

HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
CS HB 227 (FINANCE)

This legislation is designed to help ensure that Alaska fishermen have some recourse when a fish processor or primary fish buyer fails to make promised payments for the delivery of raw fisheries resources. The effectiveness of this surety bond program is questionable unless fishermen are aware of how the program works.

The Fourteenth Alaska Legislature respectfully requests the Alaska Department of Labor to work closely with the Office of Commercial Fisheries Development, Alaska Department of Commerce and Economic Development in the development of an educational program for the surety bond program. These agencies should work through the Alaska Marine Advisory Program, commercial fishermen's organizations, Native groups, fish and game advisory committees and the news media reaching coastal Alaska and the fishing fleets.



Al Adams, Chair
House Finance Committee

Original sponsor: Binkley

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 227 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fish processors and primary fish
7 buyers; and providing for an effective date."

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

9 * Section 1. AS 16.10.290(a) is amended to read:

10 (a) A person applying for a license as a fish processor or
11 primary fish buyer shall file with the commissioner of labor a surety
12 bond running to the State of Alaska conditioned upon the promise to
13 pay (1) all persons furnishing labor to a fish processor or primary
14 fish buyer, including contractual employee benefits; and (2) indepen-
15 dent registered commercial fishermen for the price of the raw fishery
16 resource purchased from them. The surety or sureties shall be satis-
17 factory, in the determination of the commissioner.

18 * Sec. 2. AS 16.10.290(b) is amended to read:

19 (b) The amount of the bond shall be \$10,000 unless, during the
20 preceding five years, that amount was insufficient to satisfy a final
21 judgment resulting from a claim asserted against the bond, cash depos-
22 its, or other security filed under this section. If \$10,000 was
23 insufficient, the bond shall be \$50,000; if \$50,000 was insufficient,
24 the bond shall be \$100,000. If the commissioner determines that
25 during the preceding five years, a fish processor or primary fish
26 buyer (1) has engaged in the business of fish processor or primary
27 fish buyer in the state while not in compliance with this section and
28 (2) has not yet satisfied a final judgment entered against the pro-
29 cessor or fish buyer for payment for labor furnished to, or raw

1 fishery resources purchased by, the processor or fish buyer, then the
2 amount of the bond for the processor or fish buyer shall be \$100,000.

3 In lieu of the surety bond the fish processor or primary fish buyer
4 may file with the commissioner a cash deposit or other negotiable
5 security acceptable to the commissioner in the amount specified for
6 the bond. If no claim is asserted under this section within two years
7 from the date the bond, cash deposit or other security is filed, the
8 term of the bond, cash deposit or other security shall be two years;
9 if a claim has been asserted within two years, the term of the bond,
10 cash deposit or other security shall be for five years.

11 * Sec. 3. AS 16.10.290(c) is repealed and reenacted to read:

12 (c) A bond is not required if the fish processor or primary fish
13 buyer has more than the amount of the bond in lienable property in the
14 state and provides proof of the property satisfactory to the commis-
15 sioner.

16 * Sec. 4. AS 16.10.291 is repealed and reenacted to read:

17 Sec. 16.10.291. EXEMPTION FROM BONDING REQUIREMENTS. A fish
18 processor or primary fish buyer that does not purchase fish or hire
19 employees is exempt from the bonding requirements of AS 16.10.290 -
20 16.10.296.

21 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).
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26
27
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29

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CS HB 227 (Fin)
 Title : Bonding for fish processors and fish buyers
 Sponsor : Binkley
 Requestor : HFC
 Date of Request : 2/21/86

FISCAL DETAIL

Agency Affected : Labor
 BRU : Labor Standards & Safety
 Components : Wage and Hour

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Fiscal notes for all previous versions of the bill have been zero. This C.S. does not change the fiscal impact of the bill.

Prepared by : Al Adams, Chair *APA* Phone : 465-3706
 Division : House Finance Committee Date : 2/21/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



Alaska State Legislature

House of Representatives

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-4924

Official Business

Special Committee on Fisheries

Out 3/5

M E M O R A N D U M

February 4, 1986

TO: Irene Cashen
Chief Clerk

FROM: Representative Peter Goll
Chairman, House Special Committee on Fisheries

SUBJECT: Letter of Intent for CS HB227 (Fisheries)

LETTER OF INTENT
CSHB 227 (Fisheries)

This legislation is designed to help ensure that Alaska fishermen have some recourse when a fish processor or primary fish buyer fails to make promised payments for the delivery of raw fisheries resources. The effectiveness of this surety bond program is questionable unless fishermen are aware of how the program works.

