working capital loans  
CFAB has loans a lot of things over the years  
permits for business entry*

SECTION 7

44.81.270:

Adds new subsections.

- (b) Requires an annual independent audit. Legislative auditor may confer with and review the workpapers of the independent auditor. Legislative auditor may only conduct an audit at the direction of the Legislative Budget and Audit Committee (AS 24.20.271).
- (c) Requires state bank examiners to perform "an annual qualitative examination and evaluation of the bank", for the standard fee. Outlines what the examination and evaluation shall include.

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 8  
Publish Date: \_\_\_\_\_

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Relating to the Commercial  
Fishing & Agriculture Bank  
Sponsor: Zharoff & Eliason  
Requestor: Senate Labor & commerce

Agency Affected: Department Revenue  
BRU: Treasury  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker *MB*  
Division: Treasury

Phone: 465-2350  
Date: January 26, 1987

Approved by Commissioner: *H. Muloe*  
Agency: Department of Revenue

Date: 1/26/87

Distribution (by preparer):

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March 19, 1986

Senator Fred F. Zharoff  
Alaska State Legislature  
Box V (M.S. 3100)  
Juneau, Alaska 99811

Dear Senator Zharoff:

Thank you for your comments and for the constructive interest in CFAB which you expressed during the recent hearing on SB410.

It is unfortunate that such focused discussions as we had might leave an onlooker with the thoughts that Alaska is populated by only two kinds of fishermen/borrowers, either "good" or "poor"; that if a fisherman isn't one he must be the other; and that the "poors" naturally gravitate to CFAB while the "goods" have more attractive alternatives. Such is not the case. However, if a traditional financial institution with, say, \$50.0 million of loanable funds has made a risk-limiting policy decision to have no more than 10 percent of its loan portfolio invested in the Alaska commercial fishing industry, that institution can (and should) be very selective and competitive in determining which segments or which individual members of the industry it will finance. Its management's basic responsibility is to protect and enhance the interests of the stockholders and depositors rather than to serve the industry.

CFAB's only mission in life, on the other hand, is to serve that industry, along with agriculture. Accordingly, it must attempt to -- at best -- attract and accommodate a broad cross-section of the industry. Its policies and practices must be structured to exclude the lowest percentiles (in terms of creditworthiness) of the industry; conversely, they cannot be designed to allow or encourage a "skimming" off the top. All of us lapse into expressions of qualitative judgments when discussing or contrasting CFAB's activities and performance with those of other institutions. In reality, however, the "competition" is illusory because of the great divergence of objectives, purposes, and resources. As a final thought on that matter, I would argue that perhaps one of CFAB's most significant services is that rendered to the "top of the list" operators who do not borrow from it; were it not for CFAB's existence, there would be no motive for other lenders to offer attractive terms to that group.

A major thought expressed at the Resources Committee hearing was that there may well be other features of CFAB's statute which could be constructively modified, and I was invited to address the matter. That is the primary reason for this letter.

*Alaska Commercial Fishing and Agriculture Bank*

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March 19, 1986  
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In my view, the CFAB statute was a creative and visionary response to a worthy need. It is true that the legislature did not necessarily invent the perfect mousetrap the first time around -- there are some points which can hopefully be addressed -- but my strong personal opinion is that CFAB's basic problems have arisen in the implementation process and are not really evidence of a faulty concept. Some of the most damaging events have involved specific instances of poor judgment, flamboyance and speculative growth policies, etc. The more general and pervasive problems, though, appear to stem from a broadbased failure to recognize the genuine uniqueness of CFAB's combination of origin, structure, limitations, objectives, markets, and pressures. That charge of "failure" is not offered as condemnation of anybody. CFAB is unique -- there was no precedent, no pattern, no body of experience to call upon. There is no real reason to believe that those of us involved with CFAB today are any more insightful than our predecessors; we have the benefit and advantage of experience over five eventful years.

The existing statute does give CFAB broad authorities and powers; broader than we have ever used. The only general restriction which tends to be self-defeating is that which is being addressed in SB410. As CFAB's CEO, whose most fundamental responsibility is to work toward the stability and healthy growth of the institution itself, I would subjectively prefer a total removal of the restrictions addressed by SB410, and would justify that by the argument, "What's good for CFAB is good for the State." However, I am realistic enough to recognize that the business of CFAB must be affected by the politics of its creation and heritage, and I am quite pleased with SB410 and its promise.

Before going further with discussion of specific statute features, I would like to address other points which were raised at the hearing and also to stress that the only thing which would help CFAB to deal with its immediate problems is cash (or an interest-earning cash equivalent). I offer that as a matter of fact - not as a plea for cash. The fundamental problem is illiquidity, manifested by the imbalance between interest-bearing debt and interest-earning assets. We did make great strides during 1985 toward curing that imbalance, principally through the liquidation of non-earning assets. Over that year, CFAB reduced its interest-bearing debt by \$32.3 million, but its interest-earning assets were reduced by only \$19.5 million: Effectively, we created \$12.8 million of liquidity and/or earning ability out of the 12-31-84 non-earning assets. In addition, for 1986 we have reduced our operating budget by about \$1.0 million, which has the same effect as creating about another \$7.0 million of earning assets. We can not, and do not, project improvement at the same rate during 1986 -- "easiest" problems get solved first, and we are working our way into the hard core which is much more difficult to deal with!.

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The easiest solution to the immediate problems (from CFAB's standpoint) would be for the State to invest another \$6.0 to \$8.0 million in CFAB, in return for a long-term commitment from our lender as well as that lender's subordination to the State with respect to the future proceeds from \$10.0 or \$12.0 million of non-earning assets in order to secure repayment to the State. That does not appear to be realistic, and I am not certain it would be best just because it would be easiest. On the other hand, there were concepts embodied in some of the committee discussion -- particularly in Senator Coghill's comments -- which I believe are worthy of exploration and which bear potential benefit to both the State and to CFAB. CFAB has an administrative and operational infrastructure which is presently underutilized. Also, we are continuing to build a professional credit staff which, out of necessity, is primarily oriented to difficult situations. It occurs to me, given the current and projected State budget constraints as well as the frequent (but not universal) expressions of sentiment for limiting or eliminating State-funded direct loan programs, that there may well be opportunities for CFAB to act on an agency or contract basis for the State in administering, modifying, or phasing out particular programs. While this is probably something to be addressed administratively rather than through the legislature, it seems appropriate to acknowledge it as relevant to our recent discussion.

There was also some discussion about the status of, and repayment prospects of, the State's \$31.8 million investment in CFAB. We have from time to time heard expressions from various sources that the State should consider abandoning or "writing off" that investment. My personal view is that that action would be inappropriate, for a variety of reasons:

1) CFAB needs to be held accountable for its actions, policies, and results; and ownership by the State imposes accountability. It is true that the State's stock is non-voting, while the borrower-members have the theoretical authority and ability to influence the institution through exercise of their voting rights. However, CFAB is still a new institution without a "mature" body of members; while those members have a common interest in general, the most significant interest is one which is specific to each individual; and it would be a very costly and time-consuming effort for a small group of members to work toward correction of a perceived problem -- the most effective control element for members is probably through the election of quality directors. Even though we at CFAB might chafe at the frustrations and imperfections of communicating with legislators and administrators, the practical fact is that the accountability imposed by State investment is probably the greatest possible protection for all parties involved.

2) As a citizen, I can think of no reason the state should abandon the investment. The present value may be nominal - that was, of course, known when the investment was made -- but I'm sure the State has made hundreds

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of other capital investments of various kinds "for a public purpose" and which have limited financial value.

3) As discussed earlier, a non-cash transaction would not assist CFAB in dealing with immediate problems; there would simply be a re-classification in the equity portion of our balance sheet. On the other hand, if there should be a dramatic worsening of CFAB's immediate problems and if CFAB were forced into a bankruptcy and/or liquidation, there is every reason to believe the State would ultimately recover a significant part of its investment. The State should not forego that opportunity.

4) While the \$31.8 million does appear to be an investment of capital, it bears at least one of the elements of debt (a due date). In general, an abandonment of capital has no significant tax implications, but a forgiveness of debt creates a taxable gain. Such an action should be carefully analyzed beforehand, in order that CFAB not be confronted with a horrendous Federal tax liability!

Notwithstanding all of the foregoing, it would seem appropriate that this legislature recognize and address the realities of that investment and the prospects for retirement on the present schedule. As I mentioned the other day, we at CFAB view the obligation very soberly and recognize the clock is running. However, we are doing today what any illiquid individual or entity does; we are committing all available cash to those obligations which have the ability to put us out of business today. As a matter of fact, since the Spokane Bank for Cooperatives holds a lien on all cash proceeds (as well as on most other assets) we could not fund a repayment plan. While there may be no compelling and immediate reason to change the requirement today, we do now have the benefit of over five years of experience and can recognize that a requirement which seemed realistic in 1978 and 1979 is no longer achievable. In CFAB's view it would be more reasonable for the legislature to change the retirement date to, perhaps, July 1, 2010. An alternative might be to set the retirement "at the call of the legislature but in no event prior to July 1, 2010." It would not be unreasonable -- at least in theory -- to attach a sinking fund requirement, but that might involve some difficult negotiations with CFAB's lender depending upon how the requirement were structured.

\* \* \* \* \*

Following are the other specific points in CFAB's statute (AS 44.81) which we believe could be constructively addressed:

Sec. 44.81.010.(a) The reference to AS 10.15.005-10.15.600 (the basic cooperative statute) should be eliminated. CFAB is unique, and AS 44.81 provides a specific and comprehensive organic foundation. AS 10.15 is subject

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to change without regard for its impact on CFAB, and a basic necessity for a credit institution, especially one involved in long-term loans, is stability in every form. There was an abortive effort in 1984-85 to develop sweeping changes in AS 10.15; that effort had merit within its own context, but many of the proposed changes did not recognize the possible existence of a statewide cooperative whose relationship to members is purely financial.

Sec. 44.81.010.(b) & (c) A modified requirement for repurchase of State capital should be addressed here.

Sec. 44.81.020.(a) & (b) The requirement that at least one board member be an Alaska farmer is constructive. However, the proviso that he/she have "at least 10 years of Alaskan farm experience" (whatever that means!) creates a situation which is probably not in the best interests of members. Since each elected director must also be a current or recent CFAB borrower, it appears there are less than five individuals in the entire state eligible for this position. Other directors don't need to be 10-year fishermen, etc., and a second farmer director does not need to meet the 10-year requirement. Why limit the members' choice of directors in this way?

Also, there should be a provision for removal of an elected director as a result of a unanimous finding by the remaining directors of a "serious conflict of interest or a chronically and irremediably substandard borrowing relationship." We have received a legal opinion, based on the existing statute, to the effect that only the members of CFAB can remove or recall an elected director -- however, since the statute elsewhere prohibits disclosure to members (or anyone else) of information regarding a borrower (including directors), a Catch-22 situation exists.

Finally, this section should also make clear that the five elected directors are accountable as individuals to the members only. They should not be subject to the same requirements, standards, etc., as are the gubernatorial appointees. Each director candidate must literally "campaign" for election, and the members have ample opportunity to apply whatever standards they choose.

