

**HB**

**287**

HFIN

FILE



# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 287(FSH)  
(H) Publish Date: 3/6/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish & Game  
Title Exemption of commercial fishing entry permits BRU Comm Fish Entry Commission  
from claims of creditors Component Comm Fish Entry Commission  
Sponsor Rep. Scelzi  
Requester House Fisheries Component No. 271

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact

Prepared by: Roger Kolden  
Division: Commercial Fisheries Entry Commission  
Approved by: Mary McDowell, Commissioner  
Agency: Commercial Fisheries Entry Commission

Phone 790-6950  
Date/Time 3/4/02 12:16 PM  
Date 03/04/2002

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 287(FSH)  
(H) Publish Date: 3/6/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title: Exempt Entry Permits from Creditor Claims BRU: Investments (122)  
Component: Investments  
Sponsor: Representative Scalzi  
Requester: House Special Committee on Fisheries Component No.: 353

**Expenditures/Revenues** (Thousands of Dollars)  
Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 21608 )</b>	<b>(21.8)</b>	<b>(15.2)</b>	<b>(15.2)</b>	<b>(15.2)</b>	<b>(15.2)</b>	<b>(15.2)</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
Section 2 of HB 287 removes the one-half percent refinancing fee and that will result in a reduction of income to the Commercial Fishing Revolving Loan Fund (CFRLF). Interest rates are currently at record lows and as a result, the Division anticipates that the majority of borrowers eligible to refinance will do so prior to the effective date of this legislation. We expect approximately 100 refinancing applications in FY 03 and then approximately 70 applications per year thereafter. This will result in a reduction to the fund in FY 03 of \$21,750 and a reduction of \$15,225 each year thereafter through FY 08. These reductions were calculated as follows:

100 loans X \$43,500 (average loan size) = \$4,350,000 X .005 = \$21,750  
70 loans X \$43,500 = \$3,045,000 X .005 = \$15,225

These calculations are based interest rates remaining relatively flat or increasing gradually through FY 08.

Prepared by: Greg Winegar, Director Phone 465-2510  
Division: Investments Date/Time 2/7/02 4:50 PM  
Approved by: Deborah B. Sedwick, Commissioner Date 2/7/2002  
Agency: Department of Community & Economic Development

22-LS1106\S  
Utermohle  
4/24/02

*Adopted  
4/25/02*

**CS FOR HOUSE BILL NO. 287(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES SCALZI, Hudson, Fate**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the exemption of commercial fishing entry permits from claims of  
2 creditors and execution on an interest in a limited entry permit; and providing for an  
3 effective date."

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

5 \* **Section 1.** AS 09.38.015(a) is amended to read:

6 (a) An individual is entitled to exemption of the following property:

7 (1) a burial plot for the individual and the individual's family;

8 (2) health aids reasonably necessary to enable the individual or a  
9 dependent to work or to sustain health;

10 (3) benefits paid or payable for medical, surgical, or hospital care to  
11 the extent they are or will be used to pay for the care;

12 (4) an award under AS 18.67 (Violent Crimes Compensation Board) or  
13 a crime victim's reparations act of another jurisdiction;

14 (5) benefits paid or payable as a longevity bonus under AS 47.45;

1 (6) compensation or benefits paid or payable and exempt under federal  
2 law;

3 (7) liquor licenses granted under AS 04;

4 (8) [LIMITED ENTRY PERMITS GRANTED UNDER AS 16.43,  
5 EXCEPT AS PROVIDED IN THAT CHAPTER;

6 (9)] tuition credit or savings accounts under a higher education savings  
7 account established under AS 14.40.802 or an advance college tuition savings contract  
8 authorized under AS 14.40.809(a);

9 (9) [(10)] a permanent fund dividend to the extent allowed under  
10 AS 45.23.065.

11 \* Sec. 2. AS 16.43.170(g) is amended to read:

12 (g) A person may request the commission to transfer an entry permit due to an  
13 execution on a permit [THE] holder's interest in that permit if the execution is to  
14 enforce a lien recorded with the commission under AS 25.27.230(c). The request  
15 shall be made in the form and manner provided in this chapter and regulations adopted  
16 under this chapter. The commission may deny a request for transfer of an entry permit  
17 due to an execution of a holder's interest in that permit if

18 (1) the execution does not comply with legal requirements or otherwise  
19 is not valid;

20 (2) the transfer violates this chapter or regulations adopted under this  
21 chapter;

22 (3) the proposed transferee or other party to the transfer is prohibited  
23 by law from participating in the transaction;

24 (4) a certificate for the permit under AS 16.10.333(b)(1) - (2),  
25 16.10.338, or AS 44.81.231(a) is in effect at the time of the proposed transfer;

26 (5) the proposed transferee of the entry permit, other than the  
27 commission, cannot demonstrate the present ability to actively participate in the  
28 fishery; or

29 (6) the holder of the entry permit as shown by the records of the  
30 commission demonstrates, under regulations adopted by the commission, that the  
31 entry permit is a necessary means of support for the holder and those dependent upon

1 . the holder.

