

**CS FOR HOUSE BILL NO. 121(FSH)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

**Offered: 2/25/11**

**Referred: Resources, Finance**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to loans made to commercial fishermen under the Commercial Fishing**  
2   **Loan Act for product quality improvements and energy efficiency upgrades;**  
3   **establishing the commercial charter fisheries revolving loan fund, the mariculture**  
4   **revolving loan fund, and the Alaska microloan revolving loan fund and relating to those**  
5   **funds and loans from those funds; and providing for an effective date."**

6   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7   \* **Section 1.** AS 16.10.320 is amended by adding a new subsection to read:

8                    *(l) For a new loan under AS 16.10.300 - 16.10.370, made on or after the*  
9                    *effective date of this Act, the department may provide a reduction of the interest rate*  
10                   *of not more than two percent if at least 50 percent of the loan proceeds are used by the*  
11                   *borrower for product quality improvements or energy efficiency upgrades if the*  
12                   *improvements or upgrades use products manufactured or produced in the state. When*  
13                   *the department offers a reduction under this subsection, the department shall provide*

1 the reduction to all loan applicants who meet the criterion described in this subsection.  
 2 In this subsection, "manufactured or produced" means processing, developing, or  
 3 making an item into a new item with a distinct character and use.

4 \* **Sec. 2.** AS 16.10 is amended by adding new sections to read:

5 **Article 13. Commercial Charter Fisheries Revolving Loan Fund.**

6 **Sec. 16.10.801. Commercial charter fisheries revolving loan fund.** (a) The  
 7 commercial charter fisheries revolving loan fund is created in the Department of  
 8 Commerce, Community, and Economic Development to carry out the purposes of  
 9 AS 16.10.801 - 16.10.890.

10 (b) The commercial charter fisheries revolving loan fund consists of the  
 11 following:

12 (1) money appropriated to, transferred to, or received by gift, grant,  
 13 devise, bequest, or donation to the fund;

14 (2) principal and interest payments or other income earned on loans or  
 15 investments of the fund;

16 (3) money chargeable to principal or interest that is collected through  
 17 liquidation by foreclosure or other process on loans made under AS 16.10.801 -  
 18 16.10.890.

19 (c) Money in the fund may be used by the legislature to make appropriations  
 20 for costs of administering AS 16.10.801 - 16.10.890.

21 **Sec. 16.10.805. Powers and duties of the department.** The department may

22 (1) make loans to eligible applicants under AS 16.10.801 - 16.10.890

23 (A) for the purchase of charter halibut permits;

24 (B) for the purchase or construction of a charter halibut fishing  
 25 vessel;

26 (C) to upgrade existing charter halibut fishing vessels and gear  
 27 for the purpose of improving engine fuel efficiency;

28 (D) to refinance debt obligations made by other lenders more  
 29 than 12 months before the department received the loan application and  
 30 incurred by an applicant for the purchase of charter halibut fishing vessels or  
 31 gear if the applicant otherwise qualifies for a loan under AS 16.10.801 -

1                   16.10.890; the department may collect a refinancing loan origination charge as  
2                   provided by regulation;

3                   (2) receive, take, hold, and administer any appropriation, transfer, gift,  
4                   grant, bequest, devise, or donation of money for the fund;

5                   (3) establish amortization plans for repayment of loans, including  
6                   extensions of the terms of loans;

7                   (4) allow an assumption of a loan if

8                   (A) the applicant meets the requirements established under this  
9                   section; and

10                   (B) approval of the assumption would be consistent with the  
11                   purposes of AS 16.10.801 - 16.10.890;

12                   (5) establish the rate of interest for loans consistent with law;

13                   (6) charge and collect fees for services provided under AS 16.10.801 -  
14                   16.10.890;

15                   (7) adopt regulations under AS 44.62 necessary to carry out the  
16                   provisions of AS 16.10.801 - 16.10.890, including regulations to establish reasonable  
17                   fees for services provided; and

18                   (8) designate agents and delegate powers as necessary to the agents.

19                   **Sec. 16.10.810. Eligibility.** (a) For an applicant to be eligible for a loan under  
20                   AS 16.10.801 - 16.10.890, the applicant shall be a resident of the state, as determined  
21                   under (c) of this section, and shall

22                   (1) qualify for the purchase of a charter halibut permit under applicable  
23                   law;

24                   (2) qualify as a transferee for a charter halibut permit under applicable  
25                   law;

26                   (3) purchase or construct a charter halibut fishing vessel; or

27                   (4) upgrade an existing charter halibut fishing vessel or gear for the  
28                   purpose of improving engine fuel efficiency.