Secs. 44.81.200, 44.81.260.(b)(1), 44.81.270, & 44.81.280 Section 44.81.200, by implication, requires CFAB to have an annual financial audit by independent outside auditors. That may be sufficient, but it would not hurt for that requirement to be specific. To avoid costly redundancy while retaining opportunity for legislative oversight, it would be well to provide that the Legislative Audit Division is authorized to confer with, and to review the audit workpapers of, CFAB's outside auditors and could make its own audit only after a recommendation to, and direction by, the Budget and Audit Committee.

A far more important and necessary provision, from our viewpoint, would be for an annual qualitative examination and evaluation by the State's

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bank examiners. CFAB's directors and management are greatly desirous of the discipline imposed by an independent and professional examination. More important, and because CFAB's loan portfolio comprises about 84 percent of its total assets, the State should be vitally interested in a periodic qualitative evaluation. We urge that such an examination be statutorily directed, and that the examiners be required to provide both the legislature and the governor (as well as CFAB's board) with a summary report which expresses loan portfolio quality on a statistical basis and which also addressed the appropriateness and effectiveness of the institution's policies, practices, and management within the context of its statutory purpose.

Secs. 44.81.210.(a)(20) & (22) These paragraphs deal with the bases and circumstances under which CFAB may accept the pledge of a limited entry permit as security for a loan. We recognize the matter of limited entry permits in general is subject to diverse political and emotional overtones; CFAB's subjective view, however, relates strictly to the business asset aspects of permits. It is also premised on the concept that a viable loan is one which is structured to meet the reasonable business needs of both lender and borrower and which preserves the relative risk positions of owner and creditor. An all-too-common perception among non-credit people is that lending is some kind of game of wits which creates either "bank wins/borrower loses" or "bank loses/borrower wins" situations!

Paragraph (20) sets forth requirements which are identical to those of the Commercial Fishing Loan Act administered by the State itself. We have no particular concern with the two-year residency requirement expressed in (20) but, since CFAB was created to serve a broader group than the State's own program, we do not understand why CFAB should be limited to the other requirements in (20) -- they are essentially eligibility requirements, and may or may not have any relevance to objective credit standards a lender might apply. Within the context of "service to Alaska fishermen," an entry permit will only be sold by a limited entry permit holder who is presumably motivated to sell. If CFAB can finance a qualified buyer, which party is getting the benefit of CFAB's existence?

Paragraph (22) is much more difficult for CFAB as a lender. We have been advised frequently by counsel that a restrictive provision such as this will always be construed strictly, rather than liberally, by the courts; consequently, we flatly avoid making loans that we would otherwise be willing to make. Again notwithstanding the complex and controversial history of the limited entry program itself, we do not understand why this asset which is a critical and integral element of any fisherman's operation should have such unique status. The restrictions do not necessarily work to a fisherman's advantage. Consider the hypothetical case of an individual who has managed to accumulate \$50,000 in cash but has no other significant resources; he has arranged to lease a vessel and gear if he can buy a \$50,000 permit and have

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\$35,000 of working capital. If he buys the permit for cash and comes to CFAB for a \$35,000 working capital loan, he probably won't get it. On the other hand, if he has presence of mind enough to come to CFAB first, we might very likely finance \$35,000 of the permit purchase (and on a term basis, rather than on a seasonal working capital basis) and let him use his own funds for working capital. Same individual; all other credit factors the same; but, obviously, paragraph (22) affects his ability to fish.

We are told that a major rationale for the sacrosanctity of limited entry permits is that, "foreclosure of a permit takes away the borrower's ability to fish." We would agree with that. We would hasten to add, however, that no responsible lender -- including CFAB -- lends money in anticipation of acquiring the security pledged. There are many, often misunderstood, reasons for requiring collateral to a loan. In the final analysis, it is a stop-loss feature and/or one which permits a degree of leverage. The courts do not permit a lender to acquire collateral without an often costly and time-consuming showing of clear proof that the borrower cannot and/or will not conform to the loan contract to which he agreed. If a borrower is unwilling to risk his/her legal ability to fish in order to have the financial ability to fish, why should CFAB put other people's money (including the State's) at risk?

As a final example of the impact of paragraph (22), we would cite "gear" loans, for which there is frequent demand. Gear is almost valueless for collateral purposes. An applicant for a gear loan is held by CFAB to essentially the same standards as are applied to an unsecured borrower -- this means very few applicants can qualify. Effectively, CFAB is denying credit to a large body of applicants because an unidentifiable, but small, number of them will not perform. If, however, those applicants could put their permits at risk to secure a gear loan, many more gear loans could be made -- and we expect borrowers would take a much more serious approach to servicing those loans!

We believe paragraph (22) should be rewritten to provide:

(1) Loans made should be restricted to enabling the fisherman to better compete in the fishery for which he holds the pledged permit. In other words, a loan to purchase a drag boat should not be secured by a salmon permit; and,

(2) The authorized loan purpose should be expanded to include:

(a) purchase of fishing gear.

Senator Fred F. Zharoff  
March 19, 1986  
Page 8 of 8

(b) working capital, including insurance premiums, fuel, bait, boat storage and launching expenses.

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


(3) A provision should be added allowing CFAB to take a permit pledge on more than one loan, provided each loan purpose is authorized for such a pledge.

(4) Refinance of existing debt or debts provided the original loan purpose(s) authorized a permit pledge.

\* \* \* \* \*

Again, we appreciate the constructive interest expressed by you and your colleagues on March 12. All of us at CFAB -- Directors, management, and staff -- are very much aware of the general and specific obligations CFAB holds toward the State, the public at large, and its mandated constituency. We regret the difficult circumstances of the recent past, and we are committed to restoring CFAB to a position of genuine service to Alaska and its citizens.

Sincerely,



Edward E. Crane  
President

EEC:1077V

1. Alaska Commercial Fishing and Agriculture Bank (CFAB) was created in 1978 by the Alaska State Legislature. Its purpose is to provide a source of credit to the Alaska fishing and agriculture industries, with emphasis on the development and broadening of those industries.
2. CFAB is structured under its statute as a cooperative. A cooperative is a corporation whose stockholders and customers are the same individuals or entities. A cooperative is subject to the same business and financial considerations as any other corporation.
3. The State of Alaska provided an initial capital base to CFAB through the purchase of stock; the State presently owns \$31.8 million of such stock. CFAB's statute requires that the State stock be repurchased within 20 years from the original investment (1980).
4. CFAB has no organic, structural, operational, or financial relationship with the State except for the capital investment and that two of CFAB's seven directors are appointed by the Governor.
5. CFAB's lending ability is not limited to the amount of the State's investment. CFAB borrows additional funds at "market" rates and terms, pledging its loans and other assets as security. It re-lends those funds to its borrower/owners at rates sufficient to cover its own interest costs, its operating expenses, and to generate capital through earnings. CFAB's outstanding loans to Alaska fishermen and farmers reached a year-end peak of nearly \$104 million at December 31, 1983, and had other assets of about \$19 million; a total nearly \$91 million greater than the State's investment.
6. CFAB's borrowers become owners through a purchase of stock at the time of borrowing and through payment of interest at a level high enough to create retained earnings.
7. Under its statute, CFAB may lend money only to those individuals who are bona fide residents of Alaska. There appears to be no sound and reasonable argument against that limitation.
8. A vast majority of CFAB's loans are to individual fishermen (about 80 to 85 percent by number); most of them are to finance a vessel and/or are secured by a lien on a vessel. This appears to be CFAB's most "natural" market and the credit void which CFAB was most intended to fill.
9. Compared to almost any other type of commercial lending, financing fishing vessels is extremely cumbersome and costly. Alaska geography adds considerable costs. Those factors, in addition to the dangerous concentration of risk, make it extremely difficult for CFAB to maintain a focus on that market without charging interest rates which are unusually burdensome to its borrowers.
10. CFAB has attempted to balance its loan portfolio, and to moderate its total circumstances, through loans to corporations which process seafood and timber. Those loans tend to be relatively large, but do not require servicing costs to a comparable degree. They permit basic operating expenses to be spread over a larger volume of loan dollars, moderating the pressure on smaller individual borrowers.

11. CFAB's statute provides that it can only finance corporations of which the majority ownership and control rests with Alaska residents.
12. A recent survey disclosed that of 22 shorebased Alaska processors having annual sales in excess of \$10 million, 17 are ineligible to borrow from CFAB by reason of ownership identity. CFAB has, or has had, lending relationships with four of the five others.
13. Statutory denial of eligibility by reason of ownership is inconsistent with the facts that these processing corporations own facilities in Alaska, pay local taxes in Alaska, provide employment to Alaskans, purchase and add value to Alaska seafoods, pay fish taxes to the State of Alaska, provide a competitive marketing environment for Alaska fishermen, and purchase supplies and services in Alaska. Interest paid on funds borrowed from CFAB (or any other Alaska entity) would be an additional and beneficial increment of Alaska seafoods proceeds within the Alaska economy.
14. While it is clear that the 1978 State Legislature intended to create an institution to serve Alaska interests exclusively, the requirement that the state investment be repurchased evidences the intent that CFAB be operated, and grow, on sound business principles. Removal of the statutory limitation with regard to shorebased processing corporations is consistent with the first intent and greatly enhances the opportunity for fulfillment of the second.

S B

9

SENATE COMMITTEE REPORT

FURTHER:

FINANCE

3/10/87

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

RESOURCES Committee considered SB 9

financing of fish processors and agricultural and timber processors and harvesters by the Commercial Fishing and Agricultural Bank.

and recommended:

replace with CS FOR SB9 Resources  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*McElean*  
*Julius Stuzguler*  
*J. J. Jones*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Signature]*  
Chairman signature and recommendation

Committee Backup Attached

# Alaska State Legislature

## Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman  
Sen. Paul Fischer, Vice-Chairman  
Sen. Lloyd Jones  
Sen. Artiss Sturqulewski  
Sen. Jim Duncan  
Sen. Fred Zhatoff  
Sen. Dick Eliason

Box V  
Juneau, Alaska 99811  
(907) 465-4907

TO: SENATE RESOURCES COMMITTEE  
FROM: COMMITTEE STAFF  
DATE: APRIL 15, 1987  
RE: SB 9 "An Act related to fish processors. .CFAB"

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### CONTENTS

1. SPONSOR'S BILL ANALYSIS BY SECTION
2. DEPARTMENT OF COMMERCE FISCAL NOTE
3. LETTER TO SENATOR KELLY CONCERNING SB 9
4. MEMO TO ED CRANE FROM LARRY LINEGAR
5. BACKGROUND FROM CFAB
6. UFA POSITION



**SENATOR FRED F. ZHAROFF**  
**ALASKA STATE LEGISLATURE**

P.O. BOX 405, KODIAK, ALASKA 99815 (907) 486-5269

DURING SESSION:

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

**DISTRICT N**

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

SECTIONAL ANALYSIS

Senate Bill No. 9 -- "An Act relating to financing of fish processors and agricultural and timber processors and harvestors by the Commercial Fishing and Agriculture Bank."

SECTION 1

LEGISLATIVE FINDINGS.

- (1) Fish processing, agricultural and timber facilities, regardless of ownership, are important to Alaska.
- (2) Regardless of ownership, they contribute to Alaska's economy.
- (3) Regardless of ownership, they provide jobs for Alaska residents.

