

CS FOR HOUSE BILL NO. 121(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/5/11

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the commercial charter fisheries revolving loan fund, the**
2 **mariculture revolving loan fund, and the Alaska microloan revolving loan fund and**
3 **relating to those funds and loans from those funds; and providing for an effective date."**

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

5 *** Section 1.** AS 16.10 is amended by adding new sections to read:

6 **Article 13. Commercial Charter Fisheries Revolving Loan Fund.**

7 **Sec. 16.10.801. Commercial charter fisheries revolving loan fund.** (a) The
8 commercial charter fisheries revolving loan fund is created in the Department of
9 Commerce, Community, and Economic Development to carry out the purposes of
10 AS 16.10.801 - 16.10.890.

11 (b) The commercial charter fisheries revolving loan fund consists of the
12 following:

13 (1) money appropriated to, transferred to, or received by gift, grant,
14 devise, bequest, or donation to the fund;

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

3 (3) money chargeable to principal or interest that is collected through
4 liquidation by foreclosure or other process on loans made under AS 16.10.801 -
5 16.10.890.

6 (c) Money in the fund may be used by the legislature to make appropriations
7 for costs of administering AS 16.10.801 - 16.10.890.

8 **Sec. 16.10.805. Powers and duties of the department.** The department may

9 (1) make loans to eligible applicants under AS 16.10.801 - 16.10.890

10 (A) for the purchase of charter halibut permits;

11 (B) for the purchase or construction of a charter halibut fishing
12 vessel;

13 (C) to upgrade existing charter halibut fishing vessels and gear
14 for the purpose of improving engine fuel efficiency;

15 (D) to refinance debt obligations made by other lenders more
16 than 12 months before the department received the loan application and
17 incurred by an applicant for the purchase of charter halibut fishing vessels or
18 gear if the applicant otherwise qualifies for a loan under AS 16.10.801 -
19 16.10.890; the department may collect a refinancing loan origination charge as
20 provided by regulation;

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

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

25 (4) allow an assumption of a loan if

26 (A) the applicant meets the requirements established under this
27 section; and

28 (B) approval of the assumption would be consistent with the
29 purposes of AS 16.10.801 - 16.10.890;

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

31 (6) charge and collect fees for services provided under AS 16.10.801 -

1 16.10.890;

2 (7) adopt regulations under AS 44.62 necessary to carry out the
3 provisions of AS 16.10.801 - 16.10.890, including regulations to establish reasonable
4 fees for services provided; and

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

6 **Sec. 16.10.810. Eligibility.** (a) For an applicant to be eligible for a loan under
7 AS 16.10.801 - 16.10.890, the applicant shall be a resident of the state, as determined
8 under (c) of this section, and shall

9 (1) qualify for the purchase of a charter halibut permit under applicable
10 law;

11 (2) qualify as a transferee for a charter halibut permit under applicable
12 law;

13 (3) purchase or construct a charter halibut fishing vessel; or

14 (4) upgrade an existing charter halibut fishing vessel or gear for the
15 purpose of improving engine fuel efficiency.

16 (b) In addition to the requirements set out in (a) of this section, the applicant
17 must provide to the department a document from a state financial institution stating
18 that

19 (1) the applicant has been denied a loan for the same purpose; or

20 (2) a loan from the financial institution is contingent on the applicant
21 also receiving a loan from the fund.

22 (c) To meet the residency requirements of (a) of this section, the applicant

23 (1) shall physically reside in this state and maintain a domicile in this
24 state during the 24 consecutive months preceding the date of application for the
25 program; and

26 (2) may not have

27 (A) declared or established residency in another state; or

28 (B) received residency or a benefit based on residency from
29 another state.

30 **Sec. 16.10.815. Limitations on loans.** (a) Except as provided in (b) of this
31 section, a loan under AS 16.10.801 - 16.10.890

- 1 (1) may not exceed \$100,000 a year;
- 2 (2) may not exceed a term of 15 years, except for extensions under
3 AS 16.10.805;
- 4 (3) may not bear interest at a rate greater than the prime rate, as
5 defined in AS 44.88.599, plus two percentage points, but which may not be less than
6 six percent a year and not more than 10 1/2 percent a year;
- 7 (4) must be secured by a first priority lien on collateral acceptable to
8 the commissioner; and
- 9 (5) may not be made to a person who has a past due child support
10 obligation established by court order or by the child support services agency under
11 AS 25.27.160 - 25.27.220 at the time of application.

