

**HB**

**287**

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB287(FSH)  
( ) Publish Date: \_\_\_\_\_

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. Scalzi  
Requester House Fisheries Component No. 471

**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 Phone 790-6950  
Division: Commercial Fisheries Entry Commission Date/Time 3/4/02 12:16 PM  
Approved by: Mary McDowell, Commissioner Date 03/04/2002  
Agency: Commercial Fisheries Entry Commission





Official Business

# Alaska State Legislature

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REPRESENTATIVE DREW SCALZI

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*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.

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CS HB 287 (FSH)  
( ) Publish Date: \_\_\_\_\_

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 Resources Component No. 383

**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 3/5/02 10:40 AM  
Approved by: Deborah B. Sedwick, Commissioner Date 3/5/2002  
Agency Department of Community & Economic Development

# LEGAL SERVICES

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Juneau, Alaska 99801-1182  
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## 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  
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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

## 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

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## 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**

Testimony for HB 390 by Barbara Belknap, Executive Director, Alaska Seafood Marketing Institute

March 6, 2002

The Alaska Seafood Marketing Institute is supported by industry assessments and federal grants. The salmon fishermen's 1% amounted to \$2 million for this fiscal year. The .3% processor tax on all seafood contributed \$2.8 million this fiscal year. ASMI uses these funds for marketing as well as for matching federal grants.

The 1% was instituted in 1993 and renewed in 1998. When the tax was written into law, the intent was to open up the US market for Alaska salmon. We have done that. There is more salmon going into the domestic market than there was in 1993. ASMI has been aggressive in promoting fresh, frozen and canned salmon in the US. We also have a federal grant specifically for salmon in the United States that is in its second year.

However, the overseas markets are very important for Alaska salmon. There are new opportunities in Europe with salmon buyers who want something different than farmed salmon. We only have \$1 million for the entire European Union. We cannot ignore Japan, which is still one of our oldest and biggest customers. The Norwegians have budgeted \$7 million for Japan alone, while ASMI has \$700,000 for Bristol Bay's biggest frozen sockeye market. Our export budget this year is \$2.7 million for 21 countries.

The ASMI Board of Directors voted to support removing the restriction on the 1% and would like to have the ability to follow the markets. This in no way implies that ASMI would slight the US market. ASMI has a track record of leveraging industry assessment money to get federal grants. Having the ability to use part of the 1% as match for our export program will come back to the industry in added marketing clout.

The Salmon Marketing Committee is prescribed in the 1% statute. This committee is charged with overseeing the expenditure of the 1% money. The Salmon Marketing Committee voted to support lifting the restriction on the funds and also stated their position that the Board of Directors should have full budgeting authority as they do now. They did not support giving the committee direct budget allocation, but preferred to maintain the current arrangement.

While the sunset date is June 30 of next year, it is important to the continuity of our salmon marketing program that it be renewed this fiscal year. In 1998, the tax was not renewed until the last day of the session and all our summer salmon activities were in jeopardy. This not only creates planning problems, it also sends a message to the retailers and restaurant operators that they can't consistently count on ASMI for marketing support. For program continuity, we are asking that the tax be renewed this fiscal year.