2 \* Sec. 3. AS 16.43 is amended by adding a new section to read:

3           Sec. 16.43.945. Commercial fishing privileges exempt from claims of  
4 creditors. Except as provided in AS 16.10.333 - 16.10.338, AS 16.43.170(g),  
5 AS 44.81.215, and 44.81.231 - 44.81.250, commercial fishing privileges granted under  
6 this chapter, including entry permits, are exempt from claims of creditors, including  
7 claims under AS 09.38.065 and AS 45.29.408.

8 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

## Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway  
Juneau, AK 99801



Phone 907-586-6652

Fax 907-586-5648

E-mail: seafa@gci.net

April 11, 2002

Representative Bill Williams, Co-Chair  
Representative Eldon Mulder, Co-Chair  
House Finance Committee  
Alaska State Legislature  
State Capitol Room 519  
Juneau, AK 99801

RE: CSHB 287(Fin) – Oppose

Southeast Alaska Fishermen's Alliance (SEafa) testified this morning in support of the protections that HB 287 provided limited entry permit holder by making the clear statement that a limited entry permit is a use privilege and not a "property right". This is the assertion that the State of Alaska has always made and this just reinforces that claim within statute. We need this protection at this time more than ever while the commercial fishing industry is struggling and in the process of considering major change.

CSHB 287(Fin) appears to roll HB 456 into HB 287. Fishermen and others need the opportunity to comment on the aspects contained in HB 456. HB 456 and in return CSHB 287 (Fin) version appears to make radical changes to the Division of Investments and the Commercial Fishing Loan program. This program is part of the fabric that holds part of the commercial fishing industry together. This is not the time to make radical changes. The Commercial Fishing loan program will be considered during the process of the Joint Legislative Salmon Industry Task Force. If changes need to occur to Division of Investments and the Commercial Fishing Loan program let appropriate changes be forwarded that work with other changes that will be proposed to the salmon fishing industry during the Joint Legislative Task force.

Please do not adopt the CS to HB 287 and allow the bill as presented this morning to move forward.

Sincerely,

A handwritten signature in black ink that reads "Kathy Hansen" with a long horizontal line extending to the right.

Kathy Hansen  
Executive Director

22-LS1106\O  
Utermohle  
4/10/02

CS FOR HOUSE BILL NO. 287(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES SCALZI, Hudson, Fate

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the exemption of commercial fishing entry permits from claims of  
2 creditors, to the legal status of limited entry permits, and to the commercial fishing loan  
3 program; and providing for an effective date."

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

5 \* Section 1. AS 09.38.015(a) is amended to read:

6 (a) An individual is entitled to exemption of the following property:

7 (1) a burial plot for the individual and the individual's family;

8 (2) health aids reasonably necessary to enable the individual or a  
9 dependent to work or to sustain health;

10 (3) benefits paid or payable for medical, surgical, or hospital care to  
11 the extent they are or will be used to pay for the care;

12 (4) an award under AS 18.67 (Violent Crimes Compensation Board) or  
13 a crime victim's reparations act of another jurisdiction;

14 (5) benefits paid or payable as a longevity bonus under AS 47.45;

1 (6) compensation or benefits paid or payable and exempt under federal  
2 law;

3 (7) liquor licenses granted under AS 04;

4 (8) [LIMITED ENTRY PERMITS GRANTED UNDER AS 16.43,  
5 EXCEPT AS PROVIDED IN THAT CHAPTER;

6 (9)] tuition credit or savings accounts under a higher education savings  
7 account established under AS 14.40.802 or an advance college tuition savings contract  
8 authorized under AS 14.40.809(a);

9 (9) [(10)] a permanent fund dividend to the extent allowed under  
10 AS 43.23.065.

11 \* Sec. 2. AS 16.10.300 is amended to read:

12 Sec. 16.10.300. Declaration of policy. It is the policy of the state, under  
13 AS 16.10.300 - 16.10.370, to support the participation of resident commercial  
14 fishermen in those areas and fisheries of the state in which the financing needs of  
15 fishermen are not adequately served by private lending institutions [PROMOTE  
16 THE REHABILITATION OF THE STATE'S FISHERIES, THE DEVELOPMENT  
17 OF A PREDOMINANTLY RESIDENT FISHERY, AND THE CONTINUED  
18 MAINTENANCE OF COMMERCIAL FISHING GEAR AND VESSELS  
19 THROUGHOUT THE STATE BY MEANS OF LONG-TERM LOW INTEREST  
20 LOANS].