SECTION 2

44.81.210(c): New subsection. Allows CFAB to make loans to businesses engaged in shorebased fish processing, timber processing or harvesting, or agricultural processing and harvesting that are not majority owned by Alaskan residents. CFAB would have access to a broader market in which to make loans. The companies, however, must be majority owned by U.S. residents, not foreign interests.

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 9

Publish Date: \_\_\_\_\_

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_

Title: Financing Fish, Agriculture & Timber Processors by CFAB

Sponsor: Zharoff, Eliason, Jones

Requestor: Senate Labor & Commerce

Agency Affected: Department of Revenue

BRU: Treasury

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
INCIDENTALS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Milt Barker MB

Division: Treasury

Phone: 465-2350

Date: January 26, 1987

Approved by Commissioner: [Signature]

Agency: Department of Revenue

Date: 1/26/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

# STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SB 9  
 Title : Financing of fish processors & agricultural & timber processors & harvestors by the Commercial Fishing & Agriculture Bank.  
 Sponsor : Sen. Zharoff  
 Requestor : Senate Labor & Commerce  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Department of Commerce & ED  
 BRU : CFAB  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :**

CFAB is not a state agency nor subject to the Executive Budget Act (AS 37.07).

Prepared by : Mark K. Johnson, Counsel Phone : 465-3822  
 Division : Senate Labor & Commerce Committee Date : 3-9-87

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

**Distribution (by Agency preparing fiscal note) :**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**  
OFFICE OF COMMERCIAL FISHERIES DEVELOPMENT

POUCH D  
JUNEAU, ALASKA 99811  
Phone: (907) 465-2018

February 12, 1987

M  
1

Honorable Tim Kelly  
Chairman  
Senate Labor and Commerce  
Committee  
Alaska State Senate  
P.O. Box V  
Juneau, AK 99811

Dear Senator Kelly:

Re: SB 9 - Enlarging CFAB's lending base

CFAB was created to assist the development of the renewable resource industries, and its mission was initially limited to lending to Alaskan owned businesses. Since the initial legislation was passed, changes have been made to clarify CFAB's relationship to the state and to put it on its own two feet. It is now a cooperative bank with initial capitalization provided by the state which must be paid back in full. This office supports the expansion of CFAB's lending base for three major reasons.

First, CFAB serves an important function to the industry. Access to capital and financing are often impediments to fisheries development in Alaska, particularly to young, growing Alaskan processing companies. It is difficult to develop the necessary expertise. Those who do get involved limit their involvement to the most creditworthy applicants involved in the lowest risk fisheries. The recent crash in king crab has exacerbated that tendency. This makes it very difficult to finance developing fisheries, especially for Alaskans, who frequently don't have a lot of other assets to pledge.

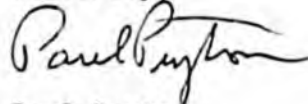
Few banks are active in the fishing industry, due to the risk involved and the complexity of the business. Yet, at one time or another, virtually every Alaskan owned processing company has had a loan with CFAB. CFAB has accumulated considerable experience in fisheries and is working to develop more. It is well positioned, if it can offer reasonable rates, to play a significant role in developing fisheries. It can, of course, adjust loan terms to account for risk. To do this, however, it needs a base of "surer" borrowers.

February 12, 1987

Secondly, CFAB needs to lower its rates to attract the more credit-worthy borrowers who have alternatives. Right now, its rates are quite high by comparison. To provide reasonable cost loans to the industry, it must expand its lending base to larger loans, which have lower costs, and it must be able to attract lower cost lending capital. It is now dependent for lending capital on the Farm Credit system, which has many problems and expensive money. Commercial banks will lend CFAB money at lower rates but will want to see a broader lending base with larger and more proven companies than can be provided just using Alaskan owned operations. Thus, for CFAB to better serve the Alaskan sector of the industry, it needs access to more of the industry. Note that it would be limited to lending to shorebased operations only.

Third, CFAB needs to be given a chance to repay the state's investment. The limits the state has placed on the lending base will make it difficult for CFAB to either serve its intended clients or to repay the state its initial investment. That situation should clearly be rectified. Thus, though initially it appears contradictory for a state capitalized institution to provide services to nonresidents, it is necessary, if CFAB is to be a competitive and viable financial institution capable of serving those it was originally intended to serve.

Sincerely,

Paul Peyton  
DirectorPP/ss0237r  
021287a

## MEMORANDUM

TO: Ed Crane  
FROM: Larry Linegar  
DATE: October 21, 1985  
SUBJ: SUMMARY/ANALYSIS OF SEAFOOD PROCESSOR OWNERSHIP

At your request, I have compiled the attached breakdown of seafood processors licensed to do business in the State of Alaska. From our discussions, it is my understanding that the motivation for initiating this project was to establish an understanding for the market potential of seafood processors that are not presently eligible to do business with CFAB. The reason why these companies would not be eligible would be because their ownership is greater than 50% non-Alaskan.

The primary source for the information necessary to perform the analysis was the State of Alaska. Several state agencies declared the information requested confidential. However, the Department of Commerce and Economic Development provided a complete list of all processors licensed to do business in the state for the years 1984 and 1985. From this list, copies of corporate bi-annual reports, which provided limited information on stock ownership, was requested. However, many processors do business as d/b/a's, partnerships or as individuals for which bi-annual reports were not available. Information on the ownership of these operations were identified through interviews with knowledgeable individuals and direct contacts.

The Department of Fish and Game provided a report categorizing processors both by sales in dollars and by pounds purchased. They were not able to provide exact figures but were willing to provide a list that grouped processors into broad categories.

The attached compilation was assembled from these two lists. While the ownership of shorebased operations stays relatively constant, floater processors tend to change significantly from year to year. The information presented is based upon year-end 1984 information.

In general, the report indicates that Alaskan owned shorebased processing operations (those with greater than 50% ownership being Alaskan residents) are primarily concentrated in the smaller, single plant operations.

Of the processors with \$10,000,000 or more in sales, only 5 out of a total of 22 companies were controlled by Alaskans. This was less than 23% by number and an even smaller percentage by total sales. Comparatively, Alaskans controlled 20 or 61% of the total of 33 companies with sales of \$1,000,000 to \$10,000,000. Of companies with sales less than \$1,000,000, only 3 out of the total of 23 were controlled by non-Alaskan residents.

Momo/Ed Crane  
October 21, 1985  
Page 2 of 2

To date, CFAB has done business at one time or another with four out five of the companies not eligible in the \$10,000,000 or more sales category. Of the 20 companies noted eligible in the \$1,000,000 to \$10,000,000 sales category, CFAB has provided financial services to 13.

For the floater processors, Alaskan residents had only a minor presence in the total category. Of the 14 floater processor operations with \$10,000,000 or more in sales, only 3 or 21% could be considered controlled by Alaskans. When considering the total number of vessels in this category, Alaskans had less than 10%.

Certainly from the numbers presented, one could assume that there does exist significant market potential for CFAB should its legislation be amended to allow for financing of non-Alaskan residents. However, beyond market potential, the inclusion of the larger processors could have a stabilizing effect on the bank's loan portfolio both from a volume and a risk standpoint.

Companies in the \$10,000,000 or more sales categories tend to be more financially stable. They have multiple plant operations in diverse locations throughout the state. If one area has a low production, another plant in a different area can generally make up the difference. The companies also tend to have developed a diversified product mix, not just focusing on crab, salmon or bottom fish but on a number of different species and product types such as both canned and frozen. The larger companies also tend to be more sophisticated in the planning, budgeting and marketing processes all of which adds to their financial stability.

CFAB's current market is essentially the smaller companies which do not have the market and production diversity of the larger companies nor the management sophistication which has put the Bank at greater risks.

LLL:0730V

SUMMARY

<u>SALES</u>	<u>NUMBER</u>	<u>INELIGIBLE BY STATUTE</u>	<u>PER- CENT</u>	<u>ELIGIBLE</u>	<u>PER- CENT</u>
<u>Shorebased</u>					
10,000,000 or More	22	17	77	5	23
\$1.0 to \$10.0 Million	33	<del>8</del> 13	<del>24</del>	<del>25</del> 26	<del>76</del>
\$.25 to \$1.0 Million	<u>23</u>	<u>3</u>	13	<u>20</u>	87
Total	<u>78</u>	<u><del>28</del> 33</u>	<del>36</del>	<u><del>50</del> 45</u>	<del>64</del>
<u>Floater</u>					
\$10,000,000 or More	14	11	78	3	22
\$1.0 to \$10.0 Million	24	20	83	4	17
\$.25 to \$1.0 Million	<u>5</u>	<u>4</u>	80	<u>1</u>	20
Total	<u>43</u>	<u>35</u>	81	<u>8</u>	19
Grand Total	<u>121</u>	<u>63</u>	52	<u>58</u>	48

0759V



2550 Denali Street, Suite 1201  
P.O. Box 4-2070  
Anchorage, Alaska 99509-2070  
(907) 276-2007

February 18, 1986

Senator Fred F. Zharoff  
Alaska State Senate  
Box V (M.S. 3100)  
Juneau, Alaska 99811

Dear Senator Zharoff:

Enclosed is a discussion piece intended to provide (1) background regarding CFAB's circumstances during the Spring of 1985; (2) a recounting of the significant events and changes between then and year-end; and (3) an expression of the basic business arguments in favor of a broadened lending authority.

It is longer than you perhaps anticipated or intended when you made your request for information. I believe the arguments can be condensed and simplified; they are difficult to advance and defend, however, unless one has an understanding of the context which may be gained through at least one reading of the enclosed. My discussions over the past ten months with various of your colleagues have led me to the conclusion that there is much understandable confusion about the purposes and objectives expressed for CFAB by the 1978 Legislature and about the "real world" business and financial environment in which it operates. It seems to me that it is important for CFAB to attempt to make clear that there are sound business considerations underlying our request for broadened lending authority and that they are very much in the interest of the State of Alaska and its resident fishermen-borrowers. If the question is viewed or treated simply as an abstract one, as a policy issue, it will become a basic "should/shouldn't" argument which may not be worth pursuing.

Senator Zharoff, we appreciate your interest in CFAB and the efforts you have made to become knowledgeable about its circumstances and about the extent and limitations of its services to the Alaska fishing, agricultural, and timber industries. We stand ready to commit whatever CFAB resources as may be appropriate in support of an effort to strengthen the institution by broadening its market and capital base.

Very truly yours,

Edward E. Crane  
President

EEC:1024V  
Enclosure  
cc: Bill Hall, Senate Advisory Council

February 10, 1986

BACKGROUND - SPRING, 1985

In late March and throughout the month of April in 1985, CFAB officers and directors made numerous visits to Juneau to discuss the institution's circumstances with legislators and with administration officials. Those visits, and their substance, were precipitated by a number of factors:

1) Although CFAB's year-end audit by an independent accounting firm (Touche Ross & Company) was not yet complete, it was known with certainty that there had been a loss approaching \$10.0 million for 1984; that there was an impairment of stockholders' equity; that CFAB had become illiquid, with no cash or other unencumbered liquid assets available; and that a major portion of the loan portfolio - almost 34 percent (in dollars) of a \$94.8 million total - was in a serious default, or non-earning, status.

