

1 IN THE SENATE

BY ZHAROFF

2

SENATE BILL NO. 243

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to loans under the Commercial Fish-  
7 ing Loan Act and to limited entry permits pledged as  
8 security for those loans; and providing for an effec-  
9 tive date."

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

11 \* Section 1. AS 16.10.320(d) is amended to read:

12 (d) The total of balances outstanding on loans made to a borrow-  
13 er under AS 16.10.310(a)(1)(A) may not exceed \$300,000. The total of  
14 balances outstanding on loans made to a borrower under AS 16.10.-  
15 310(a)(1)(B) may not exceed \$250,000 [\$100,000].

16 \* Sec. 2. AS 16.10.335(a) is amended to read:

17 (a) If the debtor defaults upon a note for which a limited entry  
18 permit has been pledged as security under AS 16.10.333 or 16.10.338,  
19 the commissioner shall provide the debtor, by both certified and first  
20 class mail sent to the debtor's last known address on file with the  
21 commissioner, with a notice of default that includes

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

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

25 (3) the amount of the debtor's outstanding principal and  
26 interest [ARREARAGES] as of the date of the default notice, the total  
27 amount remaining on the note less unearned interest, and the amount of  
28 daily interest;

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

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

3 (5) a statement that the note may be reinstated if it is  
4 brought current within 120 [60] days after the postmark date of the  
5 notice;

6 (6) a statement that the debtor may reinstate the note by  
7 submitting to the commissioner a plan of refinancing that includes the  
8 debtor's tender of payment of at least 15 percent of the outstanding  
9 principal and interest as of the date of the notice of default, if the  
10 commissioner accepts the debtor's plan of refinancing;

11 (7) a statement that the debtor may nominate a person to  
12 assume the debt under the loan and, if the assumption of the debt is  
13 approved by the commissioner, transfer the debt and note to that  
14 person [NOTE MAY BE PAID IN FULL LESS UNEARNED INTEREST WITHIN 120  
15 DAYS AFTER THE POSTMARK DATE OF THE NOTICE];

16 (8) [(7)] the place where reinstatement of the note [OR  
17 PAYMENT IN FULL] may be made; and

18 (9) [(8)] a notice in at least 10-point bold type stating:  
19 "IMPORTANT: YOUR FAILURE TO REINSTATE [OR PAY] THIS NOTE [IN FULL] BY  
20 THE DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE  
21 PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST  
22 YOU."

23 \* Sec. 3. AS 16.10.335(d) is repealed and reenacted to read:

24 (d) If requested by the debtor, the commissioner may waive any  
25 of the time limits in (a) of this section if the debtor shows good  
26 cause.

27 \* Sec. 4. AS 16.10.335(e) is amended to read:

28 (e) Except as otherwise provided in (c) and (d) of this section,  
29 if the debtor fails [UPON THE DEBTOR'S FAILURE] to reinstate [SATISFY]

1 the note within the time specified in (a)(5) or (6) [(a)(6)] of this  
2 section, the debtor's interest in the permit is terminated by opera-  
3 tion of law without further notice. [ANY ENTRY PERMIT CARDS ISSUED TO  
4 THE DEBTOR UNDER THE PERMIT MUST BE CANCELLED IMMEDIATELY UPON RECEIPT  
5 BY THE COMMISSION OF A CERTIFICATE OF TERMINATION CONTAINING A COPY OF  
6 THE NOTICE REQUIRED BY (a) OF THIS SECTION ISSUED BY THE COMMISSION-  
7 ER.]

8 \* Sec. 5. AS 16.10.335 is amended by adding a new subsection to read:

9 (f) Notwithstanding (a) of this section, when a debtor files  
10 bankruptcy, the debtor's interest in the limited entry permit is  
11 terminated by operation of law without further notice as of the date  
12 that the automatic stay issued in the bankruptcy is no longer in  
13 effect, unless the debtor has reaffirmed the debt.

