

Original sponsor: Gardiner

Offered: 5/3/77  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 264 (Resources) am S

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fisheries enhancement; and pro-  
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 16.10.320 is amended to read:

10 Sec. 16.10.320. LIMITATIONS ON LOANS. A commercial fishing loan  
11 may not exceed \$150,000 [\$100,000]. A loan may not run longer than 15  
12 years or bear interest exceeding seven per cent, and it shall be secured  
13 by a first lien and appropriate security agreements, except that a lien  
14 in favor of the state is not required for loans guaranteed fully by the  
15 federal government under the Federal Ship Financing Act of 1972 (46  
16 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended [, AND LOANS GRANTED  
17 UNDER SEC. 310(a)(1)(B) OF THIS CHAPTER MAY BE SECURED BY OTHER ACCEPT-  
18 ABLE COLLATERAL AS DETERMINED APPROPRIATE BY THE DEPARTMENT, INCLUDING  
19 BUT NOT LIMITED TO A PLEDGE OF ASSESSMENTS FROM FISHERMEN TO FINANCE THE  
20 ESTABLISHMENT OF HATCHERIES UNDER SECS. 400 - 470 OF THIS CHAPTER]. In  
21 the case of a security agreement given to secure a loan made under secs.  
22 300 - 370 of this chapter and covering a vessel documented under the  
23 laws of the United States and so long as the Ship Mortgage Act of 1920  
24 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as amended, and the Shipping  
25 Act of 1916 (46 U.S.C. secs. 801 - 842; 39 Stat. 728), as amended,  
26 remain ambiguous with respect to whether or not a state or state agency  
27 qualifies as a citizen of the United States for purposes of those Acts,  
28 the first lien requirement of this section may be satisfied by the  
29 recordation and endorsement of a first preferred ship mortgage under the

1 Ship Mortgage Act of 1920, and by perfection of a security interest  
2 under the Uniform Commercial Code - Secured Transactions (AS 45.05.690 -  
3 45.05.794), if the approval of the Secretary of Commerce is obtained  
4 under 46 U.S.C. sec. 839 for the transfer to the department of the  
5 interest in a vessel documented under the laws of the United States. In  
6 the case of a security agreement given to secure a loan made under secs.  
7 300 - 370 of this chapter and covering a vessel documented under the  
8 laws of the United States, the first lien requirement of this section  
9 may also be satisfied by use of a trust deed and bond issue under it, if  
10 the trustee is a citizen of the United States and obtains a first pre-  
11 ferred ship mortgage on the vessel under the Ship Mortgage Act of 1920,  
12 and the approval of the Secretary of Commerce is obtained under 46  
13 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the  
14 department if the trustee is not a trustee approved by the Secretary of  
15 Commerce under 46 U.S.C. secs. 808, 835 and 961. [EXCEPT FOR LOANS  
16 GRANTED UNDER SEC. 310(a)(1)(B) OF THIS CHAPTER, LOANS] Loans may  
17 not exceed 75 per cent of the appraised value of the collateral used  
18 to secure the loan.

19 \* Sec. 2. AS 16.10.375 is repealed and re-enacted to read:

20 Sec. 16.10.375. REGIONAL SALMON PLAN. The commissioner shall  
21 designate regions of the state for the purpose of salmon production and  
22 have developed and amend as necessary a comprehensive salmon plan for  
23 each region, including provisions for both public and private nonprofit  
24 hatchery systems. Subject to plan approval by the commissioner, com-  
25 prehensive salmon plans shall be developed by regional planning teams  
26 consisting of department personnel and representatives of the appro-  
27 priate qualified regional associations formed under sec. 380 of this  
28 chapter.

29 \* Sec. 3. AS 16.10.400(a) and (e) are amended to read:

1 (a) The commissioner or his designee may issue a permit, subject  
2 to the restrictions [HE CONSIDERS DESIRABLE OR THAT ARE] imposed by  
3 statute or regulation under secs. 400 - 470 of this chapter, to a non-  
4 profit corporation organized under AS 10.20, after the permit appli-  
5 cation has been reviewed by the regional planning team, for the con-  
6 struction and operation of a salmon hatchery.

7 (e) A qualified regional association formed under sec. 380 of this  
8 chapter, if it has become a nonprofit corporation under AS 10.20, has a  
9 preference right to a permit if its proposed hatchery is provided for in  
10 the comprehensive plan for that region developed under sec. 375 of this  
11 chapter and the fresh water source exceeds one cubic foot per second  
12 minimum flow. Any other [A] local nonprofit hatchery corporation [ESTAB-  
13 LISHED OR] approved by a qualified regional association has an identical  
14 preference right.