2) The critical imbalance between CFAB's projected 1985 income (based on the large volume of non-earning loans) and its projected 1985 cash interest expense, and basic operating expenses, foretold the likelihood of another significant loss.

3) CFAB and its staff and Board of Directors had been somewhat traumatized by the relative suddenness and severity of the circumstances (or the realization of them); its chief executive officer had resigned in late February; and it was being managed on an interim basis by an individual who, although familiar with the organization and its pressures, essentially was an unknown factor.

4) CFAB's lender, the Spokane Bank for Cooperatives, had taken increasingly aggressive and obtrusive positions with CFAB. SBC's representatives had expressed strong reservations about CFAB's ability to overcome its immediate difficulties and had indicated that SBC would accept no further deterioration in its position. CFAB's loan commitments from SBC had been reduced to 30-day increments, leaving CFAB constantly on the brink of a forced bankruptcy filing.

The basic thrust of CFAB's efforts in Juneau was to seek consideration of an early investment of an additional \$10.0 to \$12.0 million of State capital. This was essentially a "time-buying" strategy. The funds, if invested, would have been used to reduce CFAB's borrowings from SBC. This would have lowered CFAB's interest payment requirement to a level which could be met by the interest income from its own performing loans and would, it was intended, be accompanied by SBC agreement that the existing borrowing relationship would not be disturbed for at least two or three years. Relief from those pressures would in turn permit CFAB to address the liquidation

February 10, 1986

Page 2

or conversion of non-performing loans on rational bases and would also allow the opportunity for internal restructuring and corrections.

CFAB was not successful in obtaining further State investment. This was undoubtedly due in part to the lateness (relative to the legislative session) of the effort and to the somewhat uncoordinated and unprofessional approach, coupled with the "tight money" atmosphere in Juneau. Another factor, at least within the administration, seemed to be that CFAB was an "orphan" with no agency or individual charged with responsibility. In addition, there appeared to be a widespread lack of understanding as to the origin, nature, structure, and constituency of CFAB. Yet another burden was the recollection of some of CFAB's early flamboyance and excesses and attendant unfavorable press exposure. Finally, there seemed to be a perception that the effort was a thinly-disguised attempt to "bail out" the Spokane Bank for Cooperatives; that was an understandable reaction, but it is not supported by the realities of the legal relationships between the State, SBC, and CFAB.

#### SUBSEQUENT EVENTS

Since the Spring of 1985 CFAB's directors, management, and staff have attempted to address each and all of the negative factors and pressures with all available resources. Although not all objectives have been met, there has been modest success. Some of the efforts have admittedly been augmented by fortuitous events and circumstances external to CFAB. The net effect is that CFAB's condition has today become stabilized to a degree that exceeds the March 1985 expectations of its interim (now permanent) management.

The corrective efforts and measures have fallen into several broad categories, as follows:

Liquidation/Conversion/Prevention of Non-Performing Loans and Other Assets - There has been a major and consistent effort to rationally and realistically deal with non-performing loans and other non-earning assets on an item-by-item, account-by-account, basis. This has required an extensive commitment to developing the analytical and communications skills of loan officers, to the control and direction of legal counsel, and to the education of borrowers. There has been a similar commitment to the creative and efficient marketing or other disposition of acquired assets. Finally, and again through the re-direction of loan officers' attention and energies, there was in 1985 a successful program of early attention to delinquencies on performing loans for the purpose of preventing them from evolving into serious problems.

Reduction of Operating Expenses, and Increases in Effectiveness - Beginning in June 1985, there was a determined effort to identify and eliminate excessive operating expenses and other barriers to maximum efficiency. In the four years ending December 31, 1984, CFAB's operating expenses have averaged \$3,227,000 annually. 1984 operating expenses had totaled \$3,260,000; there was \$3,288,000 budgeted for 1985. As of May 31, 1985, actual operating expenses for the year to date had been slightly greater than those budgeted. Management's objective was to reduce those expenses to the necessary minimum for the remainder of 1985 and to position CFAB to enter 1986 with projected expenses of \$1.0 million less than the historical \$3.2 million level.

Financial Restructuring - While the cash flow deficit, the capital impairment, the excessive debt load, and the projected net income shortfall all represented immediate threats to CFAB's existence and required urgent attention, they also carried severe negative implications for the long term. CFAB has a statutory obligation to repurchase the State's \$31.8 million investment by the year 2000. CFAB has absolutely no sources of cash except (1) borrowings, (2) earnings, and (3) investment by owners. Its borrowing capacity had been virtually exhausted in early 1985; there were no bases on which to credibly project net cash earnings in the foreseeable future; and there had never been significant cash investment by owners (other than the State), nor was there any mechanism in place to provide for such investment. It seem imperative in early 1985 that, assuming CFAB's short-term survival, a foundation be laid that would over the long term enhance CFAB's ability to borrow, to earn, and to attract owner investment.

Business Development - The written record suggests clearly that a primary consideration in the conception and establishment of CFAB was to provide greater access to credit for "small" individual fishermen. While the performance over the ensuing five years tends to be obscured by the large dollar volumes associated with fish and timber processing accounts and by the dramatic impact of misadventures and imprudence, a close scrutiny of the number and sizes of loans results in a clear conclusion that it is the body of individual fishermen who have been best served by CFAB. It is they - existing individual borrowers and their non-borrowing peers - who have benefited most from CFAB's existence and who would suffer most severely were CFAB to be liquidated. Unfortunately, it is a costly market to serve, it is a market which represents unusual concentration of nearly uncontrollable risk, and it is a market of individuals whose ability to respond to financial pressures is limited. It is on that body of borrowers that the effect of CFAB's 1984/1985 circumstances fell most harshly (in the form of interest rates maintained at a burdensome level.) One of the

results of that was the flight of better, i.e., more creditworthy, borrowers to other lenders; this served only to exacerbate the pressure on remaining borrowers and to further threaten CFAB's stability. That trend continued through 1985, and it became critical to attempt to develop loan programs which would make CFAB more attractive to existing and potential borrowers, particularly those who represented stability and good performance.

#### 1985 RESULTS AND YEAR-END CIRCUMSTANCES

At December 31, 1985, CFAB's fundamental financial circumstances were greatly improved over those of a year earlier or of the Spring of 1985. That improvement can be quantifiably expressed in a number and variety of ways:

1) At December 31, 1984, non-earning loans totaled \$31,979,000; at December 31, 1985, the total was \$15,653,000. While about \$3.5 million of the net reduction was due to charge-offs, the greater portion resulted from liquidations and from re-structurings.

2) At December 31, 1984, CFAB had 189 delinquent loans (including non-earning loans). A year later, the number was 115.

3) During 1985, the book value of acquired assets (which are also non-earning assets) was reduced from \$2,361,000 to \$1,606,000.

4) CFAB began 1985 with \$80,574,000 of interest-bearing debt and only \$69,110,000 of earning loans. At year-end those balances stood at \$48,268,000 and \$55,312,000 respectively.

5) In contrast to the 1984 loss of \$9,978,000, CFAB in 1985 had net income of \$114,000. Most of the \$10,092,000 difference can be attributed to the lack of major new credit losses in 1985. However, another major element was the effective reduction of operating expense. Although the reduction effort was not initiated until June, and although certain of the cost-containment actions involved relatively large one-time costs themselves, CFAB concluded 1985 with operating expenses exactly \$400,000 below those budgeted. CFAB has prepared and is committed to a 1986 operating expense budget approximately \$1.0 million below the historical \$3.2 million average.

6) The Spokane Bank for Cooperatives routinely examines and evaluates CFAB's loan portfolio, which is the basic collateral underlying CFAB's borrowings from SBC. At

April 30, 1985, SBC calculated that, by its (SBC's) standards, the collateral was worth \$13,400,000 less than the borrowings it secured. At year-end, CFAB had reduced that collateral deficit - measured by the same standards - to \$3,100,000, an improvement of over \$10.0 million.

7) The borrowing relationship with SBC has improved in other, less quantifiable, ways. After nearly a year of very limited commitments, CFAB was able in September 1985 to negotiate a six-month SBC loan commitment. Indications are that the next commitment, effective April 1, 1986, will also be for six months or possibly twelve months.

\* \* \* \* \*

As indicated earlier, a critical long-term need for CFAB was to develop a mechanism and structure to attract owner investment. Such investment, over a period of time, would in turn positively influence CFAB's earning prospects and borrowing ability. During the last half of 1985, with the assistance of specialized legal counsel, CFAB developed a new member/borrower equity investment program. That program, which became effective January 1, 1986, requires that each new borrower (including "old" borrowers acquiring new loans) purchase a modest amount - 5 percent of the borrowing - of stock in CFAB. That stock represents a true equity investment, i.e., risk capital. While this new program will have an almost insignificant effect on CFAB's current condition, it does lay the foundation for genuine and long-term capital growth.

Two other significant but unglamorous programs were developed in 1985 and made effective at the beginning of 1986. Each of them is designed to make CFAB financing more attractive and/or more effective, especially to individual fishermen. One program in particular will permit CFAB to be more aggressive and more competitive in seeking and retaining more creditworthy borrowers.

\* \* \* \* \*

It is not unreasonable to assert that CFAB has effectively moved itself back from the brink of imminent disaster and has diffused the air of crisis which influenced the day-to-day activities during much of 1985. However, its most difficult challenges lie ahead of it. The most obvious and most quantifiable is the statutory requirement that the \$31.8 million State investment be repurchased in, or by, the year 2000. Perhaps a good illustration of the magnitude of that requirement is to point out that if CFAB were to make 14 annual cash payments to a fund earning eight percent annually, those payments would need to be slightly more than \$1,313,000 in order to reach the \$31.8 million objective. CFAB does not have a

current ability to generate \$1,313,000 of cash annually, nor can such an ability be credibly projected for the near future. If such a program were necessarily deferred until there were only ten years remaining, the annual payment amount would be slightly over \$2,195,000. Obviously, time is of the essence in the effort to build CFAB's ability to generate cash.

The second major challenge, somewhat more difficult to express than the first, lies in the fact that CFAB is clearly caught in a classic spiral, an "adverse selection" process, which has been the downfall of many lending institutions. The process is not necessarily irreversible but, as the "spiral" descriptor implies, does gain momentum with each passing day. Since, beginning back in late 1983 or early 1984, such a large volume of CFAB's loans have been in a non-earning status, CFAB has had to attempt to maximize its gross income on the remaining portion of its loan portfolio in order to meet its own interest and expense obligations. This has meant maintaining interest rates at a level perceived to be "high" by most borrowers and which, in fact, have generally been higher than those offered by other lenders to more attractive borrowers. Over the past 18 months, many of those attractive borrowers have elected to re-finance their CFAB loans with other lenders. It is not possible to ascribe motivation to every such re-financing, but CFAB's management estimates conservatively that \$12.0 to \$18.0 million of loan volume has been lost in this way through December 31, 1985, and the trend is continuing. This is alarming. CFAB's loan portfolio is gradually being peeled away to a core of "small" individual borrowers, individuals who have few, if any, alternative sources of financing and who are least able to bear the burdens of increased interest rates, insurance premiums, and other expenses. They are the borrowers who are most costly to serve, and each notch of interest rate (or other) pressure creates a certain number of new problem loan accounts, which cause additional servicing or collection costs for CFAB, which in turn cause a need for greater interest income. Despite the recent success at reducing CFAB operating expenses, it must be recognized that a certain large portion of those expenses are "fixed" and cannot be further reduced no matter how much CFAB's loan volume may shrink. In addition, it must be recognized as axiomatic that if and as CFAB's loan portfolio contains a greater percentage of marginal or problem loans, expenses will actually increase.