14 \* Sec. 6. AS 16.10.337(b) is amended to read:

15 (b) If the commission does not exercise its right of first  
16 refusal within 30 days after it receives the offer, or if the permit  
17 is not subject to a buy-back program under AS 16.43.290 - 16.43.330,  
18 the department shall promptly advertise and sell the permit. If the  
19 proceeds of the sale of a permit exceed the amount necessary to pay  
20 the note in full, plus penalties, costs of administration of the note,  
21 and attorney fees, the excess will be transferred by the commissioner  
22 to the debtor. At any time after the department forecloses on a  
23 permit under AS 16.10.325 and until the permit has been sold under  
24 this subsection the debtor may

25 (1) repurchase the permit by paying the department the  
26 amount necessary to pay the note in full, plus penalties, costs of  
27 administration of the note, and attorney fees, as determined by the  
28 commissioner;

29 (2) reinstate the note by submitting to the commissioner a

1 plan of refinancing that includes the debtor's tender of payment of at  
2 least 15 percent of the outstanding principal and interest as of the  
3 date of the notice of default, if the commissioner accepts the debt-  
4 or's plan of refinancing;

5 (3) nominate a person to assume the debt under the loan  
6 and, if the assumption of the debt is approved by the commissioner,  
7 transfer the debt and note to that person.

8 \* Sec. 7. AS 16.10.338 is amended by adding new subsections to read:

9 (b) If a limited entry permit is pledged for security for a loan  
10 made under AS 16.10.310(a)(1)(B) for the repair, restoration, upgrad-  
11 ing, construction, or purchase of a vessel and the borrower thereafter  
12 fails to make a payment or defaults, the commissioner shall, in addi-  
13 tion to the notice provided under AS 16.10.335(a), notify the borrower  
14 that subject to the commissioner's acceptance the borrower may sell  
15 the vessel and renegotiate payment of the balance due on the loan  
16 without loss of the limited entry permit that has been pledged for  
17 security for the loan.

18 (c) When a limited entry permit is pledged for security for a  
19 loan made under AS 16.10.310(a)(1)(B) after the effective date of this  
20 Act for the repair, restoration, upgrading, construction, or purchase  
21 of a vessel and it is possible for the commissioner to foreclose on  
22 the vessel, the commissioner may not foreclose on the permit unless  
23 the commissioner first obtains possession of the vessel through fore-  
24 closure and disposes of it as required by AS 16.10.355. After repos-  
25 sessed and selling the vessel, the commissioner shall renegotiate  
26 with the borrower whose vessel has been sold the repayment of the  
27 outstanding balance that remains on the loan.

28 \* Sec. 8. AS 16.10 is amended by adding a new section to read:

29 Sec. 16.10.353. WAIVER OF CONFIDENTIALITY. A person obtaining a

1 loan under AS 16.10.300 - 16.10.370 after the effective date of this  
2 Act may agree, by signing a form prepared for the purpose, to waive  
3 the confidential treatment of information about the borrower's loan.  
4 The borrower shall designate on the form the names of persons and  
5 organizations to whom information about the loan may be released. If  
6 the person agrees to a waiver under this section and thereafter re-  
7 quests two extensions of payments or defaults on the note, the commis-  
8 sioner may release information about the loan to the persons and  
9 organizations specified by the debtor.

10 \* Sec. 9. AS 16.43.960 is amended by adding a new subsection to read:

11 (j) The commission shall immediately cancel a limited entry  
12 permit card issued to a debtor under a loan made under AS 16.10.300 -  
13 16.10.370 when the commission receives a certificate of loan termina-  
14 tion containing a copy of the

15 (1) notice required by AS 16.10.335(a); or

16 (2) notice that the automatic stay issued if the debtor has  
17 filed bankruptcy is no longer in effect.

18 \* Sec. 10. This Act takes effect immediately under AS 01.10.070(c).