

Offered: 4/2/84
Referred: Finance

Original sponsor: Rules/Governor

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

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CS FOR SENATE BILL NO. 496 (L&C)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to commercial fishing loans; and

7

providing for an effective date."

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

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

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(a) The department may

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(1) make loans to

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(A) individual commercial fishermen who have been

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state residents for a continuous period of two years immediately

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preceding the date of application for a loan under AS 16.10.300 -

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16.10.370 and have had a crewmember or commercial fishing license

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under AS 16.05.480 or a permit under AS 16.43 for the year imme-

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diately preceding the date of application and any other two of

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the past five years, and who actively participated in the fishery

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during those periods, for the purchase of entry permits;

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(B) an individual who has been a state resident for a

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continuous period of two years immediately preceding the date of

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application for a loan under AS 16.10.300 - 16.10.370, who (i)

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because of lack of training or lack of employment opportunities

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in the area of residence does not have occupational opportunities

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available other than commercial fishing; or (ii) is economically

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dependent on commercial fishing for a livelihood and for whom

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commercial fishing has been a traditional way of life for the

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individual in Alaska; [,] for the repair, restoration or upgrad-

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ing of existing vessels and gear, for the purchase of entry

1 permits and gear, and for the construction and purchase of ves-
2 sels;

3 (C) corporations, partnerships, or joint ventures, 100
4 percent of which are owned by individual commercial fishermen who
5 have been state residents for a continuous period of two years
6 immediately preceding the date of application for a loan under
7 AS 16.10.310(a)(1)(B) and have had a crewmember or commercial
8 fishing license under AS 16.05.480 or a permit under AS 16.43 for
9 the year immediately preceding the date of application and any
10 other two of the past five years, and who actively participated
11 in the fishery during that period, for the repair, restoration or
12 upgrading of existing vessels and gear, for the purchase of gear,
13 and for the construction and purchase of vessels;

14 (2) designate agents and delegate its powers to them as
15 necessary;

16 (3) adopt regulations necessary to carry out its functions;

17 (4) establish amortization plans for repayment of loans,
18 which may include extensions for poor fishing seasons or for adverse
19 market conditions for Alaskan products;

20 (5) enter into agreements with private lending institu-
21 tions, other state agencies, or agencies of the federal government, to
22 carry out the purposes of AS 16.10.300 - 16.10.370;

23 (6) enter into agreements with other agencies or organiza-
24 tions to create an outreach program to make loans under AS 16.10.300 -
25 16.10.370 in rural areas of the state;

26 (7) allow an assumption of a loan if the applicant has been
27 a state resident for a continuous period of two years immediately
28 preceding the date of the request for an assumption.

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

1 (a) A loan under AS 16.10.310 - 16.10.370

2 (1) may not exceed a term of 15 years, except for exten-
3 sions granted under AS 16.10.310(a)(4);

4 (2) may not bear interest exceeding 10-1/2 percent;

5 (3) shall be secured by a first priority lien and appropri-
6 ate security agreement; and

7 (4) may not exceed 90 percent of the appraised value of the
8 collateral used to secure the loan, except that a loan granted under
9 AS 16.10.333 for the purchase of an Alaska limited entry permit may
10 not exceed an amount determined in accordance with (f) or (h) of this
11 section.

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

13 (d) The total of balances outstanding on loans [LOANS] made to a
14 borrower under AS 16.10.310(a)(1)(A) may not exceed [A TOTAL OF]
15 \$300,000. Loans made to a borrower under AS 16.10.310(a)(1)(B) or (C)
16 may not exceed a total of \$100,000. A loan to an associate of the
17 borrower is considered to be a loan to the borrower. For the purposes
18 of this section, "associate of the borrower" means

19 (1) a corporation or other organization of which the
20 borrower is an officer, director or partner, or is, directly or
21 indirectly, the beneficial owner of 10 percent or more of any class of
22 equity securities;

23 (2) a person who is, directly or indirectly, the beneficial
24 owner of 10 percent or more of any class of equity securities of the
25 borrower;

26 (3) a trust or other estate in which the borrower has a
27 substantial beneficial interest or as to which the borrower serves as
28 trustee or in a similar fiduciary capacity.

29 * Sec. 4. AS 16.10.320(e) is amended to read:

1 (e) Two or more individual commercial fishermen who each satisfy
2 the requirements specified in AS 16.10.310(a)(1)(B) may jointly obtain
3 a commercial fishing loan for the construction of a fishing vessel or
4 the purchase of an existing fishing vessel. Loans granted under this
5 subsection

6 (1) may not exceed the amount specified in (d) of this
7 section multiplied by the number of qualified commercial fishermen
8 applying for the loan;

9 (2) may not exceed a term of 15 years, except for exten-
10 sions granted under AS 16.10.310(a)(4);

11 (3) shall be secured by a first priority lien and appropri-
12 ate security agreement;

13 (4) may not bear interest exceeding 10-1/2 percent; and

14 (5) may not exceed 90 percent of the appraised value of the
15 collateral used to secure the loan.

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

17 Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor
18 defaults upon a note for which a limited entry permit has been pledged
19 as security under AS 16.10.333 or [UNDER AS] 16.10.338, the commis-
20 sioner shall provide the debtor, by both [REGISTERED OR] certified and
21 first class mail sent to the debtor's last known address on file with
22 the commissioner, with a notice of default that [WHICH] includes

23 (1) a description of the security given for the note in-
24 cluding the number assigned to the pledged permit by the commission;

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

26 (3) the amount of arrearages as of the date of the notice,
27 the total amount remaining on the note less unearned interest, and the
28 amount of daily interest;

29 (4) a statement that the debtor may, within 15 days after

1 [OF] the postmark date of the notice, request a hearing to submit
2 evidence showing the debtor has not defaulted;

3 (5) a statement that the note may be reinstated if brought
4 current within 60 days after [FROM] the postmark date of the notice;

5 (6) a statement that the note may be paid in full less
6 unearned interest within 120 days after [FROM] the postmark date of
7 the notice;

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

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

14 (b) In each case of a limited entry permit being pledged as
15 security under AS 16.10.333 or 16.10.338, the debtor shall maintain on
16 file with the department an address where notice of default is to be
17 sent, if necessary, and where that notice will be timely received by
18 the debtor.

19 (c) Upon presentation of evidence of mailing in accordance with
20 (a) of this section, the receipt of the notice of default by the
21 debtor will be presumed for all purposes. This presumption is re-
22 buttable by presentation of evidence sufficient to demonstrate lack of
23 receipt of notice through no fault of the debtor. Upon presentation
24 of evidence sufficient to prove lack of receipt of notice through no
25 fault of the debtor, the notice is a nullity.

26 (d) Upon good cause shown, the commissioner may waive any of the
27 time limits in (a) of this section, if the department receives from
28 the debtor or the debtor's representative a request for the waiver
29 before the expiration of the time limit for which the waiver is

1 sought.

2 (e) Except as otherwise provided in (c) and (d) of this section,
3 upon [UPON] the debtor's failure to satisfy the note within the time
4 specified in (a)(6) of this section, the debtor's interest in the
5 permit is terminated by operation of law without further notice. Any
6 entry permit cards issued to the debtor under the permit shall be
7 cancelled immediately upon receipt by the commission of a certificate
8 of 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. 16.10.336. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
12 FORECLOSURE. The department shall dispose of property acquired
13 through default or foreclosure of a loan made under AS 16.10.300 -
14 16.10.370. Disposal shall be made in a manner that serves the best
15 interests of the state and may include the amortization of payments
16 over a period of years, but may not be by lease.

17 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).