The Fourteenth Alaska Legislature respectfully requests the Alaska Department of Labor to work closely with the Office of Commercial Fisheries Development, Alaska Department of Commerce and Economic Development in the development of an educational program for the surety bond program. These agencies should work through the Alaska Marine Advisory Program, commercial fishermen's organizations, Native groups, fish and game advisory committees and the news media reaching coastal Alaska and the fishing fleets.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 19, 1986

SUBJECT: Definition of "person" - CSHB 227 (Resources)
TO: Representative John Sund
FROM: Edward H. Hein *EHH*
Legislative Counsel

Your aide, Howard Wayne, and Shocky Greenberg of Representative Herrmann's office yesterday asked whether the definition of "person" that appears in AS 01.10.060(8) covers everything that is included in the definition of "person" in section 5 of CSHB 227 (Resources), relating to the fish processors' bond.

The definition in section 5 of the bill reads: "person" means an individual, a corporation, partnership, association, or joint stock company. The definition in AS 01.10.060(8) reads: "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

The terms used in the AS 01 definition of "person" are generic and were intended to be broad. "Company" would include a joint stock company. A "natural person" has the same meaning as an individual. "Corporation," "partnership," and "association" are included in both definitions.

The only differences between the coverage of the two definitions is that the AS 01 definition includes more terms and that it applies to all of AS 16.10; whereas the section 5 definition applies only to AS 16.10.290 - 16.10.291.

The section 5 definition to the bill is needed only if your intent is to limit the definition of "person" to the five terms listed, for the purposes of AS 16.10.290 - 16.10.291. If the broader definition of AS 01 suffices, then section 5 of the bill may be safely deleted.

If you have further questions or comments, feel free to contact me at your convenience.

EHH:csh
c5/081

cc: Representative Binkley, Representative Adams

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



POUGHV
JUNEAU ALASKA 99811
(907) 465-4737
PO BOX 1085
BETHEL, ALASKA 99559
(907) 543-2922

REPRESENTATIVE JOHNE BINKLEY

*This applies to
ALASKA C.S.
+ proposed
M-C C.S.
top.*

February 13, 1986

MEMORANDUM

To: House Resources Committee

From: Representative John Binkley *John B.*

Re: House Bill 227

After numerous revisions since this bill was introduced on February 22, 1985, the House Special Committee on Fisheries passed HB 227.

House Bill 227 provides for an increased bond rate to \$50,000 or \$100,000 depending on previous final judgements filed against a fish processor or primary fish buyer. It attempts to address situations where the previous bond was inadequate to satisfy claims.

Operators who do not purchase fish or hire employees are exempt from the bonding requirements.

The bill requires those that were not in compliance with the bonding requirements and had not satisfied a final judgement, to post a bond at \$100,000. In Quinhagak last year, 42 fishermen and 20 employees were owed an estimated \$21,000 from a fish buyer who did not post a bond. In Elim about 16 fishermen were owed about \$11,000. In Klawock one fish buyer was assessed one final judgement which ate up his \$10,000 bond, other fishermen have filed against the fish buyer.

A letter of intent is attached to the bill to request the Department of Labor to work closely with the Department of Commerce and Economic Development to develop an educational program for fishermen and fishermen's groups throughout the state. This would be done using existing resources within these departments. A zero fiscal note is attached.

This bill would take effect immediately upon passage and signature of the Governor, and would apply towards the upcoming fishing season.

Bill No. Committee Substitute for House Bill No. 227
(Resources)

Date February 19, 1986

Title "An Act relating to surety for collection of wages and payment."

Contact: Eileen Plate
465-2700
Robert J. Bacolas
465-4870

This bill provides for an increase in the bonding requirements for fish processors and primary fish buyers if the processors or buyers previous bonding was insufficient to satisfy judgments against it. Basically, the bill provides for bonding commensurate with the processor's or buyer's track record during previous bonding periods.

The provisions of this bill, therefore, appear to be an equitable solution to the fish processor and buyer bonding problem in that they provide for the increased bonding sanction to only be imposed on those processors and buyers who fail to meet their obligations.

This legislation would not have a fiscal impact on the Department of Labor.

APPROVED:



Jim Robison, Commissioner
Department of Labor

POSITION _____ Department of Labor

Offered: 2/17/86
Referred: Finance

Original sponsor: Binkley

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 CS FOR HOUSE BILL NO. 227 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fish processors and primary fish
7 buyers; and providing for an effective date."

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

9 * Section 1. AS 16.10.290(a) is amended to read:

10 (a) A person applying for a license as a fish processor or
11 primary fish buyer shall file with the commissioner of labor a surety
12 bond running to the State of Alaska conditioned upon the promise to
13 pay (1) all persons furnishing labor to a fish processor or primary
14 fish buyer, including contractual employee benefits; and (2) indepen-
15 dent registered commercial fishermen for the price of the raw fishery
16 resource purchased from them. The surety or sureties shall be satis-
17 factory, in the determination of the commissioner.