The foregoing discussion places emphasis on a context of marginal or problem credit situations. In reality, CFAB - if it is limited by circumstances, statute, or otherwise to financing only those who appear to have the greatest need for its services (the "small" individual fishermen) - may prove to be an economically unfeasible enterprise under the best of conditions. A somewhat oversimplified analysis of a few basic facts illustrate the point:

February 10, 1986

Page 7

A. The average CFAB loan to an individual fisherman today has a balance of about \$45,000.

B. The average interest "spread" on such loans - that is, the difference between the interest rate CFAB charges and the rate it must pay on its own borrowings - is about 3 1/2 percent.

C. CFAB's annual net interest income on an average loan, then, is \$1,575 (3 1/2% X \$45,000).

D. In order to cover a basic operating expense budget of \$2.2 million (again, \$1.0 million below historical levels) CFAB needs the net interest income from 1,397 "average" loans (\$2,200,000 divided by \$1,575).

The above allows nothing to cover non-operating expenses, accumulation of a reserve for loan losses, capital expenditures, funding of the \$31.8 million obligation, etc. It assumes no credit losses, no significant delinquencies, no unusual difficulties of any kind. It is not realistic. CFAB has never had more than 700 "average" fisherman loans and could not make and service 1,397 such loans without a significant and costly increase in staff. The financing of a fisherman, particularly within the context of Alaska's geography, is an expensive, cumbersome, and risky venture. The romance of fishing may tend to obscure the financial implications, but it is a capital-intensive business which is also characterized by nearly uncontrollable major costs (insurance and fuel, for example); it is a business in which its members have no control of the basic resource. Its members at best have only the right to compete with each other for a share of resources controlled by other human, political, natural, and international forces. It is a business in which an unusual - and unpredictable - number of individual failures are inevitable.

The financing of fishermen - which, in most cases, involves vessel security - is cumbersome and therefore costly. The procedures for taking a lien on a vessel are unlike those for any other kind of personal or business asset (at least in the United States). They are the province of a virtually unregulated and unique agency. They are subject to a body of law rooted in centuries past and recognized by the legal profession as a specialty, which again translates into unusual costs. When the inevitable failures occur, the vessel lien foreclosure process represents an additional and inevitable creditor's nightmare. In the best of circumstances, a case in which the vessel owner/borrower is cooperative, the lender will spend about \$6,000 in Marshal's fees, court and attorney's costs, insurance, moorage, etc., before it has ownership and possession of the vessel. According to a major Anchorage law firm, a more typical vessel foreclosure cost would be \$12,000 to

\$16,000 (the annual net interest income on 8 to 10 average loans). When the foreclosure process is complete, the liquidation process becomes one more opportunity for almost certain loss. Again, the scenario is different than for almost any other form of foreclosed collateral. The market for fishing vessels is limited, close-knit, and highly subjective. Because of the unique procedural requirements related to vessel ownership, it is literally impossible to camouflage the nature and circumstances of such a sale. The bottom line is that, except in unusual cases, the proceeds realized from collateral liquidation will be significantly less than the loan balance involved, creating yet another loss which can only be charged against the interests of performing borrowers.

All of the above factors were almost certainly among the primary reasons that the need for "a CFAB" was perceived in the late 1970's; traditional, profit-oriented, and regulated commercial lenders abstained from widescale financing of individual fishermen because it was, and is, a market characterized by limited potential for profit but bearing inordinate risk of loss.

The creation of CFAB was a visionary response to a clear need. Implementation of the unique concept has been characterized by some dramatic errors and misjudgments, the effects of which have been exacerbated by major unforeseeable and uncontrollable external forces. The result, after nearly six years of actual credit operations, is that the institution has significant financial weaknesses which must be, and are being, addressed. The reality of those weaknesses and the appeal of criticizing their existence and causes, however, should not be allowed to overshadow the fact that CFAB has met the financing needs of hundreds of individual fishermen. It has served the interests of countless others simply by its existence in the market; CFAB's presence as an alternative lender has provided the financially stronger and more creditworthy fishermen with additional leverage in their negotiations with other credit sources. In short, that fundamental purpose is being served. While CFAB is in a position, albeit weakened, to continue that service today, a commitment to that purpose without addressing the long-term risks and effects is imprudent to an extreme.

CFAB has the theoretical ability to modify the financial and operational effects discussed in the foregoing through loans to the agriculture and timber industries and to the processing segment of the fishing industry. Ignoring for the moment the realities and other constraints which limit that ability to a theoretical one, and assuming creditworthiness among the processors in general, the potential benefits to CFAB and its individual borrower-members are great. For example, term loans of \$2.5 million each to five processors will yield net interest

income of \$437,500 (\$12.5 million X 3.5%) annually; and the servicing demands on CFAB are not significantly greater than those of an equal number of loans to individual fishermen. Numbers of that magnitude translate into increased net earnings and equity growth, which in turn translate into enhanced financial stability and lending capacity.

Of those additional markets cited, the greatest potential opportunity, in dollars, lies among the seafood processors. Under present circumstances, however, the existence of that opportunity is illusory; it must be referred to an "theoretical." This is due to the nature and origin of the capital investment in the Alaska seafood processing industry, coupled with the strictures of AS 44.81.210.(a)(1). That statute provides in part that CFAB may make loans only to those corporations (most major seafood processors are corporate entities) of which the majority ownership and control is vested in Alaska residents.

The statute effectively makes a large part of the industry ineligible to borrow from CFAB. It is not unrealistic to generalize that larger processors tend to be more financially stable and more creditworthy than smaller processors. In some instances, economies of scale are significant - more general positive characteristics, though, are multiple plants and diversified operations; highly developed levels of management, marketing, planning, and budgeting expertise; and broad product mixes.

During 1985, CFAB carried out a survey and analysis of the ownership of Alaska seafood processors. Complete ownership information is difficult to obtain in many cases; however, a variety of sources was consulted, and the findings are believed to be credible. A total of 78 shorebased processors entities (in addition to 43 "floater" processors) was identified, as follows:

<u>Annual Sales</u>	<u>Number</u>
\$10.0 million or more	22
\$ 1.0 million to \$10.0 million	33
Less than \$1.0 Million	<u>23</u>
Total	<u>78</u>

The distribution of ownership, in terms of statutory eligibility for CFAB financing, is interesting. Of the 18 processors, 45 of them - slightly over 57 percent - are eligible. Twenty of those 45, however, are in the group with annual sales of less than \$1.0 million. They represent limited financing opportunities and requirements. Many of them are privately financed and/or integrated harvesting/processing operations, or are highly specialized and limited operations financed by their market base.

Of the remaining 25 eligible processors, 20 are in the \$1.0 million to \$10.0 million sales group. It is difficult to generalize about those 20. CFAB has, or has had, credit relationships with 13 of them. Some of them have been extremely good loans; others are, or have been, among CFAB's most grievous credit problems. At best, the group does not appear to offer a broad base of financing opportunities.

The group of 22 larger (sales of \$10.0 million or more) processors clearly holds the greatest promise for major CFAB financing opportunities; however, only five of those processors are statutorily eligible. CFAB has, or has had, credit relationships with four of them; they have included some of CFAB's most reliable and highest quality loans. They are viewed as attractive and profitable borrowers by other lenders.

It is not known, and not asserted, that all of those 22 processors are creditworthy. Neither can it be asserted that if CFAB were given access to that group that competition would be readily or immediately overcome. However, the statutory barrier to that market represents a significant handicap to CFAB (within the context of its original and documented legislative intents and purposes); it magnifies the risks of financing concentrated in a very small market; it places strong upward pressure on the costs which must be borne by individual fishermen-borrowers; and it serves no useful purpose with regard to Alaskan interests. Ownership of a corporation - at least as expressed and implied by the statute - is not a valid credit factor.

That group of processors own extensive facilities in Alaska. They purchase, add value to, and market Alaska fish. They pay local taxes. They deal with Alaska fishermen. They purchase supplies in Alaska. They employ Alaska workers. They pay fish taxes to the State of Alaska. When they borrow money for capital investments or to finance operations, the money does not disappear - it is repaid, dollar for dollar, to the lender whether that lender is a Seattle commercial bank, a New York insurance company, or CFAB; and interest is paid to that lender also. That interest obviously can only be taken from the gross proceeds from the marketing of Alaska seafoods. If the interest is paid to CFAB it is a beneficial increment to CFAB and, therefore, its owners which consist of the State of Alaska and Alaska fishermen, farmers, and timber harvesters.



# UNITED FISHERMEN OF ALASKA

Jack Cadigan  
Executive Director  
907-586-2820  
1-800-478-FISH

UNITED FISHERMEN OF ALASKA  
RESOLUTION 86-22  
(DRAFT)

WHEREAS, the Commercial Fishing and Agriculture Bank (CFAB) was created by the Alaska Legislature for the purposes of providing sources of credit for Alaskan fishing businesses and encouraging the harvesting, processing and marketing of underutilized fish species as well as the technological development necessary to accomplish the foregoing, and

WHEREAS, CFAB is a lending cooperative whose cost of doing business is shared by all of its member-borrowers by the interest and loan fees that they pay; and

WHEREAS, the ability of CFAB to have access to the broadest market of potential borrowers within the fishing industry is necessary for it to have the greatest profit potential which translates into lower interest rates for its members; and

WHEREAS, CFAB is restricted by statute from lending to seafood processors that are not beneficially owned by a majority interest of Alaska residents; and

WHEREAS, the majority of long established, financially strong Alaska seafood processors do not fit this criteria; and

WHEREAS, this category of seafood processors represents a potential market for CFAB that offers the possibility of lower losses and greater profits; and

WHEREAS, the Alaska seafood industry is in great need of capital investments in modern processing and marketing facilities that will serve to enhance the quality and value of its seafood products; and

WHEREAS, all segments of the Alaska seafood industry will benefit from increased investment in the seafood processing industry that will provide more jobs for Alaskan workers and more market opportunities for Alaskan fishermen.

NOW THEREFORE BE IT RESOLVED, that the United Fishermen of Alaska requests the Alaska legislature to amend the statutes defining CFAB's lending authority so as to permit it to make loans to corporations beneficially owned by a majority interest

of United States residents engaged in the processing and marketing of seafood products for the purpose of constructing or operating shoreside facilities within the state.

PLEASE NOTE: The language "beneficially owned by a majority interest of United States residents" was used so as not to prevent a corporation with minority foreign stockholders in it from being eligible to apply to CFAB loans. This may or may not meet the intent of the amendment passed at the UFA board meeting. However, it should be considered as it would permit U.S. residents to utilize and control the use of capital provided by foreign investors in a seafood processing or marketing business. The addition of the word "shoreside" between "operating" and "facilities" should meet the other purpose of the amendment. It is also important to note that the resolution speaks only to corporations engaged in seafood processing and marketing.