15 \* Sec. 4. AS 16.10.430(a) is amended to read:

16 (a) If a permit holder fails to comply with the conditions and  
17 terms of the permit issued under secs. 400 - 470 of this chapter within  
18 a reasonable period after notification of his noncompliance by the  
19 department, his permit may be suspended or revoked, in the discretion of  
20 the commissioner after the regional planning team for the area in which  
21 the hatchery is located is notified and granted an opportunity to com-  
22 ment upon the proposed suspension or revocation.

23 \* Sec. 5. AS 16.10.450 is amended to read:

24 Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A  
25 hatchery operator who sells salmon returning from the natural waters of  
26 the state, or sells salmon eggs to another hatchery operating under  
27 secs. 400 - 470 of this chapter, after utilizing the funds for reason-  
28 able operating costs, including debt retirement, [OR] expanding its  
29 facilities, salmon rehabilitation projects, fisheries research, or for

1 costs of operating the qualified regional association for the area in  
2 which the hatchery is located, shall expend the remaining funds on  
3 [FISHERIES RESEARCH, SALMON REHABILITATION PROJECTS, OR] other fisheries  
4 activities of the qualified regional association. Fish returning to  
5 [SOLD BY] hatcheries and sold for human consumption shall be of com-  
6 parable quality to fish harvested by commercial fisheries in the area,  
7 and shall be sold at prices commensurate with the current market.

8 \* Sec. 6. AS 16.10.470 is repealed and re-enacted to read:

9       Sec. 16.10.470. ANNUAL REPORT. (a) A person who holds a permit  
10 for the operation of a salmon hatchery under secs. 400 - 470 of this  
11 chapter shall submit an annual report no later than December 15 to the  
12 department and to the qualified regional association for the area in  
13 which the hatchery is located, to include but not be limited to informa-  
14 tion pertaining to species; brood stock source; number, age, weight, and  
15 length of spawners; number of eggs taken and fry fingerling produced;  
16 and the number, age, weight, and length of adult returns attributable to  
17 hatchery releases, on a form to be provided by the Department of Fish  
18 and Game.

19       (b) A person who holds a permit for the operation of a salmon  
20 hatchery under secs. 400 - 470 of this chapter shall submit an annual  
21 financial report to the Department of Commerce and Economic Development  
22 on a form to be provided by the Department of Commerce and Economic  
23 Development.

24 \* Sec. 7. AS 16.10.500 is amended to read:

25       Sec. 16.10.500. DECLARATION OF POLICY. It is the policy of the  
26 state, under secs. 500 - 550 of this chapter, to promote the enhancement  
27 of the state's fisheries by means of grants for organizational and plan-  
28 ning purposes to regional associations which have qualified under sec.  
29 380 of this chapter, and by means of long-term, low interest loans for

1 hatchery planning, [AND] construction, and operation.

2 \* Sec. 8. AS 16.10 is amended by adding a new section to read:

3 Sec. 16.10.505. FISHERIES ENHANCEMENT REVOLVING LOAN FUND. There  
4 is created within the Department of Commerce and Economic Development a  
5 revolving fund to be known as the fisheries enhancement revolving loan  
6 fund. The fund shall be used to carry out the purposes of secs. 500 -  
7 550 of this chapter and for no other purpose.

8 \* Sec. 9. AS 16.10.510(1) and (2) are amended to read:

9 (1) make loans to permit holders, under secs. 400 - 470 of  
10 this chapter, including those holders issued permits before the effec-  
11 tive date of this Act, for the planning, [AND] construction, and opera-  
12 tion of hatchery facilities;

13 (2) make loans to qualified regional associations which have  
14 formed a nonprofit corporation or a local nonprofit corporation [ESTAB-  
15 LISHED OR] approved by a qualified regional association, for precon-  
16 struction activities necessary to obtain a permit [, PROVIDED THE  
17 HATCHERY HAS RECEIVED PRELIMINARY PROJECT APPROVAL FROM THE COMMISSIONER  
18 OF FISH & GAME];

19 \* Sec. 10. AS 16.10.510(8) is repealed and re-enacted to read:

20 (8) no repayment of principal is required for an initial  
21 period of six years, and no interest on the principal shall accrue  
22 during that period. This provision also applies to loans made under  
23 this chapter before the effective date of this Act.