21 \* Sec. 3. AS 16.10 is amended by adding a new section to read:

22 Sec. 16.10.311. Powers of the department. (a) The department may

23 (1) make loans to individual commercial fishermen who have been  
24 state residents for a continuous period of two years immediately preceding the date of  
25 application for a loan under AS 16.10.300 - 16.10.370 for the repair, restoration, or  
26 upgrading of existing vessels and gear, for the purchase of entry permits and gear, for  
27 the purchase of quota shares for fisheries in or off the state, for the construction and  
28 purchase of vessels or, to the extent allowed under (c) of this section, to satisfy past  
29 due federal tax obligations that may result in the execution on and involuntary transfer  
30 of the individual's entry permits if the individual either

31 (A) because of lack of training or lack of employment

1 opportunities in the area of residence, does not have occupational opportunities  
2 available other than commercial fishing; or

3 (B) is economically dependent on commercial fishing for a  
4 livelihood and commercial fishing has been a traditional way of life in the state  
5 for the individual;

6 (2) adopt regulations necessary to carry out the provisions of  
7 AS 16.10.300 - 16.10.370, including regulations to establish reasonable fees for  
8 services provided and regarding loans for an entry permit and for which an entry  
9 permit is used as collateral;

10 (3) establish amortization plans for repayment of loans, which may  
11 include extensions for poor fishing seasons or for adverse market conditions for  
12 Alaska products;

13 (4) enter into agreements with other state agencies or agencies of the  
14 federal government to carry out the purposes of AS 16.10.300 - 16.10.370;

15 (5) enter into agreements with other state agencies to create an  
16 outreach program to make loans under AS 16.10.300 - 16.10.370 in rural areas of the  
17 state;

18 (6) allow an assumption of a loan if

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

22 (B) approval of the assumption would be consistent with the  
23 purpose of AS 16.10.300 - 16.10.370; an applicant for a loan assumption may  
24 not be disqualified because the applicant does not meet the loan eligibility  
25 requirements of (1)(A) or (B) of this subsection;

26 (7) prequalify loan applicants for a limited entry permit loan or a quota  
27 shares loan and charge a fee not to exceed \$50 for prequalification;

28 (8) charge and collect the fees established under this subsection;

29 (9) refinance a debt obligation to another lender incurred by a  
30 borrower or borrowers if the borrower or borrowers otherwise qualify for a loan under  
31 AS 16.10.300 - 16.10.370; the department shall collect a refinancing loan origination

1 charge of one-half of one percent of the amount of the debt obligation that has been  
2 refinanced when the first refinancing payment is due.

3 (b) In determining whether an individual commercial fisherman is reasonably  
4 likely to be able to repay a loan made under AS 16.10.300 - 16.10.370, the  
5 commissioner shall consider the individual commercial fisherman's income from  
6 commercial fishing and from all other sources.

7 (c) The department may not make a loan to an individual under (a)(1) of this  
8 section to satisfy past due federal tax obligations unless the individual has filed past  
9 and current federal tax returns with the federal government and has executed an  
10 agreement with the federal government for repayment of past due federal tax  
11 obligations. During an individual's lifetime, the individual may receive only one loan  
12 to satisfy past due federal tax obligations under (a)(1) of this section, whether under  
13 (a)(1) of this section or under any other former version of AS 16.10.310(a). A loan  
14 made under (a)(1) of this section to satisfy past due federal tax obligations may not  
15 exceed \$35,000.

16 \* Sec. 4. AS 16.10.320(a) is amended to read:

17 (a) A [EXCEPT AS PERMITTED IN (h) OF THIS SECTION, A] loan under  
18 AS 16.10.300 - 16.10.370

19 (1) may not exceed an original [A] term of 15 years [, EXCEPT FOR  
20 EXTENSIONS UNDER AS 16.10.310(a)(4)];

21 (2) must bear a fixed annual rate of interest of not less than 6.5  
22 percent nor more than 10.5 [MAY NOT BEAR INTEREST EXCEEDING 10 1/2]  
23 percent;

24 (3) may not exceed \$35,000;

25 (4) must be secured by a first priority lien and appropriate security  
26 agreement;

27 (5) [(4)] may not exceed 80 [90] percent of the [APPRAISED] value,  
28 as determined by the department, of the collateral used to secure the loan; and

29 (6) [(5)] may not be made to a person who has a past due child support  
30 obligation established by court order or by the child support enforcement division  
31 under AS 25.27.160 - 25.27.220 at the time of application.

