

Introduced: 1/10/78  
Referred: Resources and  
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 581

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to commercial fishing loans."

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

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

9 Sec. 16.10.333. LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY  
10 PERMITS. (a) Loans under secs. 300 - 370 of this chapter may be made  
11 to an individual commercial fisherman for the purchase of an Alaska  
12 Limited Entry Permit upon certification by the commission that the  
13 fisherman is a person who qualifies as a transferee for the permit  
14 under ch. 43 of this title and the regulations adopted by the com-  
15 mission.

16 (b) Upon approval by the commissioner, the permit to be pur-  
17 chased may be pledged as security for a loan under (a) of this section,  
18 if

19 (1) the certificate for the pledged permit lists the  
20 commissioner as the legal owner of the permit;

21 (2) the certificate for the pledged permit lists the  
22 debtor as the equitable owner of the permit;

23 (3) all annual permit cards issued under the pledged permit  
24 list the name of the debtor;

25 (4) all obligations and responsibilities of a permit owner  
26 are assumed by the debtor;

27 (5) co-signers or other sureties for performance under the  
28 note are not vested with any rights in the pledged permit and their  
29 obligation is limited to satisfaction of the note and payment of costs

1 directly incurred by the department in administering the loan.

2 (c) The commissioner is not liable for any act or omission  
3 resulting from permit ownership nor will any such act or omission  
4 affect his title to the permit or his rights under it.

5 (d) Upon satisfaction of the note by the debtor, the commissioner  
6 shall certify to the commission that the note has been satisfied.

7 (e) Upon certification as provided in (d) of this section, the  
8 commission shall amend the permit certificate to list the debtor as  
9 the legal owner.

10 Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor  
11 defaults upon a note for which a limited entry permit has been pledged  
12 as security under sec. 333 of this chapter, the commissioner shall  
13 provide the debtor with a notice of default by registered or certified  
14 mail sent to his last known address on file with the commissioner  
15 which includes:

16 (1) a description of the security given for the note  
17 including the number assigned to the pledged permit by the commission;

18 (2) the date upon which the default occurred;

19 (3) the amount of arrearages as of the date of the notice,  
20 the total amount remaining on the note less unearned interest, and the  
21 amount of daily interest;

22 (4) a statement that the debtor may, within 15 days of the  
23 postmark date of the notice, request a hearing at which he may submit  
24 evidence showing he has not defaulted;

25 (5) a statement that the note may be reinstated if brought  
26 current within 60 days from the postmark date of the notice;

27 (6) a statement that the note may be paid in full less  
28 unearned interest within 90 days from the postmark date of the notice;

29 (7) the place where reinstatement or payment in full may be

1 made; and

2 (8) a notice in at least 10-point bold type stating: "IM-  
3 PORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE  
4 DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT  
5 AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

6 (b) Upon the debtor's failure to reinstate or satisfy the note  
7 within the time specified in (a) of this section, his equitable  
8 interest is terminated by operation of law without further notice.  
9 Any entry permit cards issued to him under the permit shall be can-  
10 celled immediately upon receipt by the commission of a certificate of  
11 termination containing a copy of the notice required by (a) of this  
12 section issued by the commissioner.

13 Sec. 16.10.337. DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER  
14 FORECLOSURE. (a) Upon a foreclosure on an entry permit as provided  
15 in sec. 335 of this chapter, the commissioner shall offer the commis-  
16 sion a right of first refusal if the permit is subject to a buy-back  
17 program under AS 16.43.290 - 16.43.330 at a price equal to the amount  
18 outstanding on the note plus any costs the department directly in-  
19 curred in administering the loan.

20 (b) If the commission does not exercise its right of first  
21 refusal within 30 days after it receives the offer, or if the permit  
22 is not subject to a buy-back program under AS 16.43.290 - 16.43.330,  
23 the department shall promptly notify the debtor of this fact. The  
24 debtor has 30 days after receiving this notice to nominate a person  
25 qualified to assume the note. The person nominated must qualify under  
26 the requirements of sec. 333(a) of this chapter. If qualified, he may  
27 assume all rights and liabilities of the original debtor.

28 (c) If the debtor is unable to nominate a qualified person to  
29 assume the note under (b) of this section, the permit must be made

1 available to a qualified person, chosen as provided in this section,  
2 who must assume the note subject to all rights and liabilities of the  
3 original debtor. The commission shall provide the commissioner with a  
4 list of persons chosen by lottery who qualify as transferees of entry  
5 permits under ch. 43 of this title and regulations adopted by the  
6 commission and who have met the residency and commercial fishing  
7 participation requirements of sec. 310(a) of this chapter. The com-  
8 missioner then shall determine, in order of presentation, any remain-  
9 ing qualifications. The commissioner shall allow the first applicant  
10 meeting all qualifications to assume the note.

11 (d) Nothing in this section affects the right of the commissioner  
12 to institute legal action for a deficiency resulting from a default on  
13 a note given under sec. 333 of this chapter. In addition to any  
14 deficiency, the debtor is liable for the costs of administering the  
15 note and for costs and attorney fees.

16 Sec. 16.10.339. REGULATIONS. The commission, with the approval  
17 of the department, shall adopt regulations to implement secs. 333 -  
18 337 of this chapter.

19 \* Sec. 2. AS 16.10.360 is amended by adding new paragraphs to read:

20 (3) "commission" means the Commercial Fisheries Entry  
21 Commission;

22 (4) "debtor" means an individual commercial fisherman who  
23 either initially contracts for a loan under secs. 333 - 337 of this  
24 chapter or assumes such a loan as provided in those sections.

25 \* Sec. 3. AS 16.43.150(g) is amended to read:

26 (g) Except as provided in AS 16.10.333 - 16.10.337, an [AN]  
27 entry permit may not be:

- 28 (1) pledged, mortgaged, leased, or encumbered in any way;  
29 (2) transferred with any retained right of repossession or

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foreclosure; or

(3) attached, distrained, or sold on execution of judgment or under any other process or order of any court.

\* Sec. 4. AS 16.43.170(a) is amended to read:

(a) Except as provided in AS 16.10.333 - 16.10.337, entry [ENTRY] permits and interim-use permits are transferable only through the commission as provided in this section and sec. 180 of this chapter and under regulations adopted by the commission.