24 \* Sec. 11. AS 16.10.510 is amended by adding a new paragraph to read:

25 (9) make grants for organizational and planning purposes to  
26 qualified regional associations which have formed a nonprofit corpora-  
27 tion, in amounts not exceeding \$100,000 per region and up to an addi-  
28 tional \$100,000 on a 50/50 cash matching basis with the regional associ-  
29 ations which have an authorized assessment under sec. 530 or 540 of this

1 chapter. The state portion of the matching share shall be available  
2 when a final vote for assessments is made under sec. 530 or 540 of this  
3 chapter. This provision also applies to qualified regional associations  
4 which have formed a nonprofit corporation before the effective date of  
5 this Act.

6 \* Sec. 12. AS 16.10.520(a) is amended to read:

7 (a) A single fisheries enhancement loan may not exceed \$3,000,000  
8 for a hatchery constructed under a permit granted to a qualified re-  
9 gional association which has formed a nonprofit corporation, or to a  
10 local nonprofit corporation [ESTABLISHED OR] approved by a qualified  
11 regional association. A loan for any other nonprofit hatchery corpora-  
12 tion project may not exceed \$300,000.

13 \* Sec. 13. AS 16.10.520(b) is repealed and re-enacted to read:

14 (b) Loans for the total project costs may be made if the commis-  
15 sioner determines that the applicant has sufficient financial resources  
16 to insure the establishment of an equity position in the project equal  
17 to 10 per cent of the loan within six years or less, either through an  
18 assessment levied under secs. 530 or 540 of this chapter or other means  
19 approved by the commissioner. For purposes of this subsection, "total  
20 project costs" includes planning and construction costs for the facility  
21 and the cost of operations for not more than the first six years. The  
22 costs for operations shall be loaned on an annual basis.

23 \* Sec. 14. AS 16.10.530(a) is repealed and re-enacted to read:

24 (a) The commissioner, on request of the qualified regional as-  
25 sociation for the area in which the assessment is to be levied, and after  
26 consultation with the commissioner of fish and game, shall establish  
27 areas in which an assessment shall be levied on the sale of one or more  
28 species of salmon caught by persons licensed under AS 16.05.540 - 16.05.  
29 600, in the area in which the assessment is to be levied. A request by

1 the qualified regional association shall include a description of com-  
2 pliance with (e) of this section. The commissioner shall determine  
3 whether the procedural requirements under (e) of this section were  
4 followed and whether the proposed assessment is reasonable. An assess-  
5 ment levied under this section shall be for the purpose of providing  
6 revenue for the qualified regional association for the area in which the  
7 assessment is made. The rate and conditions of assessments, including  
8 species to be involved, shall be stated by the appropriate qualified  
9 regional association in conjunction with the request to the commissioner  
10 under this subsection.

11 \* Sec. 15. AS 16.10.530(c) and (d) are amended to read:

12 (c) The commissioner and the appropriate qualified regional asso-  
13 ciation must agree on a means of collection of the assessment [BEFORE A  
14 LOAN IS MADE,] and the commissioner may, by regulation, require its  
15 collection by buyers of the salmon upon the sale of which an assessment  
16 is levied.

17 (d) The assessment shall terminate upon request of the qualified  
18 regional corporation when all financial obligations relating to the  
19 assessments have been met [THE PRINCIPAL AND INTEREST ON THE LOAN IS  
20 PAID].

21 \* Sec. 16. AS 16.10.530 is amended by adding new subsections to read:

22 (e) Before an assessment is made under this section, the qualified  
23 regional association for the area in which the assessment is to be  
24 levied shall hold an initial public meeting to explain and discuss the  
25 necessity for the assessment and to explain the registration procedure  
26 established under (f) of this section. Reasonable public notice of the  
27 meeting shall be sent to all limited entry permit holders actively  
28 participating in a fishery in the area, posted in at least three cen-  
29 trally located public places in the area, and published in at least one

