

Original sponsor: Rules/Governor

Offered: 6/8/81
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 140 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to loans and loan guarantees for
7 commercial fish processors and purchasers and estab-
8 lishing a fishery product revolving loan fund; and
9 providing for an effective date."

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

11 * Section 1. AS 45 is amended by adding a new chapter to read:

12 CHAPTER 91. FISHERY PRODUCT REVOLVING LOAN FUND.

13 Sec. 45.91.010. ESTABLISHMENT OF LOAN FUND. The fishery product
14 revolving loan fund is established in the Department of Revenue.

15 Sec. 45.91.020. FISHERY PRODUCT LOANS. The department may pur-
16 chase participations in loans made to fish processors with facilities
17 located in Alaska and which are used to finance those processors' in-
18 ventories of canned, frozen, or processed products from Alaska fish-
19 eries.

20 Sec. 45.91.030. POWERS AND DUTIES OF THE DEPARTMENT. (a) The
21 commissioner may

22 (1) designate agents and delegate powers to them as is
23 necessary;

24 (2) adopt regulations to implement this chapter;

25 (3) make and execute contracts and other instruments to im-
26 plement this chapter;

27 (4) purchase participations in notes and agreements securing
28 loans in accordance with this chapter;

29 (5) require that loans in which the fund participates be

1 secured by adequate collateral;

2 (6) acquire real or personal property by purchase, transfer,
3 or foreclosure when that acquisition is necessary to protect a note in
4 which the fund has an interest.

5 (b) Money in the fund that is not being used for participations
6 in fishery product loans must be invested by the department in the same
7 manner as provided for the investment of general fund surplus under
8 AS 37.10.070.

9 (c) Earnings and interest income from investment and fishery pro-
10 duct loan participations must be transferred to the general fund. Re-
11 payments of principal from investments and loan participations must be
12 returned to the fund.

13 Sec. 45.91.040. LIMITATIONS ON LOANS. (a) Loan participations
14 purchased under this chapter are subject to the following limitations:

15 (1) State participation in a single loan may not exceed 90
16 percent of the total amount of the loan.

17 (2) The term of a loan may not exceed one year unless ex-
18 tended under an arrangement made in accordance with (c) of this section.

19 (3) The loan must be secured by a pledge of the inventory
20 being financed by the loan, by a pledge of the accounts receivable from
21 that inventory, or by other collateral acceptable to all participants
22 in the loan. The security interest taken by the state in the collateral
23 must be at least equal in priority to the interests in the collateral
24 of all other participants in the loan, and the proportion which the
25 amount of the state's security interest bears to the total amount of
26 collateral furnished to all participants in the loan shall at least
27 equal the percentage of its participation in the total amount of the
28 loan.

29 (4) The loan must be originated and serviced by either the

1 Alaska Commercial Fishing and Agriculture Bank (AS 44.81.010) or by a
2 state or federally chartered financial institution.

3 (5) The servicing charge on the loan may not exceed one-half
4 of one percent of the outstanding balance of the loan.

5 (6) The rate of interest, including all service fees, on the
6 unpaid balance of the loan fund's participation in a loan shall float
7 at the average rate at which six month U.S. Treasury bills are awarded
8 in the weekly auction of U.S. Treasury bills, plus three and three-
9 fourths percentage points, but may not exceed the applicable interest
10 rate.

11 (7) Loans must be made only to fish processors with facil-
12 ities located in Alaska.

13 (8) Loans may not be made to fish processors which are 50
14 percent or more owned or controlled by aliens.

15 (b) Money in the fund shall be used to purchase participation in
16 loans made to fish processors which are 50 percent or more owned or
17 controlled by residents of the state until these processors needs for
18 loans are met before the money in the fund may be used to purchase
19 participation in loans made to fish processors which are less than 50
20 percent owned or controlled by residents of the state.

21 (c) If the department is a participant in a loan to a fish proces-
22 sor that has not been, or appears unlikely to be, fully repaid within
23 the one-year term prescribed in (a)(2) of this section, the department
24 may not participate in another loan to that processor until the out-
25 standing loan to the processor has been paid.

