

SCOMM

126:26

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 14, 2002

FURTHER REFERRALS: Resources
Finance

Date of Committee Action: 3/4/02

The HOUSE SPECIAL COMMITTEE ON FISHERIES Committee considered:

HB 287

HOUSE BILL NO. 287

EXEMPT ENTRY PERMITS FROM CREDITOR CLAIMS

"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."

Recommends it be replaced with CS HB287 (FS.4) [] Same Title [X] New Title
For Senate Bills with new title: [] Technical Title [] New Title: HCR _____

- [] attach amendments
[] add new referral to _____ Committee
[] Letter of Intent _____ Committee

List of
Abbrev.
for
Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LAA
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>CED</u>		✓		
<u>DFG</u>				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>		Printed Last Name	DP	DNP	NR	AM
<u>John Coghitt</u>		<u>Coghitt</u>				✓
<u>David Scarzi</u>		<u>SCARZI</u>	✓			
<u>Dwight Kapsner</u>		<u>Kapsner</u>	✓			
<u>Bern Kerttula</u>		<u>Kerttula</u>				✓
Chair: <u>[Signature]</u>		<u>STRUB</u>	✓			
Chair: <u>[Signature]</u>						

22-LS1106J
Utermohle
2/27/02

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

BY

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 loans to satisfy past due federal tax obligations of commercial fishing entry
3 permit holders, to the legal status of limited entry permits, and to loan origination
4 charges for loans made by the commercial fishing loan program to refinance a debt
5 obligation; and providing for an effective date."

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

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

- 8 (a) An individual is entitled to exemption of the following property:
9 (1) a burial plot for the individual and the individual's family;
10 (2) health aids reasonably necessary to enable the individual or a
11 dependent to work or to sustain health;
12 (3) benefits paid or payable for medical, surgical, or hospital care to
13 the extent they are or will be used to pay for the care;

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

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

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

(7) liquor licenses granted under AS 04;

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

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

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

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

(a) The department may

(1) make loans

(A) to individual commercial fishermen who 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, who have had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for the year immediately preceding the date of application and any other two of the past five years, and who actively participated in the fishery during those periods

(i) for the purchase of entry permits;

(ii) to upgrade existing vessels and gear for the purpose of improving the quality of Alaska seafood products; or

(iii) to satisfy past due federal tax obligations of an individual commercial fishing entry permit holder [THAT MAY RESULT IN THE EXECUTION ON AND INVOLUNTARY TRANSFER OF THE INDIVIDUAL COMMERCIAL FISHERMEN'S ENTRY PERMITS], to the extent allowed under (e) of this section;

1 (B) to an individual for the repair, restoration, or upgrading of
2 existing vessels and gear, for the purchase of entry permits and gear, for the
3 construction and purchase of vessels, or, to the extent allowed under (e) of this
4 section, to satisfy past due federal tax obligations of an individual
5 commercial fishing entry permit holder [THAT MAY RESULT IN THE
6 EXECUTION ON AND INVOLUNTARY TRANSFER OF THE
7 INDIVIDUAL'S ENTRY PERMITS], if the individual has been a state
8 resident for a continuous period of two years immediately preceding the date
9 of application for a loan under AS 16.10.300 - 16.10.370, and either

10 (i) because of lack of training or lack of employment
11 opportunities in the area of residence, does not have occupational
12 opportunities available other than commercial fishing; or

13 (ii) is economically dependent on commercial fishing
14 for a livelihood and for whom commercial fishing has been a traditional
15 way of life in Alaska;

16 (C) for the purchase of quota shares for fisheries in or off the
17 state by individual commercial fishermen who

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

21 (ii) for any two of the past five years, possessed a
22 crewmember or commercial fishing license under AS 16.05.480 or a
23 permit under AS 16.43 and actively participated in a fishery for which
24 the license or permit was issued;

25 (iii) qualify as transferees for quota shares under
26 applicable law; and

27 (iv) are not eligible for financing from other recognized
28 commercial lending institutions to purchase quota shares;

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

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

1 services provided;

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

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

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

11 (7) allow an assumption of a loan if

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

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

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

21 (9) charge and collect the fees established under this subsection;