1 newspaper of general circulation at least one time a week for three  
2 consecutive weeks in the area, if one exists. The notice shall briefly  
3 state the amount of the assessment and a short general description of  
4 the purposes for which the assessment money will be used. A ballot  
5 shall be mailed to all limited entry permit holders actively participat-  
6 ing in a fishery in the area at least 20 days before the initial public  
7 meeting and contain a copy of the notice and ask the question whether an  
8 assessment shall be imposed. At the public meeting the returned ballots  
9 shall be counted by a special committee appointed by the regional  
10 association for that purpose, and a vote by written ballot shall be  
11 taken on the question from among the limited entry permit holders  
12 present at the initial public meeting. After the vote is taken at the  
13 initial meeting a second public meeting shall be held, upon the limited  
14 notice of publication in a newspaper of general circulation, each day  
15 for five consecutive days and the mailing of personal notice to all  
16 limited entry permit holders who actively participate in a fishery in  
17 the area at least 14 days before the second public meeting, to give  
18 those who did not vote by written ballot at the initial public meeting  
19 an opportunity to vote. These votes shall be counted with the votes  
20 counted at the initial meeting. A majority vote for the assessment is  
21 required from the combined total of the returned ballots and the votes  
22 by ballot cast at both public meetings, before an assessment may be  
23 imposed. No person may vote twice.

24 (f) The qualified regional association shall establish standard  
25 registration procedures for voting on assessments under this section.

26 \* Sec. 17. AS 16.10 is amended by adding new sections to read:

27 Sec. 16.10.600. CREATION OF AUTHORITIES. (a) An association  
28 qualified under sec. 380 of this chapter as a regional association is  
29 given the authority to form a regional salmon enhancement authority.

1 There is created with respect to each of the associations qualified  
2 under sec. 380 of this chapter a public body corporate and politic as a  
3 political subdivision of the state to function in the operating areas of  
4 the individual associations. Each authority may exercise all powers  
5 conferred by secs. 600 - 630 of this chapter.

6 (b) A regional salmon enhancement authority may not transact  
7 business or exercise powers granted to it until the governing body of  
8 the association has, by resolution, declared there is a need for the  
9 authority to function, given it the authority to function and appointed  
10 persons to serve as the board of commissioners of the authority. The  
11 number of members of the board of commissioners, their terms of office  
12 and the filling of vacancies in office shall be determined by resolution  
13 of the governing body of the association.

14 (c) The regional salmon enhancement authority has jurisdiction to  
15 operate in all or part of the operating area of the individual associ-  
16 ation as determined by resolution of the governing body of the associa-  
17 tion.

18 Sec. 16.10.610. TAX EXEMPTION. (a) A salmon enhancement author-  
19 ity is exempt from payment of taxes or assessments for a period of 20  
20 years from the effective date of this Act on property owned by the  
21 authority which is used for salmon enhancement purposes.

22 (b) All obligations or liabilities of a regional salmon enhance-  
23 ment authority remain its own and are not obligations or liabilities of  
24 the state.

25 Sec. 16.10.620. POWERS OF THE AUTHORITY. A salmon enhancement  
26 authority has the general power to

- 27 (1) adopt, alter and use a corporate seal;  
28 (2) prescribe, adopt, amend and repeal bylaws;  
29 (3) sue and be sued in its own name;

1 (4) appoint officers, agents and employees and vest them with  
2 powers and duties and to fix, change and pay compensation for their  
3 services as the authority may determine;

4 (5) borrow money, make and issue notes and other evidences  
5 of indebtedness of the authority for any of its corporate purposes and  
6 to secure payment of its obligations by pledge of or lien on all or any  
7 of its assets, contracts, revenue and income;

8 (6) make and execute agreements, contracts and other instru-  
9 ments necessary or convenient in the exercise of its powers and func-  
10 tions, including contracts with any person, firm, corporation, govern-  
11 ment agency or other entity;

12 (7) receive, administer and comply with the conditions and  
13 requirements of an appropriation, gift, grant or donation of property or  
14 money;

15 (8) invest or reinvest money or funds held by the authority  
16 in obligations or other securities or investments in which banks or  
17 trust companies in the state may legally invest funds held in reserves  
18 or sinking funds or funds not required for immediate disbursement, and  
19 in certificates of deposits or time deposits;

20 (9) acquire, hold, use, lease, sell or otherwise dispose of  
21 property of any kind, real, personal or mixed or any interest in it;

22 (10) do all acts and things necessary, convenient or desirable  
23 to carry out the powers granted or implied in secs. 600 - 690 of this  
24 chapter;

25 (11) adopt, amend and repeal rules and regulations necessary

26 \* Sec. 18. Notification, public meeting and voting procedures instituted  
27 before the effective date of this Act that are substantially in compliance  
28 with AS 16.10.530(e) shall be considered to constitute compliance with this  
29 Act, and are ratified upon the effective date of this Act.

1 \* Sec. 19. AS 16.10.400(d) and 16.10.530(b) are repealed.

2 \* Sec. 20. This Act takes effect immediately in accordance with AS 01.10.  
3 070(c).

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