29                   (b) In addition to the requirements set out in (a) of this section, the applicant

30                   (1) may not be eligible for financing from other recognized  
31                   commercial lending institutions; or

(2) shall be able to obtain only a portion of the total loan request from a recognized commercial lending institution.

(c) To meet the residency requirements of (a) of this section, the applicant

(1) shall physically reside in this state and maintain a domicile in this state during the 24 consecutive months preceding the date of application for the program; and

(2) may not have

(A) declared or established residency in another state; or

(B) received residency or a benefit based on residency from

**Sec. 16.10.815. Limitations on loans.** (a) Except as provided in (b) of this section, a loan under AS 16.10.801 - 16.10.890

(1) may not exceed \$100,000 a year;

(2) may not exceed a term of 15 years, except for extensions under ;

(3) may not bear interest at a rate greater than the prime rate, as defined in AS 44.88.599, plus two percentage points, but which may not be less than three percent per year and not more than 10 1/2 percent a year;

(4) must be secured by a first priority lien on collateral acceptable to the commissioner; and

(5) may not be made to a person who has a past due child support obligation established by court order or by the child support services agency under AS 25.27.160 - 25.27.220 at the time of application.

(b) The interest rate for loans for the improvement of engine fuel efficiency must be two percentage points below the prime rate, as defined in AS 44.88.599, but may not be less than three percent a year and not more than 10 1/2 percent a year.

(c) The total balances outstanding on loans made to a borrower under AS 16.10.805 may not exceed \$300,000.

(d) After the initial interest rate is set under (a) or (b) of this section for a loan made under AS 16.10.801 - 16.10.890, the department may provide a reduction of the interest rate of not more than two percent if at least 50 percent of the loan proceeds are

1 used by the borrower for engine fuel efficiency improvements if the upgrades use  
 2 products manufactured or produced in the state. When the department offers a  
 3 reduction under this subsection, the department shall provide the reduction to all loan  
 4 applicants who meet the criterion described in this subsection. In this subsection,  
 5 "manufactured or produced" means processing, developing, or making an item into a  
 6 new item with a distinct character and use.

7 **Sec. 16.10.820. Default.** If the borrower defaults on a note, the department  
 8 shall notify the borrower of the default and the consequences of default by mailing a  
 9 notice to the borrower's most recent address provided to the department by the  
 10 borrower or obtained by the department.

11 **Sec. 16.10.825. Special account established.** (a) The foreclosure expense  
 12 account is established as a special account within the commercial charter fisheries  
 13 revolving loan fund.

14 (b) The department may expend money credited to the foreclosure expense  
 15 account when necessary to protect the state's security interest in collateral on loans  
 16 granted under AS 16.10.815 or to defray expenses incurred during foreclosure  
 17 proceedings after an obligor defaults.

18 **Sec. 16.10.830. Disposal of property acquired after default.** The department  
 19 shall dispose of property acquired through default of a loan made under AS 16.10.801  
 20 - 16.10.890. Disposal must be made in a manner that serves the best interest of the  
 21 state and may include the amortization of payments over a period of years.

22 **Sec. 16.10.835. Waiver of confidentiality.** The commissioner may release  
 23 information about the borrower's loan to any individual if release of the information  
 24 has been authorized by the borrower.

25 **Sec. 16.10.890. Definitions.** In AS 16.10.801 - 16.10.890,

26 (1) "commissioner" means the commissioner of commerce,  
 27 community, and economic development;

28 (2) "department" means the Department of Commerce, Community,  
 29 and Economic Development.

30 **Article 14. Mariculture Revolving Loan Fund.**

31 **Sec. 16.10.900. Mariculture revolving loan fund.** (a) The mariculture

1 revolving loan fund is created within the Department of Commerce, Community, and  
2 Economic Development to carry out the purposes of AS 16.10.900 - 16.10.945.

3 (b) The mariculture revolving loan fund consists of the following:

4 (1) money appropriated to, transferred to, or received by gift, grant,  
5 devise, bequest, or donation to the fund;

6 (2) principal and interest payments or other income earned on loans or  
7 investments of the fund; and

8 (3) money chargeable to principal or interest that is collected through  
9 liquidation by foreclosure or other process on loans made under AS 16.10.900 -  
10 16.10.945.

11 (c) Money in the fund may be used by the legislature to make appropriations  
12 for costs of administering AS 16.10.900 - 16.10.945.