18 * Sec. 2. AS 16.10.290(b) is amended to read:

19 (b) The amount of the bond shall be \$10,000 unless, during the
20 preceding five years, that amount was insufficient to satisfy a final
21 judgment resulting from a claim asserted against the bond, cash depos-
22 its, or other security filed under this section. If \$10,000 was
23 insufficient, the bond shall be \$50,000; if \$50,000 was insufficient,
24 the bond shall be \$100,000. If the commissioner determines that
25 during the preceding five years, a fish processor or primary fish
26 buyer (1) has engaged in the business of fish processor or primary
27 fish buyer in the state while not in compliance with this section and
28 (2) has not yet satisfied a final judgment entered against the pro-
29 cessor or fish buyer for payment for labor furnished to, or raw

1 fishery resources purchased by, the processor or fish buyer, then the
2 amount of the bond for the processor or fish buyer shall be \$100,000.
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8 term of the bond, cash deposit or other security shall be two years;
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11 * Sec. 3. AS 16.10.290(c) is repealed and reenacted to read:

12 (c) A bond is not required if the fish processor or primary fish
13 buyer has more than the amount of the bond in lienable property in the
14 state and provides proof of the property satisfactory to the commis-
15 sioner.

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18 processor or primary fish buyer that does not purchase fish or hire
19 employees is exempt from the bonding requirements of AS 16.10.290 -
20 16.10.296.

21 * Sec. 5. AS 16.10.296 is amended by adding a new subsection to read:

22 (b) In AS 16.10.290 - 16.10.291, "person" means an individual, a
23 corporation, partnership, association, or joint stock company.

24 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
25 10.070(c).

Offered: 2/5/86
Referred: Resources and
Finance

Original sponsor: Binkley

1 IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON FISHERIES

2

CS FOR HOUSE BILL NO. 227 (Fisheries)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to fish processors and primary fish
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19 employees is exempt from the bonding requirements of AS 16.10.290 -
20 16.10.296.

21 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

Introduced: 2/22/85
Referred: House Special Committee
on Fisheries, Resources and Finance

1 IN THE HOUSE

BY BINKLEY

2

HOUSE BILL NO. 227

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to fish processors and primary fish
7 buyers."

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

9 * Section 1. AS 16.10 is amended by adding new sections to read:

10 Sec. 16.10.285. NOTICE OF BONDED AND LICENSED OPERATORS. The
11 Department of Fish and Game shall maintain a list of fish processors
12 and primary fish buyers who have furnished to the department a written
13 statement of intent to operate. The list shall specify whether the
14 processor or buyer has complied with the security bond requirements of
15 AS 16.10.290 - 16.10.296 and has been issued a valid Alaska Business
16 License or Fisheries Business License by the Department of Revenue.
17 The list shall note the processor's or buyer's standing, if any, with
18 the Alaska Better Business Bureau and membership in a chamber of
19 commerce in the state. The Department of Fish and Game shall, at the
20 beginning of each commercial fishing season,

21 (1) publish the list in a newspaper of general circulation
22 that serves each area of the state in which the fish processors and
23 primary fish buyers have stated an intent to operate; and

24 (2) distribute copies of the list to the offices of local
25 governments and village councils and to fishermen's associations in
26 the areas of the state in which the fish processors and primary fish
27 buyers have stated an intent to operate.

28 Sec. 16.10.286. INSPECTION OF LICENSES. Enforcement officers of
29 the division of fish and wildlife protection shall regularly inspect

1 fish processors and primary fish buyers for possession of proper
2 licenses.

3 * Sec. 2. AS 16.10.290(b) is amended to read:

4 (b) The amount of the bond shall be \$100,000 [\$10,000]. In lieu
5 of the surety bond the fish processor or primary fish buyer may file
6 with the commissioner a cash deposit or other negotiable security
7 acceptable to the commissioner in the amount specified for the bond.
8 If no claim is asserted under this section within two years from the
9 date the bond, cash deposit or other security is filed, the term of
10 the bond, cash deposit or other security shall be two years; if a
11 claim has been asserted within two years, the term of the bond, cash
12 deposit or other security shall be for five years.

13 * Sec. 3. AS 16.10.290(c) is amended to read:

14 (c) A person applying for a license as a fish processor or
15 primary fish buyer who has less than \$100,000 [\$10,000] in lienable
16 property in the state, with proof of the property satisfactorily made
17 to the commissioner, shall file with the application a bond or other
18 security as specified in this section. A [NO] bond is not required if
19 the fish processor or primary fish buyer has more than \$100,000
20 [\$10,000] in lienable property as specified in this subsection. An
21 appraiser from the area of the state in which the lienable property is
22 located may be used to determine the value of the property for
23 purposes of this subsection.