Jack Cadigan  
UFA Executive Director



Bob Blake  
UFA President

FRANK

329-333 Katlian Street

Sitka, Alaska 99835



March 9, 1986

Senator Arliss Sturgulewski  
Chairman, Resources Committee  
Room 508, Capitol Building  
Juneau, Alaska 99811

Re: Senate Bill 410 (By Sharoff) (Same as SB 9)

Dear Senator Sturgulewski:

I am writing in support of the above-mentioned Senate Bill 410, for I believe it is important for the Alaska Commercial Fishing and Agriculture Bank to expand its base, and be allowed to take part in financing of shorebased plants other than those who meet the present eligibility requirements.

My company is 100% owned by Alaskan residents at present and I do not feel that this proposed expansion of the Bank's lending base would cause any hardship whatsoever. I feel that this legislation will enable the Bank to broaden its base and do a better job for all fishing industry in Alaska.

I wish to thank you for any consideration you may give on the above,

Sincerely,

A handwritten signature in cursive script that reads "T. E. Thompson".

T. E. Thompson  
President

Copy: Senator Richard Eliason

(907) 747-6662

Telex 090-45-391 SSSEAFOOD SIK  
FRESH AND FROZEN SALMON, COD, BLACK COD, HALIBUT, ROCK FISH, CRAB, HERRING

S B

||

150100A ✓  
Bradley  
11/03/86

1 IN THE SENATE

BY COGHILL

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the conveyance of a five-acre  
7 homesite on agricultural land; and providing for an  
8 effective date."

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

10 \* Section 1. AS 38.05.065 is amended by adding a new subsection to  
11 read:

12 (i) The commissioner may negotiate with the owner of land sub-  
13 ject to agricultural rights the purchase by that owner of a five acre  
14 fee simple home site. The commissioner may not negotiate the sale of  
15 more than one five-acre homesite on each original tract purchased from  
16 the state. If a survey is required under this subsection, the pur-  
17 chaser shall pay the costs of the survey. The purchase price of the  
18 homesite shall be the fair market value of the land at the time of the  
19 application for the purchase.

20 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
21 10.070(c).

Senator John B. (Jack) Coghill  
Alaska State Legislature

Pouch V  
Juneau, Alaska 99811  
(907) 465-4921

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Box 55028  
North Pole, Alaska 99705  
(907) 488-0862



Amendment

CS SB 11 (Res)

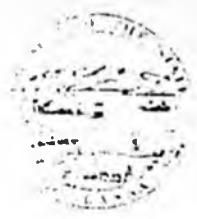
Page 1, Line 16: Delete "If a survey is required under this subsection, the purchaser shall pay the costs of the survey"

Page 1, Line 16: Add "The purchaser shall pay the costs of any survey, appraisal and notice requirements."

Senator John B. (Jack) Coghill  
Alaska State Legislature

Box V  
Juneau, Alaska 99811  
(907) 465-4797

Box 55028  
North Pole, Alaska 99705  
(907) 488-0862



M E M O R A N D U M

To: Representative Fran Ulmer, Chair  
House State Affairs Committee

From: Senator Jack Coghill

Re: SB 11, Five acre homesite on agricultural parcels

Date: February 24, 1988

Please schedule a hearing on SB 11 at your committee's earliest convenience. This legislation is needed and supported by the Department of Natural Resources. Farmers will be able to go to commercial lending institutions for residential loans if this passes. Presently their only funding source is through the Agricultural Revolving Loan Board and these loans are only for farm operation purposes.

Senator John B. (Jack) Coghill  
Alaska State Legislature

Pouch V  
Juneau, Alaska 99811  
(907) 465-4921

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Box 55028  
North Pole, Alaska 99705  
(907) 488-0862



April 2, 1987

To: Members of the Senate Finance Committee

From: Senator Coghill

Re: CSSB 11 (Res)

I have spoken with Carol Wilson of the Department of Natural Resources. She informed me that the fiscal note they are working on would indicate that costs to the state would be \$79,000 for 1½ part-time positions over two years.

This bill would possibly generate \$1.4 million in revenues on the sale of the five-acre homesites.

Senator John B. (Jack) Coghill  
Alaska State Legislature

Pouch V  
Juneau, Alaska 99811  
(907) 465-4921

Box 55028  
North Pole, Alaska 99705  
(907) 488-0862



MEMORANDUM

To: All Resource Committee Members  
From: Senator Coghill  
Re: SB 11, Five Acre Homesite on Ag Lands

I have been concerned about the status of agricultural land titles for quite a while. Financial lenders are reluctant to loan farmers funds for homes and farm buildings because they perceive the title as less than a fee simple conditional.

I believe it is good state policy to enable our farmers to borrow funds from private lenders instead of the state agricultural revolving loan fund. We all know that this fund will be depleted in the next few years. Farmers, who are living in substandard housing, will have no where to turn for loan funds. Tied to lands, without a chance of upgrading their living situation, many will sell off the farm instead.

I believe a just way of encouraging our farmers to stay on the land and meet the needs of their families is to allow a five-acre fee simple homesite on each agricultural parcel. This bill would allow this.

One five-acre fee simple homesite would be allowed on each parcel originally purchased from the state. This change in the current law would go far to assist many farmers across the state with lending problems.



**NORTHERN SCHOOLS FEDERAL CREDIT UNION**

901 CUSHMAN STREET, FAIRBANKS, ALASKA 99701 • 907/452-1949  
CONSTITUTION HALL, UNIVERSITY OF ALASKA, FAIRBANKS, ALASKA 99701 • 907/479-4209

February 20, 1985

Don Kratzer  
PO Box 313  
Nenana, AK 99760

Dear Mr. Kratzer,

You requested a loan from us to finance construction of a residence on property you currently have agricultural rights to, but do not have a fee simple ownership outright to the property.

We will only finance amounts on real estate that an individual has fee simple ownership to and can present a clear title of ownership to the property.

Sincerely,

  
W.K. Dutton-Manager



# National Bank of Alaska

Fairbanks Office: Pouch 1000 • Fairbanks, Alaska 99707-9990 • (907) 452-4733

August 26, 1984

Mr. Don Kratzer  
Box 313  
Nenana, Alaska 99760

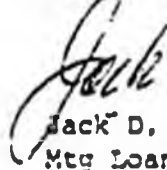
Dear Don,

Thanks again for your inquiry regarding a home mortgage on your property near Nenana.

We have both discovered through many sources that the availability of financing using a portion of a State of Alaska agricultural Parcel as collateral for a loan, is virtually impossible. Until such time that you are able to assign other than surface rights, such as fee simple title or extended leasehold to all or a portion of the ag-parcel, I feel, regretfully, that it would be pointless to pursue your application further.

I realize that you are making extensive effort to find a solution to this problem and I hope you will not hesitate to contact me if I may be of any further assistance.

Very truly yours  
National Bank of Alaska

  
Jack D. Williams  
Mtg Loan Originator

JW/la

OFFICE OF THE GOVERNOR  
675 Seventh Ave., Station H  
Fairbanks, Alaska 99701

(907) 451-2920

XEROX TELECOPIER 295  
(automatic)

451-2858

TELECOPIER TRANSMITTAL SHEET

TO: SENATOR JOHN B. COGHILL

FROM: SANDRA HESS

DATE: APRIL 27, 1988

NO. OF PAGES (including cover sheet) 2

AS REQUESTED BY MR. DON KRATZNER, LETTER DATED MAY 15, 1987.

STEVE COWPER  
GOVERNOR



PHONE  
907-452-1545

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
FAIRBANKS

May 15, 1987

Mr. Don Kratzner  
P.O. Box 313  
Nenana, AK 99760

Dear Mr. Kratzner:

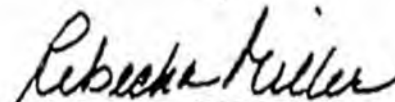
Re: CS SB11

While it may appear that the Governor has changed his policy regarding this bill, in fact he has not. He still supports it. However, due to the serious budget problems that the administration has faced, staff energies for actively lobbying bills have been focused on budget, revenue and trade bills sponsored by the Governor.

Since both Senators representing constituents from the agriculture belts have been tracking the bill so closely, it was determined that limited staff resources could be better used either advocating bills sponsored by the administration, or opposing bills that are felt not to be in the best interests of all Alaskans.

As ever, thanks for taking time to express your concerns.

Sincerely,

  
Rebecha Miller  
Director

RM/ww

bcc: Rod Swope  
Special Staff Assistant

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400

May 14, 1987

The Honorable Sam Cotten  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

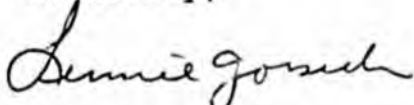
Dear Representative Cotten:

I anticipate that this Department will, in the near future, implement a regulation defining the term "cropland soils."

Tentatively, we are considering the definition set out below:

CROPLAND SOILS on lands that are classified as agricultural are soils that can be developed by conventional means for production of one or more of the following: improved pasture, hay, grains, vegetables, or horticultural crops. These may include soil of capability Class II-VI according to the USDA, Soil Conservation Service soil surveys.

Sincerely,



*for* Judith M. Brady  
Commissioner

cc: Mark Weaver

# Alaska State Legislature

## Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman  
Sen. Paul Fischer, Vice-Chairman  
Sen. Lloyd Jones  
Sen. Atiss Sturjulewski  
Sen. Jim Duncan  
Sen. Fred Zhaouf  
Sen. Dick Elason

Box V  
Juneau, Alaska 99811  
(907) 465-4907

### Letter of Intent

SB 11

It is the intent of the legislature that "homesite" means residential use. It is further the intent of the legislature that the alienability of the fee simple title of the parcel owner is not restricted in any form.

MEMORANDUM

To: All Resource Committee Members

From: Senator Coghill

Re: SB 11, Five Acre Homesite on Ag Lands

I have been concerned about the status of agricultural land titles for quite a while. Financial lenders are reluctant to loan farmers funds for homes and farm buildings because they perceive the title as less than a fee simple conditional.

I believe it is good state policy to enable our farmers to borrow funds from private lenders instead of the state agricultural revolving loan fund. We all know that this fund will be depleted in the next few years. Farmers, who are living in substandard housing, will have no where to turn for loan funds. Tied to lands, without a chance of upgrading their living situation, many will sell off the farm instead.

I believe a just way of encouraging our farmers to stay on the land and meet the needs of their families is to allow a five-acre fee simple homesite on each agricultural parcel. This bill would allow this.

One five-acre fee simple homesite would be allowed on each parcel originally purchased from the state. This change in the current law would go far to assist many farmers across the state with lending problems.