13 **Sec. 16.10.905. Powers and duties of the department.** The department may

14 (1) make loans to eligible applicants under AS 16.10.900 - 16.10.945  
15 for the planning, construction, and operation of a mariculture business;

16 (2) receive, take, hold, and administer any appropriation, transfer, gift,  
17 grant, bequest, devise, or donation of money for the fund;

18 (3) establish amortization plans for repayment of loans, including  
19 extensions of the terms of loans;

20 (4) allow an assumption of a loan if

21 (A) the applicant meets the requirements established under this  
22 section; and

23 (B) approval of the assumption would be consistent with the  
24 purposes of AS 16.10.900 - 16.10.945;

25 (5) establish the rate of interest for loans consistent with law;

26 (6) charge and collect fees for services provided under AS 16.10.900 -  
27 16.10.945;

28 (7) adopt regulations under AS 44.62 necessary to carry out the  
29 provisions of AS 16.10.900 - 16.10.945, including regulations to establish reasonable  
30 fees for services provided; and

31 (8) designate agents and delegate powers as necessary to the agents.

**Sec. 16.10.910. Eligibility.** (a) For an applicant to be eligible for a loan under AS 16.10.900 - 16.10.945, the applicant shall

- (1) be a resident of the state, as determined under (c) of this section;
- (2) have a permitted mariculture farm location in this state; and
- (3) have experience or training in the mariculture industry.

(b) In addition to the requirements set out in (a) of this section, the applicant

- (1) may not be eligible for financing from other recognized commercial lending institutions; or
- (2) shall be able to obtain only a portion of the total loan request from recognized commercial lending institution.

(c) To meet the residency requirements of (a) of this section, the applicant

(1) shall physically reside in this state and maintain a domicile in this state during the 24 consecutive months preceding the date of application for the m; and

(2) may not have

(A) declared or established residency in another state; or

(B) received residency or a benefit based on residency from another state.

**Sec. 16.10.915. Limitations on loans.** (a) Except as provided in (b) and (c) of this section, a loan under AS 16.10.900 - 16.10.945

(1) may not exceed \$100,000 a year;

(2) may not exceed a term of 20 years, except for extensions under AS 16.10.905;

(3) may not bear interest at a rate greater than the prime rate, as defined in AS 44.88.599, plus one percentage point, but which may not be less than five percent a year and not more than nine percent a year;

(4) must be secured by a first priority lien on collateral acceptable to the department; and

(5) may not be made to a person who has a past due child support obligation established by court order or by the child support services agency under AS 25.27.160 - 25.27.220 at the time of application.

(b) Subsequent loans may be made to the borrower under AS 16.10.910 if the total of the balances outstanding on the loans received by the borrower does not exceed \$300,000.

(c) A loan under AS 16.10.910 may be made for the purchase of boats or vessels determined to be integral to the operation of the farm.

(d) For a loan made under AS 16.10.900 - 16.10.945, the department may provide a reduction of the interest rate of not more than two percent if at least 50 percent of the loan proceeds are used by the borrower for purchasing products manufactured or produced in the state. When the department offers a reduction under this subsection, the department shall provide the reduction to all loan applicants who meet the criterion described in this subsection. In this subsection, "manufactured or produced" means processing, developing, or making an item into a new item with a distinct character and use.

**Sec. 16.10.920. Repayment of principal of and interest on loans.** The department may not require the repayment of principal and interest on a loan made under AS 16.10.910 during the first six years of the loan. Interest on the principal of a loan made under AS 16.10.910 may be deferred for a period of not more than the first six years of the loan.

**Sec. 16.10.925. Default.** If the borrower defaults on a note, the department shall notify the borrower of the default and the consequences of default by mailing a notice to the borrower's most recent address provided to the department by the borrower or obtained by the department.

**Sec. 16.10.930. Special account established.** (a) The foreclosure expense account is established as a special account in the mariculture revolving loan fund.

(b) The department may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans granted under AS 16.10.910 or to defray expenses incurred during foreclosure proceedings after an obligor defaults.

**Sec. 16.10.935. Disposal of property acquired after default.** The department shall dispose of property acquired through default of a loan made under AS 16.10.900 - 16.10.945. Disposal must be made in a manner that serves the best interest of the

1 state and may include the amortization of payments over a period of years.

2 **Sec. 16.10.940. Waiver of confidentiality.** The commissioner may release  
3 information about the borrower's loan to any individual if release of the information  
4 has been authorized by the borrower.

5 **Sec. 16.10.945. Definitions.** In AS 16.10.900 - 16.10.945,

6 (1) "commissioner" means the commissioner of commerce,  
7 community, and economic development;

8 (2) "department" means the Department of Commerce, Community,  
9 and Economic Development;

10 (3) "mariculture" means the farming of shellfish and aquatic plants as  
11 defined in AS 16.40.199.

