

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) (efd failed)

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."

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

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

11 CHAPTER 91. FISHERY PRODUCT REVOLVING LOAN FUND.

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

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

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

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

23 (2) adopt regulations to implement this chapter;

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

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

28 (5) require that loans in which the fund participates be
29 secured by adequate collateral;

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

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

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

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

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

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

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

28 (4) The loan must be originated and serviced by either the
29 Alaska Commercial Fishing and Agriculture Bank (AS 44.81.010) or by a

1 state or federally chartered financial institution.

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

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

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

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

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

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

25 (d) For the purposes of this section

26 (1) "alien" means

27 (A) an individual who is not a citizen or national of
28 the United States, or who is not lawfully admitted to the United
29 States for permanent residence, or paroled into the United States

1 under the Immigration and Nationality Act (8 U.S.C. secs. 1101 -
2 1503), as amended;

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

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

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

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

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

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

26 Sec. 45.91.050. SALE OR TRANSFER OF MORTGAGES AND NOTES. The de-
27 partment may sell or transfer at par value or at a premium or discount
28 to any bank or other private purchaser for cash or other consideration
29 the mortgages and notes held as security for loans made under this

1 chapter. The proceeds from the sale or transfer are assets of the
2 fund.

3 Sec. 45.91.060. DEFINITIONS. In this chapter

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

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

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

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

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

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

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

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

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

26 (3) enter into agreements with the Department of Revenue to
27 provide guarantees from the 1981 fish processing loan guarantee account for
28 up to 50 percent of the portion of a loan described in (1) and (2) of this
29 subsection held by a state or federally chartered financial institution or

1 an institution of the federal farm credit system.

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

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

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

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