

CS FOR HOUSE BILL NO. 287(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 3/6/02

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVES SCALZI, Hudson, Fate

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the exemption of commercial fishing entry permits from claims of**
2 **creditors, to loans to satisfy past due federal tax obligations of commercial fishing entry**
3 **permit holders, to the legal status of limited entry permits, and to loan origination**
4 **charges for loans made by the commercial fishing loan program to refinance a debt**
5 **obligation; and providing for an effective date."**

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

7 *** Section 1.** AS 09.38.015(a) is amended to read:

8 (a) An individual is entitled to exemption of the following property:

9 (1) a burial plot for the individual and the individual's family;

10 (2) health aids reasonably necessary to enable the individual or a
11 dependent to work or to sustain health;

12 (3) benefits paid or payable for medical, surgical, or hospital care to
13 the extent they are or will be used to pay for the care;

1 (4) an award under AS 18.67 (Violent Crimes Compensation Board) or
2 a crime victim's reparations act of another jurisdiction;

3 (5) benefits paid or payable as a longevity bonus under AS 47.45;

4 (6) compensation or benefits paid or payable and exempt under federal
5 law;

6 (7) liquor licenses granted under AS 04;

7 (8) [LIMITED ENTRY PERMITS GRANTED UNDER AS 16.43,
8 EXCEPT AS PROVIDED IN THAT CHAPTER;

9 (9)] tuition credit or savings accounts under a higher education savings
10 account established under AS 14.40.802 or an advance college tuition savings contract
11 authorized under AS 14.40.809(a);

12 (9) [(10)] a permanent fund dividend to the extent allowed under
13 AS 43.23.065.

14 * **Sec. 2.** AS 16.10.310(a) is amended to read:

15 (a) The department may

16 (1) make loans

17 (A) to individual commercial fishermen who have been state
18 residents for a continuous period of two years immediately preceding the date
19 of application for a loan under AS 16.10.300 - 16.10.370, who have had a
20 crewmember or commercial fishing license under AS 16.05.480 or a permit
21 under AS 16.43 for the year immediately preceding the date of application and
22 any other two of the past five years, and who actively participated in the
23 fishery during those periods

24 (i) for the purchase of entry permits;

25 (ii) to upgrade existing vessels and gear for the purpose
26 of improving the quality of Alaska seafood products; or

27 (iii) to satisfy past due federal tax obligations **of an**
28 **individual commercial fishing entry permit holder** [THAT MAY
29 RESULT IN THE EXECUTION ON AND INVOLUNTARY
30 TRANSFER OF THE INDIVIDUAL COMMERCIAL FISHERMEN'S
31 ENTRY PERMITS], to the extent allowed under (e) of this section;

1 (B) to an individual for the repair, restoration, or upgrading of
 2 existing vessels and gear, for the purchase of entry permits and gear, for the
 3 construction and purchase of vessels, or, to the extent allowed under (e) of this
 4 section, to satisfy past due federal tax obligations **of an individual**
 5 **commercial fishing entry permit holder** [THAT MAY RESULT IN THE
 6 EXECUTION ON AND INVOLUNTARY TRANSFER OF THE
 7 INDIVIDUAL'S ENTRY PERMITS], if the individual has been a state
 8 resident for a continuous period of two years immediately preceding the date
 9 of application for a loan under AS 16.10.300 - 16.10.370, and either

10 (i) because of lack of training or lack of employment
 11 opportunities in the area of residence, does not have occupational
 12 opportunities available other than commercial fishing; or

13 (ii) is economically dependent on commercial fishing
 14 for a livelihood and for whom commercial fishing has been a traditional
 15 way of life in Alaska;

16 (C) for the purchase of quota shares for fisheries in or off the
 17 state by individual commercial fishermen who

18 (i) have been state residents for a continuous period of
 19 two years immediately preceding the date of application for a loan
 20 under AS 16.10.300 - 16.10.370;

21 (ii) for any two of the past five years, possessed a
 22 crewmember or commercial fishing license under AS 16.05.480 or a
 23 permit under AS 16.43 and actively participated in a fishery for which
 24 the license or permit was issued;

25 (iii) qualify as transferees for quota shares under
 26 applicable law; and

27 (iv) are not eligible for financing from other recognized
 28 commercial lending institutions to purchase quota shares;

29 (2) designate agents and delegate its powers to them as necessary;

30 (3) adopt regulations necessary to carry out the provisions of
 31 AS 16.10.300 - 16.10.370, including regulations to establish reasonable fees for

1 services provided;

2 (4) establish amortization plans for repayment of loans, which may
3 include extensions for poor fishing seasons or for adverse market conditions for
4 Alaska products;