12 (b) The interest rate for loans for the improvement of engine fuel efficiency
13 must be two percentage points below the prime rate, as defined in AS 44.88.599, but
14 may not be less than six percent a year and not more than 10 1/2 percent a year.

15 (c) The total balances outstanding on loans made to a borrower under
16 AS 16.10.805 may not exceed \$200,000.

17 (d) After the initial interest rate is set under (a) or (b) of this section for a loan
18 made under AS 16.10.801 - 16.10.890, the department may provide a reduction of the
19 interest rate of not more than two percent if at least 50 percent of the loan proceeds are
20 used by the borrower for engine fuel efficiency improvements if the upgrades use
21 products manufactured or produced in the state. When the department offers a
22 reduction under this subsection, the department shall provide the reduction to all loan
23 applicants who meet the criterion described in this subsection. In this subsection,
24 "manufactured or produced" means processing, developing, or making an item into a
25 new item with a distinct character and use.

26 **Sec. 16.10.820. Default.** If the borrower defaults on a note, the department
27 shall notify the borrower of the default and the consequences of default by mailing a
28 notice to the borrower's most recent address provided to the department by the
29 borrower or obtained by the department.

30 **Sec. 16.10.825. Special account established.** (a) The foreclosure expense
31 account is established as a special account within the commercial charter fisheries

1 revolving loan fund.

2 (b) The department may expend money credited to the foreclosure expense
3 account when necessary to protect the state's security interest in collateral on loans
4 granted under AS 16.10.815 or to defray expenses incurred during foreclosure
5 proceedings after an obligor defaults.

6 **Sec. 16.10.830. Disposal of property acquired after default.** The department
7 shall dispose of property acquired through default of a loan made under AS 16.10.801
8 - 16.10.890. Disposal must be made in a manner that serves the best interest of the
9 state and may include the amortization of payments over a period of years.

10 **Sec. 16.10.835. Waiver of confidentiality.** The commissioner may release
11 information about the borrower's loan to any individual if release of the information
12 has been authorized by the borrower.

13 **Sec. 16.10.890. Definitions.** In AS 16.10.801 - 16.10.890,

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 **Article 14. Mariculture Revolving Loan Fund.**

19 **Sec. 16.10.900. Mariculture revolving loan fund.** (a) The mariculture
20 revolving loan fund is created within the Department of Commerce, Community, and
21 Economic Development to carry out the purposes of AS 16.10.900 - 16.10.945.

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

23 (1) money appropriated to, transferred to, or received by gift, grant,
24 devise, bequest, or donation to the fund;

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

27 (3) money chargeable to principal or interest that is collected through
28 liquidation by foreclosure or other process on loans made under AS 16.10.900 -
29 16.10.945.

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

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

2 (1) make loans to eligible applicants under AS 16.10.900 - 16.10.945
3 for the planning, construction, and operation of a mariculture business;

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

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

8 (4) allow an assumption of a loan if

9 (A) the applicant meets the requirements established under this
10 section; and

11 (B) approval of the assumption would be consistent with the
12 purposes of AS 16.10.900 - 16.10.945;

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

14 (6) charge and collect fees for services provided under AS 16.10.900 -
15 16.10.945;

16 (7) adopt regulations under AS 44.62 necessary to carry out the
17 provisions of AS 16.10.900 - 16.10.945, including regulations to establish reasonable
18 fees for services provided; and

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

20 **Sec. 16.10.910. Eligibility.** (a) For an applicant to be eligible for a loan under
21 AS 16.10.900 - 16.10.945, the applicant shall

22 (1) be a resident of the state, as determined under (c) of this section;

23 (2) have a permitted mariculture farm location in this state; and

24 (3) have experience or training in the mariculture industry.

