

HOUSE BILL NO. 121

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/24/11

Referred: House Special Committee on Fisheries, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the commercial charter fisheries revolving loan fund, the
2 mariculture revolving loan fund, and the Alaska microloan revolving loan fund and
3 relating to those funds and loans from those funds; and providing for an effective date."

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

5 * **Section 1.** AS 16.10 is amended by adding new sections to read:

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

7 **Sec. 16.10.801. Commercial charter fisheries revolving loan fund.** (a) There
8 is created within the Department of Commerce, Community, and Economic
9 Development a revolving loan fund to be known as the commercial charter fisheries
10 revolving loan fund to carry out the purposes of AS 16.10.801 - 16.10.890.

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

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

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

3 (3) money chargeable to principal or interest that is collected through
4 liquidation by foreclosure or other process on loans made under AS 16.10.801 -
5 16.10.890.

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

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

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

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

11 (B) for the purchase or construction of a charter halibut fishing
12 vessel;

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

15 (D) to refinance debt obligations, made by other lenders more
16 than 12 months before receipt by the department of the loan application,
17 incurred by an applicant for the purchase of charter halibut fishing vessels or
18 gear if the applicant otherwise qualifies for a loan under AS 16.10.801 -
19 16.10.890; the department may collect a refinancing loan origination charge as
20 provided by regulation;

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

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

25 (4) allow an assumption of a loan if

26 (A) the applicant meets the requirements established under this
27 section; and

28 (B) approval of the assumption would be consistent with the
29 purposes of this section;

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

31 (6) charge and collect fees for services provided under AS 16.10.801 -

1 16.10.890;

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

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

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

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

11 (2) qualify as a transferee for a charter halibut permit under applicable
12 law;

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

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

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

17 (1) must not be eligible for financing from other recognized
18 commercial lending institutions; or

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

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

22 (1) must physically reside in this state and maintain a domicile in this
23 state during the 24 consecutive months before the date of application for the program;
24 and

25 (2) may not have

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

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

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

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

(2) may not exceed a term of 15 years, except for extensions under AS 16.10.805;

(3) must not bear interest exceeding the prime rate, as defined by 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 per 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 by AS 44.88.599, but may not be less than three percent per year and not more than 10 1/2 percent per year.

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

Sec. 16.10.820. Default. If the borrower defaults upon 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. 16.10.825. Special account established. (a) There is established as a special account within the commercial charter fisheries revolving loan fund the foreclosure expense account.

(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 16.10.815 or to defray expenses incurred during foreclosure proceedings after a default by an obligor.

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

Sec. 16.10.835. Waiver of confidentiality. The commissioner may release

1 information about the borrower's loan to any individual when release of the
2 information has been authorized by the borrower.

3 **Sec. 16.10.890. Definitions.** In AS 16.10.801 - 16.10.890

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

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

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

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

10 **Sec. 16.10.900. Mariculture revolving loan fund.** (a) There is created within
11 the Department of Commerce, Community, and Economic Development a revolving
12 loan fund to be known as the mariculture revolving loan fund to carry out the purposes
13 of AS 16.10.900 - 16.10.945.

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

15 (1) money appropriated to, transferred to, or received by gift, devise,
16 bequest, or donation to the fund;

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

19 (3) money chargeable to principal or interest that is collected through
20 liquidation by foreclosure or other process on loans made under AS 16.10.901 -
21 16.10.990.

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

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

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

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

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

31 (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 this section;

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

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

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

(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 must

(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) must not be eligible for financing from other recognized commercial lending institutions; or

(2) is 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) must physically reside in this state and maintain a domicile in this state during the 24 consecutive months before 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. 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 (1) may not exceed \$100,000 per year;
- 2 (2) may not exceed a term of 20 years, except for extensions under
- 3 AS 16.10.905;
- 4 (3) must not bear interest exceeding the prime rate, as defined by
- 5 AS 44.88.599, plus one percentage point, but which may not be less than five percent
- 6 per year and not more than nine percent per year;
- 7 (4) must be secured by a first priority lien on collateral acceptable to
- 8 the department; and
- 9 (5) may not be made to a person who has a past due child support
- 10 obligation established by court order or by the child support services agency under
- 11 AS 25.27.160 - 25.27.220 at the time of application.

12 (b) Subsequent loans may be made to the borrower under AS 16.10.910 if the

13 total of the balances outstanding on the loans received by the borrower does not

14 exceed \$300,000.

15 (c) A loan under AS 16.10.910 may not be made for the purchase of boats or

16 vessels.

17 **Sec. 16.10.920. Repayment of principal and interest on loans.** The

18 department may not require the repayment of principal on a loan made under

19 AS 16.10.910 for the initial period of the loan. Interest on the principal of a loan made

20 under AS 16.10.910 does not accrue during the initial period of the loan. In this

21 subsection, the "initial period of the loan" means a period of six years from the date

22 the loan is made.

23 **Sec. 16.10.925. Default.** If the borrower defaults upon a note, the department

24 shall notify the borrower of the default and the consequences of default by mailing a

25 notice to the borrower's most recent address provided to the department by the

26 borrower or obtained by the department.

27 **Sec. 16.10.930. Special account established.** (a) There is established as a

28 special account within the mariculture revolving loan fund the foreclosure expense

29 account.

30 (b) The department may expend money credited to the foreclosure expense

31 account when necessary to protect the state's security interest in collateral on loans

1 granted under AS 16.10.910 or to defray expenses incurred during foreclosure
2 proceedings after a default by an obligor.

3 **Sec. 16.10.935. Disposal of property acquired after default.** The department
4 shall dispose of property acquired through default of a loan made under AS 16.10.900
5 - 16.10.990. Disposal must be made in a manner that serves the best interest of the
6 state, and may include the amortization of payments over a period of years.

7 **Sec. 16.10.940. Waiver of confidentiality.** The commissioner may release
8 information about the borrower's loan to any individual when release of the
9 information has been authorized by the borrower.

10 **Sec. 16.10.945. Definitions.** In AS 16.10.900 - 16.10.945

11 (1) "commissioner" means the commissioner of commerce,
12 community, and economic development;

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

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

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

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

19 **Sec. 44.33.950. Alaska microloan revolving loan fund.** (a) There is created
20 within the Department of Commerce, Community, and Economic Development a
21 revolving loan fund to be known as the Alaska microloan revolving loan fund to carry
22 out the purposes of AS 44.33.950 - 44.33.990.

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

24 (1) money appropriated to, transferred to, or received by gift, devise,
25 bequest, or donation to the fund;

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

28 (3) money chargeable to principal or interest that is collected through
29 liquidation by foreclosure or other process on loans made under AS 44.33.950 -
30 44.33.990.

31 (c) Money in the fund may be used by the legislature to make appropriations

for costs of administering AS 44.33.950 - 44.33.990.

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

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

(2) receive, take, hold, and administer any appropriation, 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 this section;

(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; and

(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 must

(1) be a resident of the state as determined under (b) of this section; and

(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.

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

(1) must physically reside in this state and maintain a domicile in this state during the 12 consecutive months before 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 established 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) must not bear interest exceeding the prime rate, as defined by AS 44.88.599, plus one percentage point but which may not be less than six percent per year and not more than eight percent per 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) There is established as a special account within the Alaska microloan revolving loan fund the foreclosure expense account.

(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 a default by an obligor.

Sec. 44.33.975. Default. If the borrower defaults upon 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 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.** The uncoded law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
10 Economic Development may proceed to adopt regulations to implement this Act. The
11 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
12 effective date of the law implemented by the regulation.

13 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).