5 (5) enter into agreements with private lending institutions, other state
6 agencies, or agencies of the federal government to carry out the purposes of
7 AS 16.10.300 - 16.10.370;

8 (6) enter into agreements with other agencies or organizations to create
9 an outreach program to make loans under AS 16.10.300 - 16.10.370 in rural areas of
10 the state;

11 (7) allow an assumption of a loan if

12 (A) the applicant has been a state resident for a continuous
13 period of two years immediately preceding the date of the request for an
14 assumption; and

15 (B) approval of the assumption would be consistent with the
16 purposes of AS 16.10.300; an applicant for a loan assumption may not be
17 disqualified because the applicant does not meet the loan eligibility
18 requirements of (1) of this subsection;

19 (8) prequalify loan applicants for a limited entry permit loan or a quota
20 shares loan and charge a fee not to exceed \$200 for prequalification;

21 (9) charge and collect the fees established under this subsection;

22 (10) refinance a debt obligation incurred by a borrower or borrowers
23 under this section if the borrower or borrowers otherwise qualify for a loan under
24 AS 16.10.300 - 16.10.370; [THE DEPARTMENT SHALL COLLECT A
25 REFINANCING LOAN ORIGINATION CHARGE OF ONE-HALF PERCENT OF
26 THE AMOUNT OF THE DEBT OBLIGATION THAT HAS BEEN REFINANCED
27 WHEN THE FIRST REFINANCING PAYMENT IS DUE;]

28 (11) refinance debt obligations, not to exceed \$300,000, incurred by a
29 borrower or borrowers for the purchase of a commercial fishing vessel or gear if the
30 borrower or borrowers otherwise qualify for a loan under AS 16.10.300 - 16.10.370;
31 the department may collect a refinancing loan origination charge as provided by

1 regulation.

2 * **Sec. 3.** AS 16.10.310(a) is amended to read:

3 (a) The department may

4 (1) make loans

5 (A) to individual commercial fishermen who have been state
6 residents for a continuous period of two years immediately preceding the date
7 of application for a loan under AS 16.10.300 - 16.10.370 and have had a
8 crewmember or commercial fishing license under AS 16.05.480 or a permit
9 under AS 16.43 for the year immediately preceding the date of application and
10 any other two of the past five years, and who actively participated in the
11 fishery during those periods,

12 (i) for the purchase of entry permits; or

13 (ii) to upgrade existing vessels and gear for the purpose
14 of improving the quality of Alaska seafood products;

15 (B) to an individual for the repair, restoration, or upgrading of
16 existing vessels and gear, for the purchase of entry permits and gear, and for
17 the construction and purchase of vessels, if the individual has been a state
18 resident for a continuous period of two years immediately preceding the date
19 of application for a loan under AS 16.10.300 - 16.10.370, and either

20 (i) because of lack of training or lack of employment
21 opportunities in the area of residence, does not have occupational
22 opportunities available other than commercial fishing; or

23 (ii) is economically dependent on commercial fishing
24 for a livelihood and for whom commercial fishing has been a traditional
25 way of life in Alaska;

26 (C) for the purchase of quota shares for fisheries in or off the
27 state by individual commercial fishermen who

28 (i) have been state residents for a continuous period of
29 two years immediately preceding the date of application for a loan
30 under AS 16.10.300 - 16.10.370;

31 (ii) for any two of the past five years, possessed a

1 crewmember or commercial fishing license under AS 16.05.480 or a
 2 permit under AS 16.43 and actively participated in a fishery for which
 3 the license or permit was issued;

4 (iii) qualify as a transferee for quota shares under
 5 applicable law; and

6 (iv) are not eligible for financing from other recognized
 7 commercial lending institutions to purchase quota shares;

8 (2) designate agents and delegate its powers to them as necessary;

9 (3) adopt regulations necessary to carry out the provisions of
 10 AS 16.10.300 - 16.10.370, including regulations to establish reasonable fees for
 11 services provided;

12 (4) establish amortization plans for repayment of loans, which may
 13 include extensions for poor fishing seasons or for adverse market conditions for
 14 Alaska products;

15 (5) enter into agreements with private lending institutions, other state
 16 agencies, or agencies of the federal government to carry out the purposes of
 17 AS 16.10.300 - 16.10.370;

18 (6) enter into agreements with other agencies or organizations to create
 19 an outreach program to make loans under AS 16.10.300 - 16.10.370 in rural areas of
 20 the state;

21 (7) allow an assumption of a loan if

22 (A) the applicant has been a state resident for a continuous
 23 period of two years immediately preceding the date of the request for an
 24 assumption; and

25 (B) approval of the assumption would be consistent with the
 26 purposes of AS 16.10.300; an applicant for a loan assumption may not be
 27 disqualified because the applicant does not meet the loan eligibility
 28 requirements of (1) of this subsection;

