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Kane
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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:

Referred:

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

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

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

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

7 (2) may not have

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

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

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

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

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

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

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

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

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

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

29 (d) After the initial interest rate is set under (a) or (b) of this section for a loan
30 made under AS 16.10.801 - 16.10.890, the department may provide a reduction of the
31 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.

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

3 (1) be a resident of the state, as determined under (c) of this section;

4 (2) have a permitted mariculture farm location in this state; and

5 (3) have experience or training in the mariculture industry.

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

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

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

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

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

15 (2) may not have

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

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

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

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

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

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

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

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

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

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

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

14 **Sec. 16.10.920. Repayment of principal of and interest on loans.** The
15 department may not require the repayment of principal on a loan made under
16 AS 16.10.910 during the first six years of the loan. Interest on the principal of a loan
17 made under AS 16.10.910 does not accrue during the first six years of the loan.

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

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

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

28 **Sec. 16.10.935. Disposal of property acquired after default.** The department
29 shall dispose of property acquired through default of a loan made under AS 16.10.900
30 - 16.10.945. Disposal must be made in a manner that serves the best interest of the
31 state and may include the amortization of payments over a period of years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (2) receive, take, hold, and administer any appropriation, transfer, gift,

1 grant, bequest, devise, or donation of money for the fund;

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

4 (4) allow an assumption of a loan if

5 (A) the applicant meets the requirements established under this
6 section; and

7 (B) approval of the assumption would be consistent with the
8 purposes of AS 44.33.950 - 44.33.990;

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

10 (6) charge and collect fees for services provided under AS 44.33.950 -
11 44.33.990;

12 (7) adopt regulations under AS 44.62 necessary to carry out the
13 provisions of AS 44.33.950 - 44.33.990, including regulations to establish reasonable
14 fees for services provided; and

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

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

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

19 (2) provide a reasonable amount of money from other nonstate sources
20 for use on any project or enterprise for which money from a loan will be used; and

21 (3) if the requested loan amount is \$35,000 or more, provide to the
22 department a document from a state financial institution stating that

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

24 or

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

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

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

31 (2) may not have

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

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

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

7 (b) A loan under AS 44.33.950 - 44.33.990

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

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

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

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

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

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

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

28 **Sec. 44.33.980. Disposal of property acquired after default.** The department
29 shall dispose of property acquired through default of a loan made under AS 44.33.950
30 - 44.33.990. Disposal must be made in a manner that serves the best interest of the
31 state and may include the amortization of payments over a period of years.

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

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

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

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