

**HOUSE BILL NO. 287**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVES SCALZI, Hudson, Fate**

**Introduced: 1/14/02**

**Referred: House Special Committee on Fisheries, Resources, Finance**

**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, and to loan origination charges for loans made by the commercial**  
4 **fishing loan program to refinance a debt obligation; and providing for an effective**  
5 **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 [, EXCEPT AS  
8 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 (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(e) is amended to read:

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

15 \* **Sec. 4.** AS 16.43.150(g) is amended to read:

16 (g) Except as provided in AS 16.10.333 - 16.10.338, AS 44.81.215, 44.81.225,  
 17 and 44.81.231 - 44.81.250, an entry permit may not be  
 18 (1) pledged, mortgaged, leased, or encumbered in any way;  
 19 (2) transferred with any retained right of repossession or foreclosure,  
 20 or on any condition requiring a subsequent transfer; or  
 21 (3) attached, distrained, or sold on execution of judgment or under any  
 22 other process or order of any court [, EXCEPT AS PROVIDED IN AS 16.43.170(g)  
 23 AND (h)].

24 \* **Sec. 5.** AS 16.43.170 is amended by adding a new subsection to read:

25 (i) Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.215, and  
 26 44.81.231 - 44.81.250, an entry permit is exempt from the claims of creditors of the  
 27 permit holder.

28 \* **Sec. 6.** AS 16.43 is amended by adding a new section to read:

29 **Sec. 16.43.945. Commercial fishing privileges exempt from claims of**  
 30 **creditors.** Except as provided in AS 16.43.170(i), commercial fishing privileges  
 31 granted under this chapter, including entry permits, are exempt from AS 09.38.065,

1 AS 25.27.230, AS 45.29.408, and any other provision of law that would subject the  
2 privileges to the claims of any creditor.

3 \* **Sec. 7.** AS 25.27.230(c) is amended to read:

4 (c) The lien shall attach to all real and personal property of the obligor and be  
5 effective on the date of recording of the lien with the recorder of the recording district  
6 in which the property attached is located. A lien against earnings shall attach and be  
7 effective upon filing with the recorder of the recording district in which the employer  
8 does business or maintains an office or agent for the purpose of doing business. [A  
9 LIEN FILED AT THE OFFICES OF THE COMMERCIAL FISHERIES ENTRY  
10 COMMISSION IN JUNEAU AGAINST A LIMITED ENTRY PERMIT ISSUED  
11 UNDER AS 16.43 IS CONSIDERED TO HAVE BEEN FILED AGAINST THE  
12 PERMIT IN ALL RECORDING DISTRICTS IN WHICH THE PERMIT HOLDER  
13 USES THE PERMIT.]

14 \* **Sec. 8.** AS 25.27.230 is amended by adding a new subsection to read:

15 (g) In this section, "real or personal property" does not include a limited entry  
16 permit issued under AS 16.43.

17 \* **Sec. 9.** AS 16.43.170(g) and 16.43.170(h) are repealed.

18 \* **Sec. 10.** Sections 3, 4, and 6, ch. 127, SLA 2000, are repealed.

19 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21 **CONDITIONAL EFFECT.** If sec. 3, ch. 127, SLA 2000, takes effect before the  
22 effective date of this Act, secs. 2, 3, and 10 of this Act do not take effect.

23 \* **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).