FIRST COMMITTEE OF REFERRAL

Date of Two weeks 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

\*\*FISCAL NOTE(S) ATTACHED  \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

1/19/87

DATE TURNED INTO OFFICE 2-23-87

Mr. President:

RESOURCES

Committee considered SB 11

relating to the conveyance of a five-acre homesite on agricultural land; efd.

and recommended:

replace with CS ~~SB~~ CSSBI (Res)  same title  
 attached amendment(s) and  new title

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Chairman signature and recommendation

Committee Backup Attached

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

REQUEST: \_\_\_\_\_

Bill Version: SB 11 Real  
Publish Date: 2-23-87

Revision Date: February 3, 1984

Title: Homesite on Agricultural Land

Agency Affected: Natural Resources  
BRU: Land and Water Management

Sponsor: Sen. Coahill

Requestor: Senate Resources Committee

Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		261.5	261.5	98.1		
TRAVEL		20.5	25.0	10.0		
CONTRACTUAL		8.0	6.0	1.0		
SUPPLIES						
EQUIPMENT		2.0	2.0	0		
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>291.5</b>	<b>294.5</b>	<b>109.1</b>		

CAPITAL						
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REVENUE		1,400.0	1,400.0	1,400.0	1,400.0	1,400.0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND		291.5	294.5	109.1		
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>291.5</b>	<b>294.5</b>	<b>109.1</b>		

**POSITIONS:**

FULL-TIME		4	4	2		
PART-TIME		3	3			
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached Explanation

Prepared by: Tom Hawkins  
Division: Land and Water Management

Phone: 465-2400  
Date: February 3, 1987

Approved by Commissioner: Wm D. Smyth, Deputy  
Agency: Natural Resources

Date: 2/4/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 11

If the program is presented as a one-time offer (as opposed to being available anytime at the purchaser's discretion), it would require three years to complete. It is estimated that there are 500 parcels eligible for homesite purchase. A full-time adjudicator would be required in the Southcentral Region, for three years, and a half-time adjudicator would be required in the Northern Region for two years. The few Southeast homesites could be completed by the Southcentral adjudicator. A full-time appraiser would be required for two years, and would be located in Anchorage. Two surveyors would be required to review the plats, one for two years and one for three years. Title Administration would require a half-time position over two years to resolve title problems and issue patents. Contract Administration would also need a half-time position to prepare and administer the sale contracts.

As the bill is written, the State would bear the costs of public notice and appraisal. This increases the travel and contractual costs considerably. If the bill were amended to require the purchaser to pay for notice and appraisal, the fiscal note could be reduced 15.0 in travel and 8.0 in contractual (over three years). The remaining contractual costs are postage and telephone. If a filing fee were charged, it would be possible to return a portion of this cost to the general fund.

It is anticipated that most of the 500 eligible purchasers will be interested in purchasing their homesite. The revenue generated from the sale of 450 homesites, at an average cost of \$5,000 per acre would be \$11 million. With interest and spread over a twenty year period, this might generate revenues of \$1.4 million each year. (Not all 450 purchasers would have contracts in the first two years, but this reduction would be offset by receipt of downpayments during those years.)

## Line Item Explanation

- 100- 1 Adjudicator for 3 years (Range 16)
  - } Adjudicator for 2 years (Range 16)
  - } Contract Administrator for 2 years (Range 14)
  - } Title Administrator for 2 years (Range 16)
  - 1 Appraiser for 2 years (Range 18)
  - 2 Review Surveyors, 1 for 2 years, 1 for 3 years.Total: 695.1
  
- 200- Travel for the adjudicators and the appraiser.  
Total over 3 years: 55.0
  
- 300- Public notice, postage, and telephone.  
Total over 3 years: 15.0
  
- 400- Paper, mylar, other supplies.  
Total: 4.0

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version : CSSB 11 (Finance)  
Publish Date : \_\_\_\_\_

Revision Date: 4/1/87  
Title: Homesites on agricultural land

Agency Affected: Natural Resources  
BRU: Land and Water Management

Sponsor: Senator Coghill  
Requestor: Senator Coghill

Components : \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		72.0	72.0			
TRAVEL		2.0	2.0			
CONTRACTUAL		4.0	4.0			
SUPPLIES		1.0	1.0			
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		79.0	79.0			

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		*	*			
---------	--	---	---	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1	1			
PART-TIME		1	1			
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

\*Purchase of the remaining available land rights would generate an estimated \$800 per acre.

Prepared by: Carol Wilson Phone: 465-2400  
Division: Commissioner's Office Date: 4/2/87

Approved by Commissioner Jennie Boston Jorgensen Date: 4-2-87  
Agency: Natural Resources

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

FISCAL ANALYSIS CSSB 11  
continued

With all costs of the homesite purchase to be borne by the applicant, including survey and appraisal, the department's responsibility would be limited to receiving and processing purchase applications and negotiating the homesite sale.

The full-time Natural Resource Officer II would be responsible for receiving applications; making necessary findings under AS 38.05.035; adjudicating applications against the information supplied in the completed survey (including the location of buildings); developing and administering contracts; and pursuing contract defaults and foreclosures, if necessary.

The half-time review surveyor would issue survey instructions and review and approve the completed surveys.

If a limited homesite purchase application period is established for the existing 500 agricultural parcels, the 1 1/2 staff persons would need to be funded for two to four years to complete the project.

If homesite applications can be made at any time, from 50-100 purchase requests could be expected each year. If staff to process these applications is not funded, purchase requests would be filed in the order received and processed as staff assigned to other projects can be made available.

If a \$50 filing fee is assessed, it would help defray processing costs.

100 -	1 Range 16 (Contract Administration)	42.0
	2 Range 19 (Survey Review)	30.0
200 -	Travel to spot check surveys	2.0
300 -	Postage, telephone, copy fees	4.0
400 -	Office supplies	1.0

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801  
PHONE: (907) 465-2400

OFFICE OF THE COMMISSIONER

February 4, 1987

The Honorable Jack Coghill, Chair  
Senate Resources Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Coghill:

Subject: Senate Bill 11, which would allow the Commissioner of Natural Resources to sell the holder of an agricultural parcel a five acre fee simple homesite on the parcel.

Position: The Department of Natural Resources would not object to this bill if language ensuring that the homesite would be used for the purchaser's personal domicile is included, if virtually all costs related to the purchase of the homesite would be borne by the buyer, and if sufficient funding for administration of the program is appropriated for the department.

Background: The department is currently directed by statute (AS 38.05.321) to transfer only agricultural rights to the purchaser of state land classified for agriculture. The land patent document for agricultural parcels grants the purchaser title to the surface estate in fee simple, subject to the condition subsequent and related covenants which require use of the property for agricultural purposes only.

The department currently allows farmstead buildings and improvements on up to 20 acres of an agricultural parcel. The five acre homesite should be contained within an approved farmstead site. To grant full fee simple title to a homesite parcel would require the removal of the agricultural use only covenant for the five acre homesite. Since only agricultural support functions are currently required on the farmstead (rather than actual clearing and planting of crops), removing the agricultural use restrictions for a five acre homesite would not be inconsistent with current settlement practices.

Senator Jack Coghill

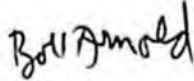
-2-

February 4, 1987

We estimate that approximately 500 purchasers of state agricultural parcels would be eligible for this home-site program. The bill would require the purchaser to pay the costs of survey, but would result in additional costs to the department for land appraisals, survey directions, public notice and other administrative requirements. Since our land disposal program and staff is eliminated in the proposed FY 88 budget request, new funding would be needed to perform these tasks.

Please let me know if I may provide additional information.

Sincerely,



Judith M. Brady  
Commissioner

cc: Members of Committee

S B

16

# Alaska State Legislature

## Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman  
Sen. Paul Fischer, Vice-Chairman  
Sen. Lloyd Jones  
Sen. Arliss Sturgulewski  
Sen. Jim Duncan  
Sen. Fred Zharoff  
Sen. Dick Eliason

Box V  
Juneau, Alaska 99811  
(907) 465-1907

### MEMORANDUM

TO: Senate Resources Committee Members  
FROM: Resource Staff  
RE: CSSB 16 Technical Amendments  
DATE: March 4, 1987

---

This measure was acted on by the committee February 23, 1987, with individual recommendations.

In drafting the committee's amending language, legal services identified a few problems the language would create. A memo from Teresa Bannister the drafter accompanies this memo.

The intent of the committee's amendment is clarified with out further broadening of DNR's discretion regarding escheated property.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3810

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 2, 1987

SUBJECT: Proposed CSSB 16(Res)  
TO: Senator Jack Coghill  
Chairman, Senate Resources Committee  
FROM: Theresa L. Bannister *TB*  
Legislative Counsel

You have requested a committee substitute for SB 16. Accompanying this memo are (1) a draft of the CS with your requested language (5-0098L) and (2) a second CS version that incorporates the changes that I recommend in this memo in order to carry out what I understand the committee's intent to be (5-0098X).

I recommend that the following changes to CS (5-0098L) be considered by the committee:

A. After discussing the committee's intent with your staff, it is my conclusion that Sec. 38.95.230 as changed by the requested CS would not completely fulfill that intent. In addition, the requested CS needs to be rewritten to reflect that the governor, not the Historical Sites Advisory Committee, designates the property as an historical site, since it is the governor who has that authority (AS 41.35.030). In light of the above, I suggest that sec. 5 of CSSB 16(Res) (5-0098L) be rewritten to read as follows:

Sec. 38.95.230. DISPOSAL OF ESCHEATED REAL PROPERTY BY DEPARTMENT. Within 90 days after a judgment of escheat under AS 38.95.220 and after notice has been given as required under AS 38.05.945, the department shall sell the escheated real property unless the department (1) issues a written finding that the designation of the property as an historic site under AS 41.35 would be in the best interest of the state and (2) requests the Historic Sites Advisory Committee to determine if the property should be designated an historic site. If the

Senator Coghill  
Page 2  
March 2, 1987

committee decides not to recommend the designation or if the governor decides not to make the designation, the department shall make arrangements to sell the property as soon as possible after receiving notice of the decision.

B. I also recommend that the language of Sec. 38.95.240(a)(2)(B) (beginning at p. 2, l. 29 of CSSB 16(Res) (5-0098L)) be deleted since it is no longer necessary.

C. Since the term "transfer" has been deleted from the catchline of Sec. 38.95.230, I suggest that the term "transfer" be deleted from Sec. 38.05.945(a)(5) beginning on p. 1, l. 29 of CSSB 16(Res) (5-0098L) and that "sale" be put in its place.

If I may be of further assistance, please advise.

TLB:mi  
050/wkmil

Enclosures

5-0098X  
Bannister  
3/2/87

Original sponsor: Faiks

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 16 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the disposition of unclaimed real  
7 property interests."

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

9 \* Section 1. AS 13.16.381 is amended to read:

10 Sec. 13.16.381. DISPOSITION OF UNCLAIMED ESTATE BY PERSONAL  
11 REPRESENTATIVE. When there is no taker of an intestate estate, or if  
12 an heir, devisee, or claimant cannot be found and the missing person  
13 has no conservator, the personal representative shall handle the

14 (1) unclaimed personal property of the estate in accordance  
15 with AS 34.45.280 - 34.45.780; and

16 (2) unclaimed real property of the estate in accordance  
17 with AS 38.95 [AS 38.05].

18 \* Sec. 2. AS 38.05.945(a) is amended to read:

19 (a) This section establishes the requirements for notice given  
20 by the department for the following actions:

21 (1) classification or reclassification of state land under  
22 AS 38.05.300 and the closing of land to mineral leasing or entry under  
23 AS 38.05.185;

24 (2) zoning of land under applicable law;

25 (3) a decision under AS 38.05.035(e) regarding the sale,  
26 lease, or disposal of an interest in state land or resources; [AND]

27 (4) a competitive disposal of an interest in state land or  
28 resources after final decision under AS 38.05.035(e); and

29 (5) proposed sale of escheated real property by the

1 department under AS 38.95.230.