22 (10) refinance a debt obligation incurred by a borrower or borrowers
23 under this section if the borrower or borrowers otherwise qualify for a loan under
24 AS 16.10.300 - 16.10.370; [THE DEPARTMENT SHALL COLLECT A
25 REFINANCING LOAN ORIGINATION CHARGE OF ONE-HALF PERCENT OF
26 THE AMOUNT OF THE DEBT OBLIGATION THAT HAS BEEN REFINANCED
27 WHEN THE FIRST REFINANCING PAYMENT IS DUE;]

28 (11) refinance debt obligations, not to exceed \$300,000, incurred by a
29 borrower or borrowers for the purchase of a commercial fishing vessel or gear if the
30 borrower or borrowers otherwise qualify for a loan under AS 16.10.300 - 16.10.370;
31 the department may collect a refinancing loan origination charge as provided by

1 regulation.

2 * Sec. 3. AS 16.10.310(a) is amended to read:

3 (a) The department may

4 (1) make loans

5 (A) to individual commercial fishermen who have been state
6 residents for a continuous period of two years immediately preceding the date
7 of application for a loan under AS 16.10.300 - 16.10.370 and have had a
8 crewmember or commercial fishing license under AS 16.05.480 or a permit
9 under AS 16.43 for the year immediately preceding the date of application and
10 any other two of the past five years, and who actively participated in the
11 fishery during those periods,

12 (i) for the purchase of entry permits; or

13 (ii) to upgrade existing vessels and gear for the purpose
14 of improving the quality of Alaska seafood products;

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

20 (i) because of lack of training or lack of employment
21 opportunities in the area of residence, does not have occupational
22 opportunities available other than commercial fishing; or

23 (ii) is economically dependent on commercial fishing
24 for a livelihood and for whom commercial fishing has been a traditional
25 way of life in Alaska;

26 (C) for the purchase of quota shares for fisheries in or off the
27 state by individual commercial fishermen who

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

31 (ii) for any two of the past five years, possessed a

1 crewmember or commercial fishing license under AS 16.05.480 or a
2 permit under AS 16.43 and actively participated in a fishery for which
3 the license or permit was issued;

4 (iii) qualify as a transferee for quota shares under
5 applicable law; and

6 (iv) are not eligible for financing from other recognized
7 commercial lending institutions to purchase quota shares;

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

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

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

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

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

21 (7) allow an assumption of a loan:

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

25 (B) approval of the assumption would be consistent with the
26 purposes of AS 16.10.300; an applicant for a loan assumption may not be
27 disqualified because the applicant does not meet the loan eligibility
28 requirements of (1) of this subsection;

29 (8) prequalify loan applicants for a limited entry permit loan or a quota
30 shares loan and charge a fee not to exceed \$200 for prequalification;

31 (9) charge and collect the fees established under this subsection;

(10) refinance a debt obligation incurred by a borrower or borrowers under this section if the borrower or borrowers otherwise qualify for a loan under AS 16.10.300 - 16.10.370; [THE DEPARTMENT SHALL COLLECT A REFINANCING LOAN ORIGINATION CHARGE OF ONE-HALF PERCENT OF THE AMOUNT OF THE DEBT OBLIGATION THAT HAS BEEN REFINANCED WHEN THE FIRST REFINANCING PAYMENT IS DUE;]

(11) refinance debt obligations, not to exceed \$300,000, incurred by a borrower or borrowers for the purchase of a commercial fishing vessel or gear if the borrower or borrowers otherwise qualify for a loan under AS 16.10.300 - 16.10.370; the department may collect a refinancing loan origination charge as provided by regulation.

* Sec. 4. AS 16.10.310(e) is amended to read:

(e) The department may not make a loan to an individual under (a)(1) of this section to satisfy past due federal tax obligations unless the individual has filed past and current federal tax returns with the federal government and has executed an agreement with the federal government for repayment of past due federal tax obligations. [DURING AN INDIVIDUAL'S LIFETIME, THE INDIVIDUAL MAY RECEIVE ONLY ONE LOAN TO SATISFY PAST DUE FEDERAL TAX OBLIGATIONS UNDER (a)(1) OF THIS SECTION, WHETHER UNDER (a)(1) OF THIS SECTION AS IT NOW READS OR UNDER ANY OTHER FORMER VERSION OF (a)(1) OF THIS SECTION.] A loan made under (a)(1) of this section to satisfy past due federal tax obligations may not exceed \$30,000. During a calendar year, an individual may not receive more than one loan made under (a)(1) of this section to satisfy past due federal tax obligations.

