

CS FOR SENATE BILL NO. 132(RES)**IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - FIRST SESSION****BY THE SENATE RESOURCES COMMITTEE****Offered: 3/19/93
Referred: FINANCE****Sponsor(s): SENATOR JACKO****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to loans for the purchase of individual fishery quota shares;
2 and providing for an effective date."

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

4 * **Section 1. FINDINGS AND INTENT.** (a) The legislature finds that

5 (1) the individual fishery quota management system may, through attrition,
6 eventually concentrate ownership of the right to harvest the fishery resource in the hands of
7 those with the greatest wealth and financial advantages;

8 (2) implementation of the individual fishery quota management system may
9 create a privileged class of fishermen based on their fortuitous involvement in the fishing
10 industry during a particular period of time and will seriously inhibit those fishermen who wish
11 to enter those fisheries in the future;

12 (3) the individual fishery quota management system may seriously inhibit the
13 ability of fishermen to diversify among fisheries as resource and market conditions fluctuate
14 and will therefore hinder the ability of fishermen to operate stable and successful fishing

1 businesses.

2 (b) Due to the serious, compound, negative effects that implementation of the
3 individual fishery quota management system may have on individual fishermen, the
4 commercial fishing industry, and Alaska coastal communities with a fishing based economy,
5 it is the intent of the legislature that the state make loans available for the purchase of
6 individual fishery quota shares by individual commercial fishermen contingent upon approval
7 of individual fishery quota management program regulations by the United States Department
8 of Commerce.

9 * Sec. 2. AS 16.10.310(a) is amended to read:

10 (a) The department may

11 (1) make loans [TO]

12 (A) to individual commercial fishermen who have been state
13 residents for a continuous period of two years immediately preceding the date
14 of application for a loan under AS 16.10.300 - 16.10.370 and have had a
15 crewmember or commercial fishing license under AS 16.05.480 or a permit
16 under AS 16.43 for the year immediately preceding the date of application and
17 any other two of the past five years, and who actively participated in the
18 fishery during those periods, for the purchase of entry permits;

19 (B) to an individual for the repair, restoration, or upgrading of
20 existing vessels and gear, for the purchase of entry permits and gear, and for
21 the construction and purchase of vessels, if the individual has been a state
22 resident for a continuous period of two years immediately preceding the date
23 of application for a loan under AS 16.10.300 - 16.10.370, and either

24 (i) because of lack of training or lack of employment
25 opportunities in the area of residence does not have occupational
26 opportunities available other than commercial fishing; or

27 (ii) is economically dependent on commercial fishing for
28 a livelihood and for whom commercial fishing has been a traditional
29 way of life in Alaska;

30 (C) for the purchase of individual fishery quota shares in a
31 fishery occurring in or off the state by individual commercial fishermen

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who

(i) have been state residents for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370;

(ii) for the year immediately preceding the date of application for the loan and any other two of the past five years, had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 and actively participated in a fishery for which the license or permit was issued; and

(iii) qualify as a transferee for individual fishery quota shares under applicable law;

(D) for the purchase of individual fishery quota shares in a fishery occurring in or off the state by individual commercial fishermen

who

(i) have been state residents for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370;

(ii) received a loan for the purchase of individual fishery quota shares, from a recipient of a community development quota, that equals or exceeds the amount of the loan made by the department under this subparagraph; and

(iii) qualify as a transferee for individual fishery quota shares under applicable law;

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

(3) adopt regulations necessary to carry out the provisions of AS 16.10.300 - 16.10.370, including regulations to establish reasonable fees for services provided;

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

(5) enter into agreements with private lending institutions, other state

1 agencies, or agencies of the federal government, to carry out the purposes of
2 AS 16.10.300 - 16.10.370;

3 (6) enter into agreements with other agencies or organizations to create
4 an outreach program to make loans under AS 16.10.300 - 16.10.370 in rural areas of
5 the state;

6 (7) allow an assumption of a loan if

7 (A) the applicant has been a state resident for a continuous
8 period of two years immediately preceding the date of the request for an
9 assumption; and

10 (B) approval of the assumption would be consistent with the
11 purposes of AS 16.10.300; an applicant for a loan assumption may not be
12 disqualified because the applicant does not meet the loan eligibility
13 requirements of (1) of this subsection;

14 (8) prequalify loan applicants for a limited entry permit loan or an
15 individual fishery quota shares loan and charge a fee not to exceed \$200 for
16 prequalification;

17 (9) charge and collect the fees established under this subsection.

