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Bullard
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CS FOR HOUSE BILL NO. 76()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES ORTIZ, Kreiss-Tomkins

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the mariculture revolving loan fund and loans and grants from the**
2 **fund; and providing for an effective date."**

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

4 *** Section 1.** AS 16.10 is amended by adding a new section to article 14 to read:

5 **Sec. 16.10.890. Declaration of policy.** It is the policy of the state, under
6 AS 16.10.890 - 16.10.945, to promote mariculture and the enhancement of the state's
7 shellfish fisheries by means of grants and long-term, low-interest loans.

8 *** Sec. 2.** AS 16.10.900 is amended to read:

9 **Sec. 16.10.900. Mariculture revolving loan fund.** (a) The mariculture
10 revolving loan fund is created in [WITHIN] the Department of Commerce,
11 Community, and Economic Development to carry out the purposes of AS 16.10.890 -
12 16.10.945 [AS 16.10.900 - 16.10.945].

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

14 (1) money appropriated to, transferred to, or received by gift, grant,

1 devise, bequest, or donation to the fund;

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

4 (3) money chargeable to principal or interest that is collected through
5 liquidation by foreclosure or other process on loans made under **AS 16.10.890 -**
6 **16.10.945** [AS 16.10.900 - 16.10.945].

7 (c) Money in the fund may be used by the legislature to make appropriations
8 for costs of administering **AS 16.10.890 - 16.10.945** [AS 16.10.900 - 16.10.945].

9 * **Sec. 3.** AS 16.10.905 is amended to read:

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

11 (1) make loans to eligible applicants under **AS 16.10.890 - 16.10.945**
12 [AS 16.10.900 - 16.10.945] for the planning, construction, and operation of a

13 **(A)** mariculture business;

14 **(B)** **hatchery that artificially propagates marine aquatic**
15 **plants or shellfish; or**

16 **(C)** **a shellfish enhancement project;**

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

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

21 (4) allow an assumption of a loan if

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

24 (B) approval of the assumption would be consistent with the
25 purposes of **AS 16.10.890 - 16.10.945** [AS 16.10.900 - 16.10.945];

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

27 (6) charge and collect fees for services provided under **AS 16.10.890 -**
28 **16.10.945** [AS 16.10.900 - 16.10.945];

29 (7) adopt regulations under AS 44.62 necessary to carry out the
30 provisions of **AS 16.10.890 - 16.10.945** [AS 16.10.900 - 16.10.945], including
31 regulations to establish reasonable fees for services provided; [AND]

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

(9) make grants for organizational and planning purposes to nonprofit organizations eligible for loans under AS 16.10.910(a)(2) in amounts not exceeding \$100,000.

* **Sec. 4.** AS 16.10.910(a) is amended to read:

(a) For an applicant to be eligible for a loan under **AS 16.10.890 - 16.10.945** [AS 16.10.900 - 16.10.945], the applicant shall **be**

(1) [BE] a resident of the state **who has**

(A) [, AS DETERMINED UNDER (c) OF THIS SECTION;

(2) HAVE] a permitted mariculture farm location in this state; and

(B) [(3) HAVE] experience or training in the mariculture industry; **or**

(2) a resident of the state or entity organized under the laws of this state that

(A) holds a permit under AS 16.40.100 to operate a hatchery or aquatic farm for the purpose of producing aquatic plants or shellfish; or

(B) conducts shellfish enhancement projects.

* **Sec. 5.** AS 16.10.910(c) is amended to read:

(c) To meet the residency requirements of (a) of this section, **an individual** [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 another state.

* **Sec. 6.** AS 16.10.915(a) is amended to read:

(a) Except as provided in (b) and (c) of this section, a loan under **AS 16.10.890 - 16.10.945** [AS 16.10.900 - 16.10.945]

(1) may not exceed

(A) \$100,000 a year for an applicant under AS 16.10.910(a)(1); or

(B) \$1,000,000 a year for an applicant under AS 16.10.910(a)(2);

(2) may not, unless extended under AS 16.10.905, exceed a term of

(A) 20 years for an applicant under AS 16.10.910(a)(1); or

(B) 30 years for an applicant under AS 16.10.910(a)(2) [

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 or 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.

