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Bullard
4/25/18

SENATE CS FOR CS FOR HOUSE BILL NO. 76(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ORTIZ, Kreiss-Tomkins, Kito, Gara, Josephson

SENATOR Stevens

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the mariculture revolving loan fund and loans from the fund; and
2 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 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,

devise, bequest, or donation to the fund;

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

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

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

* **Sec. 3.** AS 16.10.900 is amended by adding a new subsection to read:

(d) Of the total amount available annually to the department to carry out the purposes of AS 16.10.890 - 16.10.945, less any funds appropriated under (c) of this section, 60 percent shall be available solely for making loans under AS 16.10.910(a)(1) and the remainder shall be available solely for making loans under AS 16.10.910(a)(2).

* **Sec. 4.** AS 16.10.905 is amended to read:

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

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

(A) mariculture business;

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

(C) a shellfish enhancement project;

(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 16.10.890 - 16.10.945 [AS 16.10.900 - 16.10.945];

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

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

(7) adopt regulations under AS 44.62 necessary to carry out the provisions of AS 16.10.890 - 16.10.945 [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. 5.** 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 for the purpose of producing aquatic plants or shellfish; or

(B) conducts shellfish enhancement projects.

* **Sec. 6.** 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. 7.** 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. 8.** 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. 9.** 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. 10.** 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 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. 11.** AS 16.10.915 is amended by adding a new subsection to read:

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

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

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

* **Sec. 12.** AS 16.10.920 is amended to read:

Sec. 16.10.920. Repayment of principal of and interest on loans. The department may not require the repayment of the principal of and interest on a loan made under AS 16.10.910 during the first six years of the loan. However, for a loan made under AS 16.10.910(a)(2), the department may defer repayment of the principal of and interest on the loan for an additional period not to exceed the first 11 years of the loan. The department may provide that interest [INTEREST] on the principal of a loan made under AS 16.10.910(a)(1) does not accrue during [AS 16.10.910 MAY BE DEFERRED FOR] a period [OF] not to exceed [MORE THAN] the first six years of the loan. For a loan made under AS 16.10.910(a)(2), the department shall provide that interest on the principal of the loan does not accrue during the first six years of the loan, and the department may provide that interest on the principal of the loan does not accrue during an additional period not to exceed the first 11 years of the loan.

* **Sec. 13.** AS 16.10 is amended by adding a new section to read:

Sec. 16.10.923. Voluntary assessment on sale of shellfish. (a) An association of persons who hold entry permits under AS 16.43 comprising at least 51 percent of

the persons holding entry permits and actively participating in a fishery to be benefited by a hatchery program may levy and collect an assessment from among its members for the purpose of securing and repaying a loan made under AS 16.10.890 - 16.10.945.

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

* **Sec. 14.** AS 16.10.935 is amended to read:

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 16.10.890 - 16.10.945 [AS 16.10.900 - 16.10.945]. 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. 15.** AS 16.10.945 is amended to read:

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

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

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

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

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

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

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

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

* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. Changes made by this Act to the terms of loans made under

- 1 AS 16.10.890 - 16.10.945 do not apply to a loan made before the effective date of this Act.
- 2 * **Sec. 17.** This Act takes effect immediately under AS 01.10.070(c).