

HOUSE BILL NO. 148

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE CHENAULT

Introduced: 2/26/01

Referred: House Special Committee on Fisheries, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a moratorium on the foreclosure of certain loans; making the**
2 **moratorium retroactive; requiring the reversal of certain foreclosures and the return of**
3 **certain property interests; and providing for an effective date."**

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 FORECLOSURE MORATORIUM. (a) Notwithstanding AS 16.10.335 or any other
8 law to the contrary, the Department of Community and Economic Development may not
9 foreclose on a loan made under AS 16.10.300 - 16.10.370 before January 1, 2001, if the
10 debtor

11 (1) can demonstrate that the debtor is not able to make the payments on the
12 loan because the debtor was adversely affected economically by a poor fishing season in 2000
13 or 2001; and

14 (2) requests that the department not foreclose.

1 (b) Notwithstanding any law to the contrary, and at the request of the borrower, the
 2 Alaska Housing Finance Corporation established under AS 18.56.020 may not foreclose on a
 3 loan made by the corporation before January 1, 2001, if the borrower is a person who fishes
 4 commercially or who owns a business and if the borrower

5 (1) can demonstrate that the borrower is not able to make the payments on the
 6 loan because the borrower's commercial fishing or other business has been adversely affected
 7 economically by a poor fishing season in 2000 or 2001; and

8 (2) requests that the corporation not foreclose.

9 (c) Notwithstanding AS 44.81.241 - 44.81.250 or any other law to the contrary, the
 10 Alaska Commercial Fishing and Agriculture Bank established under AS 44.81.010 may not
 11 foreclose on a loan made by the bank before January 1, 2001, if the borrower is a person who
 12 fishes commercially or owns a business and if the borrower

13 (1) can demonstrate that the borrower is not able to make the payments on the
 14 loan because the borrower's commercial fishing or other business was adversely affected
 15 economically by a poor fishing season in 2000 or 2001; and

16 (2) requests that the bank not foreclose.

17 (d) Although foreclosure is limited by (a) - (c) of this section, a loan on which
 18 foreclosure is prohibited by (a) - (c) of this section continues to accrue interest under the loan
 19 contract, but the lender on the loan may not impose a penalty for nonpayment.

20 (e) In this section,

21 (1) "debtor" has the meaning given in AS 16.10.360;

22 (2) "foreclose" includes any action to collect all or part of the amount owing
 23 under the loan without the consent of the borrower or debtor;

24 (3) "loan" includes a loan that is in the process of being foreclosed when this
 25 section takes effect;

26 (4) "poor fishing season" means a fishing season

27 (A) that results in a fishing area being declared a disaster by the
 28 president of the United States or being declared by the governor under AS 44.33.285
 29 to be an area impacted by an economic disaster; or

30 (B) where the number of fish returning to the area was poor, even if
 31 the fishing area was not declared to be a disaster under (A) of this paragraph.

1 * **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to
2 read:

3 RETROACTIVITY. Section 1 of this Act is retroactive to January 1, 2001. If a
4 lender under sec. 1 of this Act has completed a foreclosure covered by sec. 1 of this Act, the
5 lender shall reverse the foreclosure and return to the borrower whose loan was foreclosed the
6 interest that the borrower had before the foreclosure in the property securing the loan. In this
7 section,

8 (1) "borrower" includes a debtor under sec. 1(a) of this Act;

9 (2) "lender" means

10 (A) the Department of Community and Economic Development, as to
11 a loan made under AS 1610.300 - 16.10.370 described in sec. 1(a) of this Act;

12 (B) the Alaska Housing Finance Corporation, as to a loan made by the
13 corporation described in sec. 1(b) of this Act; and

14 (C) the Alaska Commercial Fishing and Agriculture Bank, as to a loan
15 made by the bank described in sec. 1(c) of this Act.

16 * **Sec. 3.** Sections 1 and 2 of this Act are repealed July 1, 2002.

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