1 \* Sec. 5. AS 16.10.320(e) is amended to read:

2 (e) Two or more individual commercial fishermen who each satisfy the  
3 requirements specified in AS 16.10.311 [AS 16.10.310(a)(1)(B)] may jointly, whether  
4 operating as a corporation, partnership, joint venture, or otherwise, obtain a  
5 commercial fishing loan for the repair, restoration, or upgrading of an existing vessel  
6 and gear, for the purchase of gear, and for the construction or the purchase of a fishing  
7 vessel. Loans granted under this subsection may not exceed the amount specified in  
8 (a) [(d)] of this section multiplied by the number of qualified commercial fishermen  
9 applying for the loan.

10 \* Sec. 6. AS 16.10.320 is amended by adding new subsections to read:

11 (k) An individual borrower may not be liable, at any one time or in any  
12 capacity, for repayment of more than two loans made under AS 16.10.300 - 16.10.370.

13 (l) The department may not permit or record a payment in reduction of  
14 principal to a loan for which any amount of interest due and payable has not been paid.

15 \* Sec. 7. AS 16.10.325 is amended to read:

16 Sec. 16.10.325. Guarantors. A person may act as guarantor if the borrower  
17 has insufficient collateral to secure a loan for the purposes described in AS 16.10.311  
18 [AS 16.10.310(a)(1)(B) OR (C)]. The loan agreement must [shall] specifically  
19 describe the property of the guarantor to be used as collateral by the borrower and  
20 shall be signed by the guarantor and the borrower. The department shall provide the  
21 guarantor with a copy of all notices sent to the borrower by the department. If the loan  
22 is for the purchase of an entry permit or quota shares, the guaranty by the guarantor  
23 may not constitute a lien, mortgage, or encumbrance on or pledge of the entry permit  
24 or quota shares.

25 \* Sec. 8. AS 16.10.333(a) is amended to read:

26 (a) Loans under AS 16.10.311 [AS 16.10.310(a)] may be made to an  
27 individual commercial fisherman for the purchase of a limited entry permit upon  
28 certification by the commission that the fisherman is a person who qualifies as a  
29 transferee for the permit under AS 16.43 and the regulations adopted by the  
30 commission.

31 \* Sec. 9. AS 16.10.335(a) is amended to read:

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

5 (1) a description of the security given for the note including the  
6 number assigned to the pledged permit by the commission;

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

8 (3) the amount of the debtor's outstanding principal and interest as of  
9 the date of the default notice, the total amount remaining on the note less unearned  
10 interest, and the amount of daily interest;

11 (4) a statement that the debtor may, within 15 days after the postmark  
12 date of the notice, request a hearing to submit evidence showing the debtor has not  
13 defaulted;

14 (5) a statement that the note may be reinstated if it is brought current  
15 within 120 days after the postmark date of the notice;

16 (6) a statement that [, UNDER AS 16.10.310(a)(4),] the debtor may  
17 reinstate the note by submitting to the commissioner a plan of repayment if the  
18 commissioner accepts the debtor's plan of repayment;

19 (7) the place where reinstatement of the note or payment in full may be  
20 made; and

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

26 \* **Sec. 10.** AS 16.10.338 is amended to read:

27 **Sec. 16.10.338. Entry permits as collateral.** (a) Alaska limited entry  
28 permits may be used as security for loans under AS 16.10.311 [AS 16.10.310(a)].  
29 The provisions of AS 16.10.335 and 16.10.337 apply to Alaska limited entry permits  
30 pledged as security for loans in accordance with this section.

31 (b) If a limited entry permit is pledged for security for a loan made under

1        AS 16.10.311 [AS 16.10.310(a)(1)(B)] for the repair, restoration, upgrading,  
2        construction, or purchase of a vessel and the borrower thereafter fails to make a  
3        payment or defaults, the commissioner shall, in addition to the notice provided under  
4        AS 16.10.335(a), notify the borrower that subject to the commissioner's acceptance the  
5        borrower may sell the vessel, apply the sales proceeds to the debt, and renegotiate  
6        payment of the balance due on the loan to avoid the immediate loss of the limited  
7        entry permit that has been pledged for security for the loan.

8            (c) If a limited entry permit is pledged for security for a loan made under  
9        AS 16.10.311 [AS 16.10.310(a)(1)(C)] for the purchase of quota shares and the  
10       borrower thereafter fails to make a payment or defaults, the commissioner shall, in  
11       addition to the notice provided under AS 16.10.335(a), notify the borrower that subject  
12       to the commissioner's acceptance the borrower may sell the quota shares, apply the  
13       sales proceeds to the debt, and renegotiate payment of the balance due on the loan to  
14       avoid the immediate loss of the limited entry permit that has been pledged for security  
15       for the loan.

