

CS FOR SENATE BILL NO. 132(RES) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Amended: 4/12/93
Offered: 3/19/93

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 (c) It is the intent of the legislature that the authority granted by this Act be
10 implemented without affecting the commercial fishing revolving loan fund for loans to
11 purchase entry permits and to purchase, repair, restore, or upgrade vessels and gear.

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

13 (a) The department may

14 (1) make loans [TO]

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

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

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

30 (ii) is economically dependent on commercial fishing for
31 a livelihood and for whom commercial fishing has been a traditional

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way of life in Alaska;

(C) 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) 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

1 include extensions for poor fishing seasons or for adverse market conditions for
2 Alaskan products;

3 (5) enter into agreements with private lending institutions, other state
4 agencies, or agencies of the federal government, to carry out the purposes of
5 AS 16.10.300 - 16.10.370;

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

9 (7) allow an assumption of a loan if

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

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

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

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

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

22 (d) The total of balances outstanding on loans made to a borrower under
23 AS 16.10.310(a)(1)(A) may not exceed \$300,000. The total of balances outstanding
24 on loans made to a borrower under AS 16.10.310(a)(1)(B) may not exceed \$100,000.
25 The total balances outstanding on loans made to a borrower under
26 AS 16.10.310(a)(1)(C) may not exceed \$300,000. The total balances outstanding
27 on loans made to a borrower under AS 16.10.310(a)(1)(D) may not exceed either
28 \$300,000 or the amount received by the borrower as loans for the purchase of
29 individual fishery quota shares from a recipient of a community development
30 quota.

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

1 (i) If a loan is made to a borrower under AS 16.10.310(a)(1)(A), a subsequent
2 loan may not be made to the borrower under AS 16.10.310(a)(1)(B). If a loan is made
3 to a borrower under AS 16.10.310(a)(1)(B), a subsequent loan may be made to the
4 borrower under AS 16.10.310(a)(1)(A) if the total of the balance outstanding on loans
5 received by the borrower under AS 16.10.310(a)(1)(A) and (B) [AS 16.10.310] does
6 not exceed \$300,000.

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

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

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

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

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

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

31 (6) "recipient of a community development quota" means a community,

1 local fishermen's organization, or local economic development organization that has
2 received a community development quota allocation to take a fishery resource in or
3 off the state from the United States Secretary of Commerce.

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