2 \* Sec. 3. AS 38.05.945 (e) is amended to read:

3 (e) Except for (a)(5) of this section, the [THE] provisions of  
4 this section do not apply to a lease issued under AS 38.05.205.

5 \* Sec. 4. AS 38.05.945(f) is amended to read:

6 (f) Except for (a)(5) of this section, the [THE] provisions of  
7 this section do not apply to a production license issued under AS  
8 38.05.207.

9 \* Sec. 5. AS 38.95.230 is repealed and reenacted to read:

10 Sec. 38.95.230. DISPOSAL OF ESCHEATED REAL PROPERTY BY DEPART-  
11 MENT. Within 90 days after a judgment of escheat under AS 38.95.220  
12 and after notice has been given as required under AS 38.05.945, the  
13 department shall sell the escheated real property unless the depart-  
14 ment (1) issues a written finding that the designation of the property  
15 as an historic site under AS 41.35 would be in the best interest of  
16 the state; and (2) requests the Historic Sites Advisory Committee to  
17 determine if the property should be designated an historic site. If  
18 the committee decides not to recommend the designation or if the  
19 governor decides not to make the designation, the department shall  
20 make arrangements to sell the property as soon as possible after  
21 receiving notice of the decision.

22 \* Sec. 6. AS 38.95.240 is repealed and reenacted to read:

23 Sec. 38.95.240. CLAIMS TO ESCHEATED REAL PROPERTY. (a) Within  
24 seven years after a judgment of escheat under AS 38.95.220, a person  
25 who is not a party to the escheat proceeding may bring an action in  
26 the superior court to prove the person's claim to the real property.  
27 If the plaintiff establishes the claim and that the plaintiff had no  
28 knowledge of the prior escheat proceeding, the court shall award the  
29 plaintiff

1 (1) the property if the state still owns the property; or  
2 (2) an amount equal to the net proceeds from the sale of  
3 the real property under AS 38.95.230.

4 (b) A person who is awarded property under (a) of this section  
5 is not entitled to the rents, profits, interest, or dividends that  
6 accrue to the state during the state's possession of the property.

7 (c) The time limitation of seven years does not apply to a minor  
8 or an incapacitated person, but the person must bring an action to  
9 prove the person's claim to the real property within one year after  
10 the person reaches the age of eighteen years or the incapacity ceases.  
11 In this subsection, "incapacitated person" has the meaning given in  
12 AS 13.26.005.

13 (d) This section does not prevent the state from transferring  
14 escheated real property to a person who provides proof satisfactory to  
15 the department that the person is the owner of the real property, if

16 (1) the department determines the transfer to be appropri-  
17 ate; and

18 (2) the transfer occurs within seven years after the judg-  
19 ment of escheat under AS 38.95.220.

20 \* Sec. 7. AS 38.95.250 is repealed and reenacted to read:

21 Sec. 38.95.250. PROCEEDS OF SALE. The department shall deposit  
22 the net proceeds from the sale of real property in an escheated real  
23 property trust account. The department shall maintain the proceeds in  
24 the account for a period of at least seven years after the date of the  
25 judgment of escheat. The department may use money in the trust ac-  
26 count to pay claims made under AS 38.95.240.

27 \* Sec. 8. AS 38.95.270 is amended to read:

28 Sec. 38.95.270. DEFINITIONS. In AS 38.95.200 - 38.95.270(,) 1

29 (1) "department" means the Department of Natural Resources, 1

1                   (2) "net proceeds" means the proceeds from a sale under  
2 AS 38.95.230 after deduction of the costs of the sale, including  
3 attorney fees and publication costs;

4                   (3) "real property" includes an interest in real property.

5       \* Sec. 9. This Act applies to real property that is the subject of an  
6 escheat proceeding begun on or after the effective date of this Act.  
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As Passed by Committee

5-0098L ✓  
Bannister  
3/2/87

Original sponsor: Faiks

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
 2 CS FOR SENATE BILL NO. 16 (Resources)  
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 4 FIFTEENTH LEGISLATURE - FIRST SESSION

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22 the superior court to prove the person's claim to the real property.  
23 If the plaintiff establishes the claim and that the plaintiff had no  
24 knowledge of the prior escheat proceeding, the court shall award the  
25 plaintiff

26 (1) the property if the state still owns the property; or

27 (2) an amount equal to the

28 (A) net proceeds from the sale of the real property

29 under AS 38.95.230;

1 (B) the appraised fair market value of the property  
 2 less the expenses of appraisal, if the property has been trans-  
 3 ferred other than by sale or lease.

4 (b) A person who is awarded property under (a) of this section  
 5 is not entitled to the rents, profits, interest, or dividends that  
 6 accrue to the state during the state's possession of the property.

7 (c) The time limitation of seven years does not apply to a minor  
 8 or an incapacitated person, but the person must bring an action to  
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 11 In this subsection, "incapacitated person" has the meaning given in  
 12 AS 13.26.005.

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(2) "net proceeds" means the proceeds from a sale under AS 38.95.230 after deduction of the costs of the sale, including attorney fees and publication costs;

(3) "real property" includes an interest in real property.

\* Sec. 9. This Act applies to real property that is the subject of an escheat proceeding begun on or after the effective date of this Act.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

REQUEST: \_\_\_\_\_

Bill Version: CSSB 16 Res  
Publish Date: 3-5-87

Revision Date: \_\_\_\_\_

Agency Affected: Natural Resources  
BRU: Land & Water Public Use

Title: Unclaimed real property managements

Sponsor: Faiks

Components: \_\_\_\_\_

Requestor: Senate Judiciary

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		50.0 (?)	50.0 (?)	50.0 (?)	50.0 (?)	50.0 (?)
---------	--	----------	----------	----------	----------	----------

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

Improves existing management of unclaimed real property. Under aggressive management the program could yield annual revenues in the neighborhood of \$50,000 and the existing inventory has value of approximately \$215,000. Current level of effort is low.

Prepared by: Tom Hawkins Phone: 762-4355  
Division: Land and Water Management Date: 1/22/87

Approved by Commissioner: *William Brady* Date: \_\_\_\_\_  
Agency: Natural Resources

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

SENATE COMMITTEE REPORT

FURTHER:

FINANCE

2/4/87

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

RESOURCES

Committee considered SB 16

disposition of unclaimed real property.

and recommended:

replace with CS FOR SB 16 (Res) )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous

zero  fiscal impact

MEMBERS SIGNING DO PASS

[Signature]

[Signature]

Paula. Finkel

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature] (No Rec)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]

Signature and recommendation

# SENATE AMENDMENT

BY: FAIKS

TO: CS FOR SENATE BILL NO. 16 (Judiciary) ~~SENATE BILL NO.~~ 16

TO: \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

Page 2, lines 10 - 16:

Delete all material and insert:

Sec. 38.95.230. DISPOSAL OF ESCHEATED REAL PROPERTY BY DEPARTMENT. Within 90 days after a judgment of escheat under AS 38.95.220 and after notice has been given as required under AS 38.05.945, the department shall sell the escheated real property unless the department issues a written finding that the designation of the property as a historic site would be in the best interest of the state. The Historic Sites Advisory Committee shall so designate the property under AS 41.35.

(TURN IN ORIGINAL AMENDMENT TO SENATE SECRETARY'S OFFICE. THE AMENDMENT WILL BE NUMBERED, COPIED AND DISTRIBUTED.)

# Alaska State Legislature

## Senate Resources Committee



Sen. John B. (Jack) Coghlin, Chairman  
Paul Fischer, Vice-Chairman  
Lloyd Jones  
Sen. Arliss Sturqulewski  
Sen. Jim Duncan  
Sen. Fred Zharoff  
Sen. Dick Eliason

Box V  
Juneau, Alaska 99811  
(907) 465-1007

### MEMORANDUM

TO: Senate Resource Committee Members

FROM: Senate Resource Committee Staff

RE: CSSB 16; An act relating to the disposition of unclaimed real property interests.

DATE: February 19, 1987

---

Staffs understanding of the sponsors intent with this legislation is to return escheated real property to private ownership, and to simplify and speed the disposal process.

The committee substitute from Senate Judiciary returns discretion regarding the disposition of escheated properties to the Department of Natural Resources.

The sponsor would like to see the original intent of the legislation re-established. This would significantly change AS 38.95.230. (item 12 on packet information list)

Included in your packet are:

- 1) Memorandum to Senate Judiciary Committee, from Senator Jan Faiks, January 22, 1987
- 2) DNR's position paper, including a list of escheated real property, 1937 to 1986, and a zero fiscal note
- 3) Legislative Counsels Sectional Analysis, January 21, 1987
- 4) Memorandum to Senator Faiks, from Alexis (Jan Faiks Senate office) January 27, 1987, regarding CSSB 16: sectional analysis

- 5) Memorandum to Bruce (Senate Resource Committee Staff), from Alexis Gabay, regarding CSSB 16, draft language for Sec. 5
- 6) Memorandum to Bruce Geraghty (Senate Resource Committee Staff), from Frank Mielke, DNR, regarding CSSB 16, Proposed language for Sec. 5
- 7) Senate Judiciary Committee Memorandum and Working Draft #1, 1/27/87
- 8) Senate Judiciary Committee Memorandum, with attachments, including pertinent statutes and Article VIII of Alaska's Constitution, and Working Draft #2, 2/3/87
- 9) the definition of escheat from Websters New World Dictionary
- 10) AS 13.16.381. Disposition of unclaimed estate by personal representative.
- 11) Article 4. Reporting and Disposition of Personal Property  
AS 34.45.280 through AS 34.45.780
- 12) Article 5. Real Property Escheated to State.  
AS 38.95.200 through AS 38.95.270
- 13) AS 38.05.050. Disposal of land for private ownership; and  
AS 38.05.055. Auction sale procedures; and  
AS 38.05.057. Disposal of land by lottery.

# Alaska State Legislature



PRESIDENT  
907-465-3755

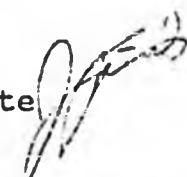
JAN FAIKS  
POST OFFICE BOX V  
JUNEAU, ALASKA 99811

## Senate

January 22, 1987

### MEMORANDUM

TO: Senator Jay Kerttula, Chairman  
Senate Judiciary Committee

FROM: Jan Faiks, President of the Senate 

SUBJECT: Background on Senate Bill 16  
An Act relating to the disposition of unclaimed  
real property

Senate Bill 16 has been referred to your committee for consideration. This bill seeks to simplify the procedures for the disposition of escheated real property by requiring the State to sell such property, thereby creating revenue for the State and returning property to the private sector.

The Fourteenth Legislature adopted House Bill 182 relating to a Uniform Unclaimed Property Act. The Governor subsequently signed the bill and it became Chapter 133 of the Session Laws of 1986. This legislation is now codified in AS 13.16.381, and AS 38.95.200-270.

This bill, and the statutes it seeks to replace, concern escheated real property. "Escheat" refers to property which reverts to the State in situations where there is no one to inherit it.

AS 13.16.381 concerns the disposition of unclaimed estates by personal representatives. That statute currently specifies that where there is no taker of an intestate estate, or if an heir, devisee, or claimant cannot be found and the missing person has no conservator, the personal representative shall handle the ...unclaimed real property of the estate in

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611