

Offered: 5/3/84
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 496 (Finance)
3 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 loans for commercial fishing and
7 agriculture; and providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 16.10.310(a) is amended to read:
10 (a) The department may
11 (1) make loans to
12 (A) individual commercial fishermen who have been
13 state residents for a continuous period of two years immediately
14 preceding the date of application for a loan under AS 16.10.300 -
15 16.10.370 and have had a crewmember or commercial fishing license
16 under AS 16.05.480 or a permit under AS 16.43 for the year imme-
17 diately preceding the date of application and any other two of
18 the past five years, and who actively participated in the fishery
19 during those periods, for the purchase of entry permits;
20 (B) an individual who has been a state resident for a
21 continuous period of two years immediately preceding the date of
22 application for a loan under AS 16.10.300 - 16.10.370, who (i)
23 because of lack of training or lack of employment opportunities
24 in the area of residence does not have occupational opportunities
25 available other than commercial fishing; or (ii) is economically
26 dependent on commercial fishing for a livelihood and for whom
27 commercial fishing has been a traditional way of life for the
28 individual in Alaska; [,] for the repair, restoration or upgrad-
29 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 (D) individuals, or to corporations, partnerships, or
15 joint ventures, 100 percent of which are owned by individuals,
16 for the repair, restoration or upgrading of existing vessels and
17 gear, for the purchase of entry permits for fisheries in the
18 drainage system of the Yukon and Kuskokwim Rivers, for the pur-
19 chase of gear, and for the construction and purchase of vessels,
20 if the individuals

21 (i) have been state residents for a continuous
22 period of two years immediately preceding the date of appli-
23 cation for a loan under AS 16.10.300 - 16.10.370; and

24 (ii) have documented active participation in a
25 fishery in the drainage system of the Yukon and Kuskokwim
26 Rivers on a subsistence basis for the year immediately
27 preceding the date of application and any other two of the
28 past five years;

29 (2) designate agents and delegate its powers to them as

1 necessary;

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

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

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

9 (6) enter into agreements with other agencies or organiza-
10 tions to create an outreach program to make loans under AS 16.10.300 -
11 16.10.370 in rural areas of the state;

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

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

16 (a) A loan under AS 16.10.310 - 16.10.370

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

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

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

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

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

28 (d) The total of balances outstanding on loans [LOANS] made to a
29 borrower under AS 16.10.310(a)(1)(A) may not exceed [A TOTAL OF]

1 \$300,000. Loans made to a borrower under AS 16.10.310(a)(1)(B) or (C)
2 may not exceed a total of \$100,000. A loan to an associate of the
3 borrower is considered to be a loan to the borrower. For the purposes
4 of this section, "associate of the borrower" means

5 (1) a corporation or other organization of which the
6 borrower is an officer, director or partner, or is, directly or in-
7 directly, the beneficial owner of 10 percent or more of any class of
8 equity securities;

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

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

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

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

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

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

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

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

29 (5) may not exceed 90 percent of the appraised value of the

1 collateral used to secure the loan.

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

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

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

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

12 (3) the amount of arrearages as of the date of the notice,
13 the total amount remaining on the note less unearned interest, and the
14 amount of daily interest;

15 (4) a statement that the debtor may, within 15 days after
16 [OF] the postmark date of the notice, request a hearing to submit
17 evidence showing the debtor has not defaulted;

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

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

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

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

29 (b) In each case of a limited entry permit being pledged as

1 security under AS 16.10.333 or 16.10.338, the debtor shall maintain on
2 file with the department an address where notice of default is to be
3 sent, if necessary, and where that notice will be timely received by
4 the debtor.

5 (c) Upon presentation of evidence of mailing in accordance with
6 (a) of this section, the receipt of the notice of default by the
7 debtor will be presumed for all purposes. This presumption is re-
8 buttable by presentation of evidence sufficient to demonstrate lack of
9 receipt of notice through no fault of the debtor. Upon presentation
10 of evidence sufficient to prove lack of receipt of notice through no
11 fault of the debtor, the notice is a nullity.

12 (d) Upon good cause shown, the commissioner may waive any of the
13 time limits in (a) of this section, if the department receives from
14 the debtor or the debtor's representative a request for the waiver
15 before the expiration of the time limit for which the waiver is
16 sought.

17 (e) Except as otherwise provided in (c) and (d) of this section,
18 upon [UPON] the debtor's failure to satisfy the note within the time
19 specified in (a)(6) of this section, the debtor's interest in the
20 permit is terminated by operation of law without further notice. Any
21 entry permit cards issued to the debtor under the permit shall be
22 cancelled immediately upon receipt by the commission of a certificate
23 of termination containing a copy of the notice required by (a) of this
24 section issued by the commissioner.

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

26 Sec. 16.10.336. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
27 FORECLOSURE. The department shall dispose of property acquired
28 through default or foreclosure of a loan made under AS 16.10.300 -
29 16.10.370. Disposal shall be made in a manner that serves the best

1 interests of the state and may include the amortization of payments
2 over a period of years, but may not be by lease.

3 * Sec. 7. AS 44.81.210(a) is amended by adding a new paragraph to read:
4 (23) make a loan to a person, regardless of residency, if
5 the board of directors of the bank determines that the loan is neces-
6 sary to preserve the value of property held by the bank as security
7 for a loan that was made under (a)(1) of this section and that is in
8 default.

9 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).