

Original sponsors: Miller, Gardiner
and Duncan

Offered: 3/12/79
Referred: Judiciary

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2

CS FOR HOUSE BILL NO. 20

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to commercial fishing loans; and
7 providing for an effective date."

8

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

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* Section 1. AS 16.10.310(a)(1)(C) is amended to read:

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(C) corporations, partnerships, or joint ventures, 100

11

per cent of which are owned by individual commercial fishermen who

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have been state residents for a continuous period of five years

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immediately preceding the date of application for a loan under

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AS 16.10.300 - 16.10.370 and have had a crewmember or commercial

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fishing license under AS 16.05.480 or a permit under AS 16.43 for

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any one [THREE] of the past five years, and who actively partici-

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18 pated in the fishery during that period, for the repair, restora-

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tion or upgrading of existing vessels and gear, for the purchase of

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gear, and for the construction and purchase of vessels; [.]

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* Sec. 2. AS 16.10.320(a)(5) is amended to read:

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(5) may not exceed 75 per cent of the appraised value of the

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collateral used to secure the loan, except that a loan granted under

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AS 16.10.333 for the purchase of an Alaska limited entry permit may not

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exceed an amount determined in accordance with (f) of this section.

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* Sec. 3. AS 16.10.320(d) is amended to read:

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(d) A loan may not be made to a borrower under AS 16.10.300 -

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16.10.370 if it would result in an outstanding debt of the borrower to

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the commercial fishing revolving loan fund in excess of \$500,000,

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excluding outstanding debt incurred under (c) of this section. A

1 borrower under AS 16.10.300 - 16.10.370 may use up to 49 per cent of
2 the amount borrowed to refinance any outstanding loans of the borrower
3 regardless of the source of the loans, if the outstanding loans were
4 made for any of the purposes described in AS 16.10.310 [EXCEPT AS
5 PROVIDED IN (e) OF THIS SECTION, NO MORE THAN ONE COMMERCIAL FISHING
6 LOAN MAY BE MADE TO A PERSON FOR THE PURCHASE, CONSTRUCTION, REPAIR OR
7 UPGRADING OF A FISHING VESSEL OR ITS GEAR]. A loan to an associate of
8 the borrower is considered to be a loan to the borrower. For the
9 purposes of this section, "associate of the borrower" means

10 (1) a corporation or other organization of which the borrower
11 is an officer, director or partner, or is, directly or indirectly, the
12 beneficial owner of 10 per cent or more of any class of equity securi-
13 ties;

14 (2) a person who is, directly or indirectly, the beneficial
15 owner of 10 per cent or more of any class of equity securities of the
16 borrower;

17 (3) a trust or other estate in which the borrower has a sub-
18 stantial beneficial interest or as to which the borrower serves as
19 trustee or in a similar fiduciary capacity[;

20 (4) A RELATIVE OR SPOUSE OF THE BORROWER OR A RELATIVE OF THE
21 SPOUSE, WHO HAS THE SAME HOME AS THE BORROWER;

22 (5) A PERSON DIRECTLY OR INDIRECTLY CONTROLLING, CONTROLLED
23 BY, OR UNDER COMMON CONTROL WITH, THE BORROWER].

24 * Sec. 4. AS 16.10.320 is amended by adding a new subsection to read:

25 (f) A loan granted under AS 16.10.333(a) for the purchase of an
26 Alaska limited entry permit may not exceed 90 per cent of the appraised
27 value of the collateral used to secure the loan; however, a loan granted
28 under AS 16.10.333(a) for the purchase of an Alaska limited entry permit
29 may be made in an amount up to 100 per cent of the appraised value of

1 the collateral used to secure the loan if the borrower demonstrates to
2 the satisfaction of the commissioner, in accordance with regulations
3 adopted under the Administrative Procedure Act (AS 44.62), financial
4 hardship and, as a result of financial hardship, a need for a greater
5 loan amount.

6 * Sec. 5. AS 16.10.335 is amended to read:

7 Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor
8 defaults upon a note for which a limited entry permit has been pledged
9 as security under AS 16.10.333 or under AS 16.10.338, the commissioner
10 shall provide the debtor, by registered or certified mail sent to his
11 last known address on file with the commissioner, with a notice of
12 default which includes

13 (1) a description of the security given for the note includ-
14 ing the number assigned to the pledged permit by the commission;

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

16 (3) the amount of arrearages as of the date of the notice,
17 the total amount remaining on the note less unearned interest, and the
18 amount of daily interest;

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

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

24 (6) a statement that the note may be paid in full less un-
25 earned interest within 90 days from the postmark date of the notice;

26 (7) the place where reinstatement or payment in full may be
27 made; and

28 (8) a notice in at least 10-point bold type stating:

29 **"IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE**

1 DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT
2 AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

3 (b) Upon the debtor's failure to reinstate or satisfy the note
4 within the time specified in (a) of this section, his [EQUITABLE] inter-
5 est in the permit is terminated by operation of law without further
6 notice. Any entry permit cards issued to him under the permit shall be
7 cancelled immediately upon receipt by the commission of a certificate of
8 termination containing a copy of the notice required by (a) of this
9 section issued by the commissioner.

10 * Sec. 6. AS 16.10 is amended by adding a new section to read:

11 Sec. 16.10.338. ENTRY PERMITS AS COLLATERAL. Alaska limited entry
12 permits may be used as security for loans under AS 16.10.310(a). The
13 provisions of AS 16.10.335 and 16.10.337 apply to Alaska limited entry
14 permits pledged as security for loans in accordance with this section.

15 * Sec. 7. AS 16.43.170(a) is amended to read:

16 (a) Except as provided in AS 16.10.333 - 16.10.338 [AS 16.10.333 -
17 16.10.337], entry permits and interim-use permits are transferable only
18 through the commission as provided in this section and AS 16.43.180 and
19 under regulations adopted by the commission.

20 * Sec. 8. This Act is retroactive to July 1, 1978.

21 * Sec. 9. This Act takes effect immediately in accordance with AS 01.10.-
22 070(c).