29 (8) prequalify loan applicants for a limited entry permit loan or a quota
 30 shares loan and charge a fee not to exceed \$200 for prequalification;

31 (9) charge and collect the fees established under this subsection;

1 (10) refinance a debt obligation incurred by a borrower or borrowers
 2 under this section if the borrower or borrowers otherwise qualify for a loan under
 3 AS 16.10.300 - 16.10.370; [THE DEPARTMENT SHALL COLLECT A
 4 REFINANCING LOAN ORIGINATION CHARGE OF ONE-HALF PERCENT OF
 5 THE AMOUNT OF THE DEBT OBLIGATION THAT HAS BEEN REFINANCED
 6 WHEN THE FIRST REFINANCING PAYMENT IS DUE;]

7 (11) refinance debt obligations, not to exceed \$300,000, incurred by a
 8 borrower or borrowers for the purchase of a commercial fishing vessel or gear if the
 9 borrower or borrowers otherwise qualify for a loan under AS 16.10.300 - 16.10.370;
 10 the department may collect a refinancing loan origination charge as provided by
 11 regulation.

12 * **Sec. 4.** AS 16.10.310(e) is amended to read:

13 (e) The department may not make a loan to an individual under (a)(1) of this
 14 section to satisfy past due federal tax obligations unless the individual has filed past
 15 and current federal tax returns with the federal government and has executed an
 16 agreement with the federal government for repayment of past due federal tax
 17 obligations. [DURING AN INDIVIDUAL'S LIFETIME, THE INDIVIDUAL MAY
 18 RECEIVE ONLY ONE LOAN TO SATISFY PAST DUE FEDERAL TAX
 19 OBLIGATIONS UNDER (a)(1) OF THIS SECTION, WHETHER UNDER (a)(1) OF
 20 THIS SECTION AS IT NOW READS OR UNDER ANY OTHER FORMER
 21 VERSION OF (a)(1) OF THIS SECTION.] A loan made under (a)(1) of this section
 22 to satisfy past due federal tax obligations may not exceed \$30,000. **During a**
 23 **calendar year, an individual may not receive more than one loan made under**
 24 **(a)(1) of this section to satisfy past due federal tax obligations.**

25 * **Sec. 5.** AS 16.43.150(e) is amended to read:

26 (e) An entry permit **is not property; an entry permit** constitutes a use
 27 privilege that may be modified or revoked by the legislature without compensation.

28 * **Sec. 6.** AS 16.43.170(g) is amended to read:

29 (g) A person may request the commission to transfer an entry permit due to an
 30 execution on **a permit** [THE] holder's interest in that permit **if the execution is to**
 31 **enforce a lien recorded with the commission under AS 25.27.230(c).** The request

1 shall be made in the form and manner provided in this chapter and regulations adopted
 2 under this chapter. The commission may deny a request for transfer of an entry permit
 3 due to an execution of a holder's interest in that permit if

4 (1) the execution does not comply with legal requirements or otherwise
 5 is not valid;

6 (2) the transfer violates this chapter or regulations adopted under this
 7 chapter;

8 (3) the proposed transferee or other party to the transfer is prohibited
 9 by law from participating in the transaction;

10 (4) a certificate for the permit under AS 16.10.333(b)(1) - (2),
 11 16.10.338, or AS 44.81.231(a) is in effect at the time of the proposed transfer;

12 (5) the proposed transferee of the entry permit, other than the
 13 commission, cannot demonstrate the present ability to actively participate in the
 14 fishery; or

15 (6) the holder of the entry permit as shown by the records of the
 16 commission demonstrates, under regulations adopted by the commission, that the
 17 entry permit is a necessary means of support for the holder and those dependent upon
 18 the holder.

19 * **Sec. 7.** AS 16.43 is amended by adding a new section to read:

20 **Sec. 16.43.945. Commercial fishing privileges exempt from claims of**
 21 **creditors.** Except as provided in AS 16.10.333 - 16.10.338, AS 16.43.170(g),
 22 AS 44.81.215, and 44.81.231 - 44.81.250, commercial fishing privileges granted under
 23 this chapter, including entry permits, are exempt from claims of creditors, including
 24 claims under AS 09.38.065 and AS 45.29.408.

25 * **Sec. 8.** Sections 3, 4, and 6, ch. 127, SLA 2000, are repealed.

26 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 **CONDITIONAL EFFECT.** (a) If sec. 3, ch. 127, SLA 2000, takes effect before the
 29 effective date of this Act, secs. 2, 4, and 8 of this Act do not take effect.

30 (b) If this Act takes effect before the effective date of sec. 3, ch. 127, SLA 2000,
 31 sec. 3 of this Act does not take effect.

1 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).