12 \* **Sec. 3.** AS 44.33 is amended by adding new sections to read:

13 **Article 15. Alaska Microloan Revolving Loan Fund.**

14 **Sec. 44.33.950. Alaska microloan revolving loan fund.** (a) The Alaska  
15 microloan revolving loan fund is created in the Department of Commerce,  
16 Community, and Economic Development to carry out the purposes of AS 44.33.950 -  
17 44.33.990.

18 (b) The Alaska microloan revolving loan fund consists of the following:

19 (1) money appropriated to, transferred to, or received by gift, grant,  
20 devise, bequest, or donation to the fund;

21 (2) principal and interest payments or other income earned on loans or  
22 investments of the fund;

23 (3) money chargeable to principal or interest that is collected through  
24 liquidation by foreclosure or other process on loans made under AS 44.33.950 -  
25 44.33.990.

26 (c) Money in the fund may be used by the legislature to make appropriations  
27 for costs of administering AS 44.33.950 - 44.33.990.

28 **Sec. 44.33.955. Powers and duties of the department.** The department may

29 (1) make loans to eligible applicants under AS 44.33.950 - 44.33.990  
30 to be used for working capital, equipment, construction, or other commercial purposes  
31 by a business located in the state;

- (2) receive, take, hold, and administer any appropriation, transfer, gift, grant, bequest, devise, or donation of money for the fund;
- (3) establish amortization plans for repayment of loans, including extensions of the terms of loans;
- (4) allow an assumption of a loan if
  - (A) the applicant meets the requirements established under this section; and
    - (B) approval of the assumption would be consistent with the purposes of AS 44.33.950 - 44.33.990;
  - (5) establish the rate of interest for loans consistent with law;
  - (6) charge and collect fees for services provided under AS 44.33.950 - 44.33.990;
  - (7) adopt regulations under AS 44.62 necessary to carry out the provisions of AS 44.33.950 - 44.33.990, including regulations to establish reasonable fees for services provided; and
    - (8) designate agents and delegate powers as necessary to the agents.

**Sec. 44.33.960. Eligibility.** (a) For an applicant to be eligible for a loan under AS 44.33.950 - 44.33.990, the applicant shall

- (1) be a resident of the state, as determined under (b) of this section;
- (2) provide a reasonable amount of money from other nonstate sources for use on any project or enterprise for which money from a loan will be used; and
- (3) if the requested loan amount is \$35,000 or more, provide to the department a document from a state financial institution stating that

(A) the applicant has been denied a loan for the same purpose;  
or

(B) a loan from the financial institution is contingent on the applicant also receiving a loan from the fund.

(b) To meet the residency requirements of (a) of this section, the applicant

(1) shall physically reside in this state and maintain a domicile in this state during the 12 consecutive months preceding the date of application for the program; and

(2) may not have

- (A) declared or established residency in another state; or
- (B) received residency or a benefit based on residency from another state.

**Sec. 44.33.965. Limitations on loans.** (a) The department may use money from the Alaska microloan revolving loan fund to make loans of up to \$35,000 to a person or loans of up to \$70,000 to two or more persons.

(b) A loan under AS 44.33.950 - 44.33.990

(1) may not exceed a term of six years, except for extensions under AS 44.33.955;

(2) may not bear interest at a rate greater than the prime rate, as defined in AS 44.88.599, plus one percentage point but which may not be less than six percent a year and not more than eight percent a year;

(3) must be secured by collateral acceptable to the commissioner; and

(4) may not be made to a person who has a past due child support obligation established by court order or by the child support services agency under AS 25.27.160 - 25.27.220 at the time of application.

**Sec. 44.33.970. Special account established.** (a) The foreclosure expense account is established as a special account in the Alaska microloan revolving loan fund.

(b) The department may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans granted under AS 44.33.960 or to defray expenses incurred during foreclosure proceedings after an obligor defaults.

**Sec. 44.33.975. Default.** If the borrower defaults on a note, the department shall notify the borrower of the default and the consequences of default by mailing a notice to the borrower's most recent address provided to the department by the borrower or obtained by the department.

**Sec. 44.33.980. Disposal of property acquired after default.** The department shall dispose of property acquired through default of a loan made under AS 44.33.950 - 44.33.990. Disposal must be made in a manner that serves the best interest of the

1 state and may include the amortization of payments over a period of years.

2 **Sec. 44.33.990. Definitions.** In AS 44.33.950 - 44.33.990,

3 (1) "commissioner" means the commissioner of commerce,  
4 community, and economic development;

5 (2) "department" means the Department of Commerce, Community,  
6 and Economic Development.

7 \* **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).