25 (b) In addition to the requirements set out in (a) of this section, the applicant

26 (1) may not be eligible for financing from other recognized
27 commercial lending institutions; or

28 (2) shall be able to obtain only a portion of the total loan request from
29 a recognized commercial lending institution.

30 (c) To meet the residency requirements of (a) of this section, the applicant

31 (1) shall physically reside in this state and maintain a domicile in this

1 state during the 24 consecutive months preceding the date of application for the
2 program; and

3 (2) may not have

4 (A) declared or established residency in another state; or

5 (B) received residency or a benefit based on residency from
6 another state.

7 **Sec. 16.10.915. Limitations on loans.** (a) Except as provided in (b) and (c) of
8 this section, a loan under AS 16.10.900 - 16.10.945

9 (1) may not exceed \$100,000 a year;

10 (2) may not exceed a term of 20 years, except for extensions under
11 AS 16.10.905;

12 (3) may not bear interest at a rate greater than the prime rate, as
13 defined in AS 44.88.599, plus one percentage point, but which may not be less than
14 five percent a year and not more than nine percent a year;

15 (4) must be secured by a first priority lien on collateral acceptable to
16 the department; and

17 (5) may not be made to a person who has a past due child support
18 obligation established by court order or by the child support services agency under
19 AS 25.27.160 - 25.27.220 at the time of application.

20 (b) Subsequent loans may be made to the borrower under AS 16.10.910 if the
21 total of the balances outstanding on the loans received by the borrower does not
22 exceed \$300,000.

23 (c) A loan under AS 16.10.910 may be made for the purchase of boats or
24 vessels determined to be integral to the operation of the farm.

25 (d) For a loan made under AS 16.10.900 - 16.10.945, the department may
26 provide a reduction of the interest rate of not more than two percent if at least 50
27 percent of the loan proceeds are used by the borrower for purchasing products
28 manufactured or produced in the state. When the department offers a reduction under
29 this subsection, the department shall provide the reduction to all loan applicants who
30 meet the criterion described in this subsection. In this subsection, "manufactured or
31 produced" means processing, developing, or making an item into a new item with a

1 distinct character and use.

2 **Sec. 16.10.920. Repayment of principal of and interest on loans.** The
3 department may not require the repayment of principal and interest on a loan made
4 under AS 16.10.910 during the first six years of the loan. Interest on the principal of a
5 loan made under AS 16.10.910 may be deferred for a period of not more than the first
6 six years of the loan.

7 **Sec. 16.10.925. Default.** If the borrower defaults on a note, the department
8 shall notify the borrower of the default and the consequences of default by mailing a
9 notice to the borrower's most recent address provided to the department by the
10 borrower or obtained by the department.

11 **Sec. 16.10.930. Special account established.** (a) The foreclosure expense
12 account is established as a special account in the mariculture revolving loan fund.

13 (b) The department may expend money credited to the foreclosure expense
14 account when necessary to protect the state's security interest in collateral on loans
15 granted under AS 16.10.910 or to defray expenses incurred during foreclosure
16 proceedings after an obligor defaults.

17 **Sec. 16.10.935. Disposal of property acquired after default.** The department
18 shall dispose of property acquired through default of a loan made under AS 16.10.900
19 - 16.10.945. Disposal must be made in a manner that serves the best interest of the
20 state and may include the amortization of payments over a period of years.

21 **Sec. 16.10.940. Waiver of confidentiality.** The commissioner may release
22 information about the borrower's loan to any individual if release of the information
23 has been authorized by the borrower.

24 **Sec. 16.10.945. Definitions.** In AS 16.10.900 - 16.10.945,

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

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

29 (3) "mariculture" means the farming of shellfish and aquatic plants as
30 defined in AS 16.40.199.

31 * **Sec. 2.** AS 44.33 is amended by adding new sections to read:

1 **Article 15. Alaska Microloan Revolving Loan Fund.**

2 **Sec. 44.33.950. Alaska microloan revolving loan fund.** (a) The Alaska
3 microloan revolving loan fund is created in the Department of Commerce,
4 Community, and Economic Development to carry out the purposes of AS 44.33.950 -
5 44.33.990.