16       \* Sec. 11. AS 16.10.340(a) is amended to read:

17            (a) There is a commercial fishing revolving loan fund to carry out the purpose  
18       of AS 16.10.300 - 16.10.370. The commissioner shall administer the fund.

19       \* Sec. 12. AS 16.10.340 is amended by adding new subsections to read:

20            (d) There is established as a special account within the commercial fishing  
21       revolving loan fund the foreclosure expense account. The commissioner may expend  
22       money credited to the foreclosure expense account when necessary to protect the  
23       state's security interest in collateral on loans granted under AS 16.10.300 - 16.10.370  
24       or to defray expenses incurred during foreclosure proceedings after a default by an  
25       obligor.

26            (e) On February 1 of each calendar year, the department shall submit to the  
27       legislature a report of summaries, analyses, and projections as of December 31 of the  
28       preceding calendar year that sets out the net cash balance of the fund available and  
29       necessary to carry out the purpose of AS 16.10.300 - 16.10.370 during the two fiscal  
30       years following the submission of the report.

31            (f) If the legislature determines that the fund contains money that is excess to

1 that needed to carry out the purpose of AS 16.10.300 - 16.10.370 or for the orderly  
2 liquidation of all loans made under former provisions of AS 16.10.300 - 16.10.370 or  
3 of all assets owned or acquired in connection with those loans, then the legislature  
4 may appropriate the excess money for any public purpose.

5 \* Sec. 13. AS 16.10 is amended by adding a new section to read:

6 **Sec. 16.10.345. Liquidation of loans and assets.** By September 1, 2002, the  
7 department shall initiate and undertake a process for the orderly liquidation of all loans  
8 made under former provisions of AS 16.10.300 - 16.10.370 and of all assets owned or  
9 acquired in connection with those loans by foreclosure or other means. The process  
10 for liquidation of the loans and assets must include strict administration of the loans  
11 and the remedies available under those loans and may also include

12 (1) negotiated sales of loans, loan-related assets, or assets acquired in  
13 foreclosure to financial institutions organized and operating under AS 06.05,  
14 AS 06.15, AS 06.45, or AS 44.81; however, loans secured by a limited entry permit  
15 and assets acquired by the department that are limited entry permits may only be sold  
16 to the Commercial Fishing and Agriculture Bank or a successor institution authorized  
17 by law to make loans secured by a limited entry permit;

18 (2) appointment of a financial institution organized and operating  
19 under AS 06.05, AS 06.15, AS 06.45, or AS 44.81 as an agent for the administration  
20 and collection of loans, subject to negotiation and establishment of a reasonable  
21 agency fee schedule for those services.

22 \* Sec. 14. AS 16.10.353(b) is amended to read:

23 (b) A person obtaining a loan under AS 16.10.300 - 16.10.370 [AFTER  
24 JUNE 28, 1991] may, by signing a form prepared for the purpose, designate the names  
25 of persons and organizations to whom a copy of the notice required by AS 16.10.335  
26 must be sent.

27 \* Sec. 15. AS 16.10.355 is amended to read:

28 **Sec. 16.10.355. Disposal of property acquired by default or foreclosure.**  
29 The department shall dispose of property acquired through default or foreclosure of a  
30 loan made under AS 16.10.300 - 16.10.370, former provisions of AS 16.10.300 -  
31 16.10.370, or former AS 16.10.650 - 16.10.720. Disposal shall be made in a manner

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

3 \* Sec. 16. AS 16.43.150(e) is amended to read:

4 (e) An entry permit is not property: an entry permit constitutes a use  
5 privilege that may be modified or revoked by the legislature without compensation.

6 \* Sec. 17. AS 16.43.170(g) is amended to read:

7 (g) A person may request the commission to transfer an entry permit due to an  
8 execution on a permit [THE] holder's interest in that permit if the execution is to  
9 enforce a lien recorded with the commission under AS 25.27.230(c). The request  
10 shall be made in the form and manner provided in this chapter and regulations adopted  
11 under this chapter. The commission may deny a request for transfer of an entry permit  
12 due to an execution of a holder's interest in that permit if

13 (1) the execution does not comply with legal requirements or otherwise  
14 is not valid;

15 (2) the transfer violates this chapter or regulations adopted under this  
16 chapter;

17 (3) the proposed transferee or other party to the transfer is prohibited  
18 by law from participating in the transaction;

19 (4) a certificate for the permit under AS 16.10.333(b)(1) - (2),  
20 16.10.338, or AS 44.81.231(a) is in effect at the time of the proposed transfer;

21 (5) the proposed transferee of the entry permit, other than the  
22 commission, cannot demonstrate the present ability to actively participate in the  
23 fishery; or

24 (6) the holder of the entry permit as shown by the records of the  
25 commission demonstrates, under regulations adopted by the commission, that the  
26 entry permit is a necessary means of support for the holder and those dependent upon  
27 the holder.