26 (d) For the purposes of this section

27 (1) "alien" means

28 (A) an individual who is not a citizen or national of
29 the United States, or who is not lawfully admitted to the United

1 States for permanent residence, or paroled into the United States
2 under the Immigration and Nationality Act (8 U.S.C. secs. 1101 -
3 1503), as amended;

4 (B) a person, other than an individual, that was not
5 created or organized under the laws of the United States or of a
6 state, or whose principal place of business is not located in any
7 state; or

8 (C) a person, other than an individual, that was created
9 or organized under the laws of the United States or of a state, or
10 whose principal place of business is located in a state, and that
11 is controlled by a person described in (A) or (B) of this para-
12 graph;

13 (2) "control" means that a relationship exists between a
14 person and fish processor in which the person exercises control con-
15 sisting of

16 (A) owning directly or indirectly, or having the power
17 to vote, the percentage indicated of any class of voting security
18 of a fish processor organized as a corporation; or

19 (B) influencing or affecting in any substantive manner
20 the election of a majority of the directors or trustees of a fish
21 processor organized as a corporation;

22 (3) "person" means an individual, a corporation, a partner-
23 ship, an association, a joint-stock company, an estate, a trust where
24 the interests of the beneficiaries are evidenced by a security, an
25 unincorporated association, a government, a political subdivision of a
26 government, or a combination of these entities.

27 Sec. 45.91.050. SALE OR TRANSFER OF MORTGAGES AND NOTES. The de-
28 partment may sell or transfer at par value or at a premium or discount
29 to any bank or other private purchaser for cash or other consideration

1 the mortgages and notes held as security for loans made under this
2 chapter. The proceeds from the sale or transfer are assets of the
3 fund.

4 Sec. 45.91.060. DEFINITIONS. In this chapter

5 (1) "commissioner" means the commissioner of revenue;

6 (2) "department" means the Department of Revenue;

7 (3) "fish processor" means a person engaging in a business
8 for which a license is required under AS 43.75.010 - 43.75.090;

9 (4) "facilities located in Alaska" means facilities at which
10 fisheries products are canned, frozen, or otherwise processed for
11 inventory, including floating facilities which are documented under the
12 laws of the United States as defined in 46 U.S.C. 801, and operate
13 within the three-mile limit or within historic bays and inland waters
14 of the state;

15 (5) "fishery product" means fin fish, shellfish, and fish
16 byproducts, including but not limited to salmon, halibut, herring,
17 flounder, crab, clam, cod, shrimp, and pollock;

18 (6) "fund" means the fishery product revolving loan fund.

19 * Sec. 2. LOAN GUARANTEES FOR COMMERCIAL FISH PURCHASERS. (a) The
20 Alaska Commercial Fishing and Agriculture Bank or a state or federally
21 chartered financial institution may

22 (1) make loans to provide financial assistance to commercial
23 purchasers of the 1981 fish harvest;

24 (2) participate with state or federally chartered financial
25 institutions in the making of loans to provide financial assistance to
26 commercial purchasers of the 1981 fish harvest;

27 (3) enter into agreements with the Department of Revenue to
28 provide guarantees from the 1981 fish processing loan guarantee account for
29 up to 50 percent of the portion of a loan described in (1) and (2) of this

1 subsection held by a state or federally chartered financial institution or
2 an institution of the federal farm credit system.

3 (b) A loan may not be guaranteed under (a)(3) of this section unless
4 20 percent or more of the loan is held by the Alaska Commercial Fishing and
5 Agriculture Bank or a state or federally chartered financial institution.

6 (c) There is created as a separate account in the general fund the
7 1981 fish processing loan guarantee account. The 1981 fish processing loan
8 guarantee account consists of assets appropriated to it from the general
9 fund. The commissioner of revenue shall administer the 1981 fish processing
10 loan guarantee account and may enter into agreements with the Alaska Commer-
11 cial Fishing and Agriculture Bank or a state or federally chartered financial
12 institution to use the assets of the 1981 fish processing loan guarantee
13 account to provide guarantees for loans under (a)(3) of this section. The
14 total amount of the guaranteed portion of loans guaranteed under (a)(3) of
15 this section may not exceed \$40,000,000.

16 (d) A loan may not be guaranteed under this section unless the borrower
17 is an individual who is a resident of the state, or is a corporation, part-
18 nership, or joint venture in which a majority of the beneficial interest is
19 owned by residents of the state and of which a majority of the owners are
20 residents of the state.

21 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
22 070(c).