6 (b) The Alaska microloan revolving loan fund consists of the following:

7 (1) money appropriated to, transferred to, or received by gift, grant,
8 devise, bequest, or donation to the fund;

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

11 (3) money chargeable to principal or interest that is collected through
12 liquidation by foreclosure or other process on loans made under AS 44.33.950 -
13 44.33.990.

14 (c) Money in the fund may be used by the legislature to make appropriations
15 for costs of administering AS 44.33.950 - 44.33.990.

16 **Sec. 44.33.955. Powers and duties of the department.** The department may

17 (1) make loans to eligible applicants under AS 44.33.950 - 44.33.990
18 to be used for working capital, equipment, construction, or other commercial purposes
19 by a business located in the state;

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

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

24 (4) allow an assumption of a loan if

25 (A) the applicant meets the requirements established under this
26 section; and

27 (B) approval of the assumption would be consistent with the
28 purposes of AS 44.33.950 - 44.33.990;

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

30 (6) charge and collect fees for services provided under AS 44.33.950 -
31 44.33.990;

1 (7) adopt regulations under AS 44.62 necessary to carry out the
 2 provisions of AS 44.33.950 - 44.33.990, including regulations to establish reasonable
 3 fees for services provided; and

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

5 **Sec. 44.33.960. Eligibility.** (a) For an applicant to be eligible for a loan under
 6 AS 44.33.950 - 44.33.990, the applicant shall

7 (1) be a resident of the state, as determined under (b) of this section;

8 (2) provide a reasonable amount of money from other nonstate sources
 9 for use on any project or enterprise for which money from a loan will be used; and

10 (3) if the requested loan amount is \$35,000 or more, provide to the
 11 department a document from a state financial institution stating that

12 (A) the applicant has been denied a loan for the same purpose;

13 or

14 (B) a loan from the financial institution is contingent on the
 15 applicant also receiving a loan from the fund.

16 (b) To meet the residency requirements of (a) of this section, the applicant

17 (1) shall physically reside in this state and maintain a domicile in this
 18 state during the 12 consecutive months preceding the date of application for the
 19 program; and

20 (2) may not have

21 (A) declared or established residency in another state; or

22 (B) received residency or a benefit based on residency from
 23 another state.

24 **Sec. 44.33.965. Limitations on loans.** (a) The department may use money
 25 from the Alaska microloan revolving loan fund to make loans of up to \$35,000 to a
 26 person or loans of up to \$70,000 to two or more persons.

27 (b) A loan under AS 44.33.950 - 44.33.990

28 (1) may not exceed a term of six years, except for extensions under
 29 AS 44.33.955;

30 (2) may not bear interest at a rate greater than the prime rate, as
 31 defined in AS 44.88.599, plus one percentage point but which may not be less than six

1 percent a year and not more than eight percent a year;

2 (3) must be secured by collateral acceptable to the commissioner; and

3 (4) may not be made to a person who has a past due child support
4 obligation established by court order or by the child support services agency under
5 AS 25.27.160 - 25.27.220 at the time of application.

6 **Sec. 44.33.970. Special account established.** (a) The foreclosure expense
7 account is established as a special account in the Alaska microloan revolving loan
8 fund.

9 (b) The department may expend money credited to the foreclosure expense
10 account when necessary to protect the state's security interest in collateral on loans
11 granted under AS 44.33.960 or to defray expenses incurred during foreclosure
12 proceedings after an obligor defaults.

13 **Sec. 44.33.975. Default.** If the borrower defaults on a note, the department
14 shall notify the borrower of the default and the consequences of default by mailing a
15 notice to the borrower's most recent address provided to the department by the
16 borrower or obtained by the department.

17 **Sec. 44.33.980. Disposal of property acquired after default.** The department
18 shall dispose of property acquired through default of a loan made under AS 44.33.950
19 - 44.33.990. Disposal must be made in a manner that serves the best interest of the
20 state and may include the amortization of payments over a period of years.

21 **Sec. 44.33.990. Definitions.** In AS 44.33.950 - 44.33.990,

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

24 (2) "department" means the Department of Commerce, Community,
25 and Economic Development.

26 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).