28 \* Sec. 18. AS 16.43 is amended by adding a new section to read:

29 Sec. 16.43.945. Commercial fishing privileges exempt from claims of  
30 creditors. Except as provided in AS 16.10.333 - 16.10.338, AS 16.43.170(g),  
31 AS 44.81.215, and 44.81.231 - 44.81.250, commercial fishing privileges granted under

1 this chapter, including entry permits, are exempt from claims of creditors, including  
2 claims under AS 09.38.065 and AS 45.29.408.

3 \* Sec. 19. (a) AS 16.10.310, 16.10.315, 16.10.320(b), 16.10.320(d), 16.10.320(h),  
4 16.10.320(i), 16.10.339, 16.10.340(c), 16.10.342, 16.10.350, and 16.10.520(f) are repealed.

5 (b) Sections 3, 4, and 6, ch. 127, SLA 2000, are repealed.

6 \* Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 SAVING. Nothing in this Act may impair the rights and duties, as they existed before  
9 the effective date of this section, of parties to loans entered into under provisions of  
10 AS 16.10.300 - 16.10.370 that are amended or repealed by this Act. A loan entered into under  
11 provisions of AS 16.10.300 - 16.10.370 that are amended or repealed by this Act is subject to  
12 those terms and provisions of AS 16.10.300 - 16.10.370 and the loan agreement that was in  
13 effect when the loan was originally made or subsequently modified by the state and the  
14 borrower unless the loan agreement is amended after the effective date of this section and the  
15 parties expressly agree to be bound by provisions of AS 16.10.300 - 16.10.370 that are in  
16 effect on the date that the loan agreement is amended.

17 \* Sec. 21. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 CONDITIONAL RETROSPECTIVITY. If sec. 19(b) of this Act takes effect on or  
20 after August 1, 2002, sec. 19(b) of this Act is retrospective to July 31, 2002.

21 \* Sec. 22. Sections 2 - 15, 19(a), and 20 of this Act take effect July 1, 2002.

22 \* Sec. 23. Except as provided in sec. 22 of this Act, this Act takes effect immediately under  
23 AS 01.10.070(c).



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110  
Juneau, Alaska 99801-1172  
(907) 586-2820  
(907) 463-2545 Fax  
E-Mail: [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org)  
[www.ufa-fish.org](http://www.ufa-fish.org)

April 9, 2002

Representative Eldon Mulder  
Representative Bill Williams  
Co-Chairs  
House Finance Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Re: HB 287 Exempt Entry Permits from: Creditor Claims

Dear Co-Chairs,

United Fishermen of Alaska supports passage of this bill to exempt entry permits from creditor claims and remove the mandatory one-half of one percent refinancing fee.

An individual's permit is critical to their livelihood. Allowing creditors to seize permits would effectively put a fisherman out of business and make it so he/she is unable to repay their debt and support their family.

Dropping the refinancing fee will make it easier for fishermen to refinance loans at lower interest rates. This is particularly important at this time when ex-vessel prices are low.

UFA would appreciate your support in passing this bill.

If you have any questions about our position or if you need additional information, please feel free to contact me.

Sincerely,

Thomas M. Gemmell  
Executive Director

Copy: Representative Drew Scalzi

#### MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • At-sea Processors Association • Bristol Bay Reservo  
Chignik Regional Aquaculture Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association  
Copper River Salmon Producers Association • Cordova District Fishermen United • Douglas Island Pink and Chum  
Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association  
Northern Southeast Regional Aquaculture Association • Old Harbor Fisherman's Association • Petersburg Vessel Owners Association  
Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Sealord Producers Cooperative  
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association  
United Cook Inlet Drift Association • United Salmon Association • United Southeast Alaska Gillnetters



Official Business

# Alaska State Legislature

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REPRESENTATIVE DREW SCALZI

State Capitol  
Juneau, Alaska 99801-1182

(907)405-2089; (800)666-2689

FAX: (907)465-3472

*Representative\_Drew\_Scalzi@legis.state.ak.us*

## Sponsor Statement

HB287 "An Act relating to the exemption of commercial fishing entry permits from claims of creditors, to loans to satisfy past due federal tax obligations of commercial fishing entry permit holders, and to loan origination charges for loans made by the commercial fishing loan program to refinance a debt obligation; and providing for an effective date."

Recent developments in law require a clear statement of the principle embodied in the original Limited Entry Act that limited entry permits are not property subject to the claims of creditors.