* Sec. 5. AS 16.43.150(e) is amended to read:

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

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

(g) A person may request the commission to transfer an entry permit due to an execution on a permit [THE] holder's interest in that permit if the execution is to enforce a lien recorded with the commission under AS 25.27.230(c). The request

1 shall be made in the form and manner provided in this chapter and regulations adopted
2 under this chapter. The commission may deny a request for transfer of an entry permit
3 due to an execution of a holder's interest in that permit if

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

6 (2) the transfer violates this chapter or regulations adopted under this
7 chapter;

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

10 (4) a certificate for the permit under AS 16.10.333(b)(1) - (2),
11 16.10.338, or AS 44.81.231(a) is in effect at the time of the proposed transfer;

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

15 (6) the holder of the entry permit as shown by the records of the
16 commission demonstrates, under regulations adopted by the commission, that the
17 entry permit is a necessary means of support for the holder and those dependent upon
18 the holder.

19 * Sec. 7. AS 16.43 is amended by adding a new section to read:

20 **Sec. 16.43.945. Commercial fishing privileges exempt from claims of**
21 **creditors.** Except as provided in AS 16.10.333 - 16.10.338, AS 16.43.170(g),
22 AS 44.81.215, and 44.81.231 - 44.81.250, commercial fishing privileges granted under
23 this chapter, including entry permits, are exempt from claims of creditors, including
24 claims under AS 09.38.065 and AS 45.29.408.

25 * Sec. 8. Sections 3, 4, and 6, ch. 127, SLA 2000, are repealed.

26 * Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **CONDITIONAL EFFECT.** (a) If sec. 3, ch. 127, SLA 2000, takes effect before the
29 effective date of this Act, secs. 2, 4, and 8 of this Act do not take effect.

30 (b) If this Act takes effect before the effective date of sec. 3, ch. 127, SLA 2000,
31 sec. 3 of this Act does not take effect.

- 1 * Sec. 10. This Act takes effect immediately under AS 01.10.070(c).

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): _____
 Title Exempt Entry Permits from Creditor Claims

Dept. Affected: DCED
 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (21608)	(21.8)	(15.2)	(15.2)	(15.2)	(15.2)	(15.2)

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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
 Division Investments
 Approved by: Deborah B. Sedwick, Commissioner
 Agency Department of Community & Economic Development

Phone 465-2510
 Date/Time 3/5/02 10:40 AM
 Date 3/5/2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB287
() 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 Fish 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 3/1/02 9:11 AM
Approved by: Mary McDowell, Commissioner Date 03/01/2002
Agency Commercial Fisheries Entry Commission



Official Business

Alaska State Legislature

REPRESENTATIVE DREW SCALZI

State Capitol

Juneau, Alaska 99801-1182

(907)465-2689; (800)665-2689

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.

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 99801-1182
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

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 99801-1182
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.

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.

Cordova District Fishermen United

Celebrating 65 Years of Service to Commercial Fishermen in Cordova, Alaska

P.O. Box 939 Cordova, Alaska 99574 / phone (907) 424-3447 / fax (907) 424-3430 /

e-mail cdfu@ptialaska.net

March 2, 2002

House Fisheries Committee

Alaska State Legislature

State Capitol (MS 3101)

Juneau, AK 99801-1182

SENT VIA FACSIMILE TO 907.465.3517

RE: HB 287 - Exemption of Commercial Fishing Entry Permits from Creditors

Dear Members,

Cordova District Fishermen United represents the commercial fishing fleets of Area E—the Copper River and Prince William Sound.

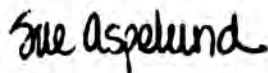
We urge your support for HB 287. The fishing industry in Alaska needs the protections contained in this bill in order to provide a buffer during this time of unprecedented market and resource challenges. In many cases, taking away a commercial fishing permit strips away the permit holder's primary means of making a living. Additionally, in many regions of our state, access to a commercial fishery may be the only access to a livelihood that residents have.

We support deletion of the refinance fee, again providing relief during an economically critical time.

We view this legislation as another "tool in the box" for fishermen to utilize to maximize flexibility in their response to the economic crises currently being experienced by some fisheries in our State.

We urge your positive consideration of this bill.

Sincerely,



**Sue Aspelund
Executive Director**