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

19 (d) The total of balances outstanding on loans made to a borrower under
20 AS 16.10.310(a)(1)(A) may not exceed \$300,000. The total of balances outstanding
21 on loans made to a borrower under AS 16.10.310(a)(1)(B) may not exceed \$100,000.
22 The total balances outstanding on loans made to a borrower under
23 AS 16.10.310(a)(1)(C) may not exceed \$300,000. The total balances outstanding
24 on loans made to a borrower under AS 16.10.310(a)(1)(D) may not exceed either
25 \$300,000 or the amount received by the borrower as loans for the purchase of
26 individual fishery quota shares from a recipient of a community development
27 quota.

28 * Sec. 4. AS 16.10.320(i) is amended to read:

29 (i) If a loan is made to a borrower under AS 16.10.310(a)(1)(A), a subsequent
30 loan may not be made to the borrower under AS 16.10.310(a)(1)(B). If a loan is made
31 to a borrower under AS 16.10.310(a)(1)(B), a subsequent loan may be made to the

1 borrower under AS 16.10.310(a)(1)(A) if the total of the balance outstanding on loans
2 received by the borrower under AS 16.10.310(a)(1)(A) and (B) [AS 16.10.310] does
3 not exceed \$300,000.

4 * Sec. 5. AS 16.10.325 is amended to read:

5 Sec. 16.10.325. GUARANTORS. A person may act as guarantor if the
6 borrower has insufficient collateral to secure a loan for the purposes described in
7 AS 16.10.310(a)(1)(B) - (D) [AS 16.10.310(a)(1)(B)]. The loan agreement shall
8 specifically describe the property of the guarantor to be used as collateral by the
9 borrower and shall be signed by the guarantor and the borrower. The department shall
10 provide the guarantor with a copy of all notices sent to the borrower by the
11 department. If the loan is for the purchase of an entry permit or individual fishery
12 quota shares, the guaranty by the guarantor may not constitute a lien, mortgage, or
13 encumbrance on or pledge of the entry permit or individual fishery quota shares.

14 * Sec. 6. AS 16.10.338 is amended by adding a new subsection to read:

15 (c) If a limited entry permit is pledged for security for a loan made under
16 AS 16.10.310(a)(1)(C) or (D) for the purchase of individual fishery quota shares and
17 the borrower thereafter fails to make a payment or defaults, the commissioner shall,
18 in addition to the notice provided under AS 16.10.335(a), notify the borrower that
19 subject to the commissioner's acceptance the borrower may sell the individual fishery
20 quota shares, apply the sales proceeds to the debt, and renegotiate payment of the
21 balance due on the loan to avoid the immediate loss of the limited entry permit that
22 has been pledged for security for the loan.

23 * Sec. 7. AS 16.10.360 is amended by adding new paragraphs to read:

24 (5) "individual fishery quota share" means a transferrable license,
25 permit, or right issued by the federal government that conveys a right to engage in a
26 fishery in or off the state and to take a specified portion of the annual harvest quota
27 for that fishery;

28 (6) "recipient of a community development quota" means a community,
29 local fishermen's organization, or local economic development organization that has
30 received a community development quota allocation to take a fishery resource in or
31 off the state from the United States Secretary of Commerce.

1 * Sec. 8. This Act takes effect on the effective date of regulations adopted by the United
2 States Department of Commerce providing for the allocation of catch quotas of Pacific halibut
3 or sablefish in or off of Alaska. The commissioner of fish and game shall promptly notify
4 the revisor of statutes and the lieutenant governor of the adoption of the regulations described
5 in this section.