The long-term crisis facing the Alaska salmon industry due to dramatic increases in world salmon production coupled with equally dramatic reductions in salmon prices make this principle all the more important. If Alaska fishermen are forced out of the water because creditors take their limited fishing privileges, everyone in Alaska loses.

In this same spirit, this bill would extend the existing tax obligation loan program portion of the commercial fishing loan program now scheduled to sunset.

This bill continues the Division of Investments existing loan program for satisfying past due tax obligations. It keeps the same limit of \$30,000, but allows an individual to apply for a secured loan under this program more than once and removes the one-half percent refinancing fee.

This bill does not alter any current claim exemptions, but simply strengthens and clarifies the exemptions.

# Petersburg Vessel Owners Association

P.O. Box 232  
Petersburg, Alaska 99833  
Phone (907) 772-9323 Fax (907) 772-4495

March 8, 2002

Representative Mulder  
Representative Williams  
Co-Chairs  
House Finance Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

RE: Support HB 287 Exempt Entry Permits From Claims of Creditors

Petersburg Vessel Owners Association is a group of commercial fishermen who participate in a variety of fisheries statewide. Income from commercial fishing is very important to our community and to the Alaskan economy. We support this legislation to clarify the state's position that limited entry permits are access privileges, not property, and cannot be seized by creditors.

We believe that an individual's limited entry permit is his or her livelihood. If we allow permits to be seized by creditors, fishermen in debt will be unable to make a living. They will be incapable of repaying their debts or supporting themselves and their families. We feel that the language in this bill, clearly stating that entry permits cannot be seized, is essential to protect commercial fishermen, their way of life, and their ability to weather hard times.

We also support the removal of the mandatory one-half percent refinancing fee. Many fishermen have seen dramatic drops in the value of their permits and their gross revenues from fishing. Allowing refinancing at lower interest rates without additional charges and fees will allow a greater percentage of these fishermen to remain financially stable and repay the loans granted to them by the Division of Investments.

We appreciate your consideration of these comments and hope you will support this bill. If we can assist you in any way, please feel free to contact us.

Respectfully,



Cora Crome  
Director

Cc: Representative Scalzi, Representative Wilson

support

## Draft CS HB 287 (22-LS1106\J)

### Major goals of the bill:

- Amend several statutes to make state laws more firm, clear and consistent on the point that commercial fishing entry permits are not property, and instead, constitute a "use privilege" that the legislature may change or revoke without compensation.
- Make changes to DCED Division of Investments Fisheries Revolving Loan Program
  - Eliminate loan origination charge on refinancing loans.
  - Extend existence of Federal Tax Obligation Loan Program within the Fisheries Loan Program. (Currently scheduled to sunset in August, 2002. Bill removes sunset clause.)
  - Increase number of loans a person could obtain under the tax obligation program from one per lifetime to no more than one per year.

### CS HB 287 presents an important opportunity at a critical time:

- Hard times in Alaska's salmon industry likely to push more fishermen into financial trouble.
  - The need to firm up what Alaska has always contended, that permits constitute a use privilege and not property, has never been greater.
  - The Tax Obligation Loan Program provides critical assistance to some fishing families.
- A recent federal maritime case (*Quality One*) has heightened the need to firm up the legal status of limited entry permits. Federal legislation may be introduced soon in response to the ruling in that case to state clearly in federal law that the federal government shall honor the legal status bestowed upon fishing permits by the governmental entity issuing the permits. Thus, clarity and consistency in state law will be more important and significant than ever. Passage of this bill will put Alaska in a much better position to fully benefit from such federal legislation.
- The provisions of CSHB 287 are consistent with the positions the state has taken in the past with regard to the legal status of limited entry permits as a use privilege, including the state's strong stand against efforts by creditors, such as the IRS, to seize Alaska limited entry permits.

**Bill explanation**

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1162  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 27, 2002

**SUBJECT:** Technical drafting issues generated by the looming repeal of the federal tax obligation loan program (CSHB 287( ); draft version J)

**TO:** Representative Drew Scalzi  
Attn: Pat Hartley

**FROM:** George Utermohle *GU*  
Legislative Counsel

Enclosed is the draft of CSHB 287( ), draft version J, that you requested. In addition to the changes that you requested, the CS contains a new section that is necessary to address a technical drafting issue.

The federal tax obligation loan program under AS 16.10.310(a) is due to be repealed August 1, 2002. If HB 287 takes effect before August 1, then the repeal of the federal tax obligation loan program will not occur because HB 287 would repeal the law that repeals the loan program. Even though HB 287 currently has an immediate effective date, there is the possibility that it will not take effect in time to prevent the repeal of the federal tax obligation loan program.