* **Sec. 7.** AS 16.10.915(b) is amended to read:

(b) Subsequent loans may be made to a [THE] borrower under

(1) AS 16.10.910(a)(1), [AS 16.10.910] if the total of the balances outstanding on the loans received by the borrower does not exceed \$300,000; or

(2) AS 16.10.910(a)(2), if the total of the balances outstanding on the loans received by the borrower does not exceed \$1,000,000.

* **Sec. 8.** AS 16.10.915(c) is amended to read:

(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 or hatchery.

* **Sec. 9.** AS 16.10.915(d) is amended to read:

(d) For a loan made under AS 16.10.890 - 16.10.945 [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

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

5 * **Sec. 10.** AS 16.10.915 is amended by adding new subsections to read:

6 (e) The total of balances outstanding on loans made to borrowers under
7 AS 16.10.910(a)(2) may not exceed 40 percent of the principal of the mariculture
8 revolving loan fund.

9 (f) The department may not make a loan to an applicant under
10 AS 16.10.910(a)(2) for a hatchery or shellfish enhancement project unless the
11 department determines that the hatchery or enhancement project will

12 (1) be managed in a financially viable manner that is reasonably
13 expected to result in repayment of the loan; and

14 (2) provide a significant contribution to common property fisheries, or
15 otherwise benefit the public interest.

16 * **Sec. 11.** AS 16.10.920 is amended to read:

17 **Sec. 16.10.920. Repayment of principal of and interest on loans.** The
18 department may not require the repayment of principal and interest on a loan made
19 under AS 16.10.910 during the **initial period** [FIRST SIX YEARS] of the loan.
20 Interest on the principal of a loan made under AS 16.10.910 **does not accrue during**
21 **[MAY BE DEFERRED FOR A PERIOD OF NOT MORE THAN] the initial period**
22 **[FIRST SIX YEARS] of the loan determined by the department. In this section,**
23 **"initial period of the loan" means a period, for a loan to an applicant under**

24 **(A) AS 16.10.910(a)(1), of six years or less; and**

25 **(B) AS 16.10.910(a)(2), of six years or more but less than 11**

26 **years.**

27 * **Sec. 12.** AS 16.10 is amended by adding a new section to read:

28 **Sec. 16.10.923. Voluntary assessment on sale of shellfish.** (a) An association
29 of persons who hold entry permits under AS 16.43 comprising at least 51 percent of
30 the persons holding entry permits and actively participating in a fishery to be benefited
31 by a hatchery program may levy and collect an assessment from among its members

1 for the purpose of securing and repaying a loan made under AS 16.10.890 - 16.10.945.

2 (b) Upon satisfactory demonstration to the department that an assessment
3 levied under this section may reasonably be relied on to secure and repay a loan to be
4 made under AS 16.10.890 - 16.10.945, the department may make the loan.

5 * **Sec. 13.** AS 16.10.935 is amended to read:

6 **Sec. 16.10.935. Disposal of property acquired after default.** The department
7 shall dispose of property acquired through default of a loan made under **AS 16.10.890**
8 **- 16.10.945** [AS 16.10.900 - 16.10.945]. Disposal must be made in a manner that
9 serves the best interest of the state and may include the amortization of payments over
10 a period of years.

11 * **Sec. 14.** AS 16.10.945 is amended to read:

12 **Sec. 16.10.945. Definitions.** In **AS 16.10.890 - 16.10.945** [AS 16.10.900 -
13 16.10.945],

14 (1) "commissioner" means the commissioner of commerce,
15 community, and economic development;

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

18 (3) **"hatchery" has the meaning given in AS 16.40.199;**

19 (4) **"mariculture"** means the farming of shellfish and aquatic plants as
20 defined in AS 16.40.199;

21 (5) **"shellfish enhancement project" means a project to**

22 **(A) augment the yield or harvest of shellfish above**
23 **naturally occurring levels using a natural, artificial, or semiartificial**
24 **production system; or**

25 **(B) rehabilitate a shellfish stock by restoring it to its**
26 **naturally occurring levels of productivity.**

27 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 APPLICABILITY. Changes made by this Act to the terms of loans made under
30 AS 16.10.890 - 16.10.945 do not apply to a loan made before the effective date of this Act.

31 * **Sec. 16.** This Act takes effect immediately under AS 01.10.070(c).