In order to take into consideration the possibility that the federal tax obligation loan program will be repealed before HB 287 takes effect, a new section (Sec. 3) has been added to the draft CS. This new bill section (Sec. 3) contains the amendment that is made to AS 16.10.310(a)(10) to delete the loan origination charge to refinance a commercial fishing loan which is also contained in Sec. 2 of the bill. If Sec. 2 does not take effect because of the repeal of the federal tax obligation loan program, the amendment to the loan origination charge for loan refinancing will also be lost. The effect of Sec. 3 is to allow the amendment to the loan origination charge for loan refinancing to take effect even if the federal tax obligation loan program is repealed.

Section 19 of the CS HB 287 ( ) controls whether Sec. 2 or Sec. 3 of the bill takes effect based on whether HB 287 takes effect before the federal tax obligation loan program is repealed. If HB 287 takes effect before the federal tax obligation loan program is repealed, then Sec. 2 will take effect and Sec. 3 will not. But if HB 287 takes effect after the federal tax obligation loan program is repealed, then Sec. 3 will take effect and Sec. 2 will not.

If I may be of further assistance, please advise.

GU:med  
02-220.med

Enclosure

**Provisions for federal  
tax obligation loan  
program sunset**

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3167 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 28, 2002

**SUBJECT:** Sectional summary of CSHB 287( ), An Act relating to the exemption of commercial fishing entry permits from claims of creditors, to loans to satisfy past due federal tax obligations of commercial fishing entry permit holders, to the legal status of limited entry permits, and to loan origination charges for loans made by the commercial fishing loan program to refinance a debt obligation (draft version J) (Work Order No. 22-LS1106/J)

**TO:** Representative Drew Scalzi  
Attn: Pat Hartley

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have requested a sectional summary of CSHB 287( ) (draft version J), An Act relating to the exemption of commercial fishing entry permits from claims of creditors, to loans to satisfy past due federal tax obligations of commercial fishing entry permit holders, to the legal status of limited entry permits, and to loan origination charges for loans made by the commercial fishing loan program to refinance a debt obligation.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 09.38.015(a) to provide that limited entry permits are not exempt property for purposes of AS 09.38 which relates to property that is exempt from execution to satisfy claims of creditors.

Section 2 of the bill amends AS 16.10.310(a) to amend provisions of the commercial fishing loan program relating to the past due federal tax obligation loan program and relating to the collection of a refinancing loan origination charge. Under sec. 9(a) of the bill, this section does not take effect if the past due federal tax obligation program is repealed before this bill takes effect.

Section 3 of the bill amends AS 16.10.310(a), as it would read after August 1, 2002, to repeal the authority of the Department of Community and Economic Development to collect a refinancing loan origination charge. On August 1, 2002, the past due federal tax obligation loan program will be repealed.

**Sectional analysis**

Representative Drew Scalzi  
February 28, 2002  
Page 2

Section 4 of the bill amends AS 16.10.310(e) to eliminate the requirement that a person may receive only one past due federal tax obligation loan during the person's lifetime and to provide that a person may only receive one past due federal tax obligation loan during a calendar year.

Section 5 of the bill amends AS 16.43.150(e) to provide that a commercial fishing entry permit issued under AS 16.43 is not property.

Section 6 of the bill amends AS 16.43.170(g) to provide that the subsection applies to the transfer of an entry permit due to execution on a permit holder's interest in the permit if the execution is to enforce a lien to collect child support that is recorded with the commission under AS 25.27.230(c).

Section 7 of the bill adds a new section (16.43.945) to AS 16.43 to provide that commercial fishing privileges, including entry permits, are exempt from claims of creditors. Only claims of the commercial fishing loan program under AS 16.10.333 - 16.10.338, claims to collect child support obligations under AS 16.43.170(g), and claims of the Commercial Fishing and Agriculture Bank under provisions of AS 44.81 may be asserted against commercial fishing privileges and entry permits.

Section 8 of the bill repeals secs. 3, 4, and 6, ch. 127, SLA 2000. If this section takes effect before August 1, 2002 the past due federal tax obligation loan program will not be repealed. Section 9(a) of the bill controls whether this section takes effect.

Section 9 of the bill provides which sections of the bill will take effect based on the date that the bill takes effect. If this bill does not take effect before the past due federal tax obligation loan program is repealed by secs. 3, 4, and 6, ch. 127, SLA 2000, on August 1, 2002, then secs. 2, 4, and 8 of the bill do not take effect and sec. 3 of the bill does take effect. If this bill does take effect before the past due federal tax obligation loan program is repealed, then secs. 2, 4, and 8 of the bill take effect and sec. 3 of the bill does not take effect.

Section 10 of the bill provides that the bill takes effect immediately under AS 01.10.070(c).

GU:med  
02-237.med