SCOMM

138:16

ALASKA STATE HOUSE OF REPRESENTATIVES

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REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: March 2, 2006

To: Representative Bill Thomas, Co-Chair
Representative Gabrielle LeDoux, Co-Chair
House Special Committee on Fisheries

From: Representative John Coghill JBC

Re: HB 304

I am requesting a hearing at your earliest convenience on HB 304, "An Act relating to the commercial fishing loan program". I have attached the sponsor statement and other backup for the bill.

House Bill 304 Commercial Fishing Loan Program

SPONSOR STATEMENT

This bill is a product of my philosophical belief that government should not compete with the private sector. I want to make sure that any loan program the State administers is the source of last resort.

This bill would require someone applying for a loan through the Commercial Fishing Resolving Loan Fund (CFRLF) to submit a loan application to two private sources that is substantially the same as the application to CFRLF and be turned down. While the division currently utilizes this practice I want it codify it to make it a permanent statutory requirement.

HB 304 reduces the amount of loans for refinancing a debt to $200,000 per person, down from $300,000. It limits all loans, including purchase of entry permits and gear, vessel purchases, repair of existing vessels, and federal tax debt for one person to $335,000. The bill reduces security of a loan from 90% to 80% of the appraised value of the collateral. It adjusts the interest rate to the prime rate plus two percentage points. The interest rate currently is a maximum of 10.5%

This bill has been a work in progress. I have been working with the department diligently for the last year to clarify and tighten requirements in the Commercial Fishing Revolving Loan Program.

24-LS0523\I
Kane
2/28/06

CS FOR HOUSE BILL NO. 304( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE COGHILL

A BILL

FOR AN ACT ENTITLED

"An Act relating to the commercial fishing loan program; and providing for an effective date."

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

* **Section 1.** 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 an annual 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; or

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

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

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

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

(iii) is not eligible for financing from other recognized commercial lending institutions;

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

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

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

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

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

(D) to an individual commercial fisherman to satisfy past due federal tax obligations, if the fisherman has been a state resident for a continuous period of two years immediately preceding the date of application for the loan, has filed past and current federal tax returns with the federal government, has executed an agreement with the federal government for repayment of past due federal tax obligations, and either

(i) [HAS HAD AN ANNUAL 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 HAS ACTIVELY PARTICIPATED IN THE FISHERY DURING THOSE PERIODS;

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

(ii) [(iii)] is economically dependent on commercial fishing for a livelihood and for whom commercial fishing has been a traditional way of life in Alaska;

(E) for the purchase of fishing quota shares by a community quota entity eligible under federal statute or regulation to purchase the fishing quota shares if the community quota entity is not eligible or qualified for financing from other recognized commercial lending institutions to purchase the fishing quota shares;

(F) to an individual for the upgrade of existing tender vessels and gear to improve the quality of Alaska seafood products, if the individual has been a state resident for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370;

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

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

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

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

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

(7) allow an assumption of a loan if

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

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

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

(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;

(11) refinance debt obligations, not to exceed <u>**$200,000**</u> [$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. 2.** AS 16.10.320(a) is amended to read:

(a) Except as permitted in (h) of this section, a loan under AS 16.10.300 - 16.10.370

(1) may not exceed a term of 15 years, except for extensions under AS 16.10.310(a)(4);

(2) may not bear interest exceeding <u>**the prime rate plus two**</u>

percentage points [10 1/2 PERCENT]; **for purposes of this paragraph, "prime rate" has the meaning given in AS 44.88.599;**

(3) must be secured by a first priority lien and appropriate security agreement;

(4) may not exceed **80** [90] percent of the appraised value of the collateral used to secure the loan; and

(5) may not be made to a person who has a past due child support obligation established by court order or by the child support services agency under AS 25.27.160 - 25.27.220 at the time of application.

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

(d) The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(A) may not exceed $300,000. The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(B) may not exceed $100,000. The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(C) may not exceed $300,000. The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(D) to satisfy past due federal tax obligations may not exceed **$35,000** [$30,000]. The total of balances outstanding on loans made under AS 16.10.310(a)(1)(E) may not exceed $2,000,000 **for each** [PER] community eligible under federal statute or regulation to establish or participate in the establishment of a community quota entity. The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(F) may not exceed $300,000. Excluding loans made under **AS 16.10.310(a)(1)(E)** [AS 16.10.310(a)(1)(C) - (F)], the total of balances outstanding on all loans, including debt refinancing under AS 16.10.310(a), made to a borrower under AS 16.10.300 - 16.10.370 may not exceed **$335,000** [$300,000].

* **Sec. 4.** AS 16.10.315 is repealed.

* **Sec. 5.** This Act takes effect July 1, 2006.

Alaska Division of Investments
Department of Commerce, Community, & Economic Development

Work Draft (2/21/06) Changes Summary

1. A sentence is added to Section B codifying existing policy that loans under Section B can only be made if the applicant is not eligible for financing from other recognized commercial lending institutions.
2. One method of qualifying for a Tax Obligation loan is eliminated. This will not have any significant impact on the Commercial Fishing Revolving Loan Fund (CFRLF).
3. The vessel/gear refinancing section is amended to reduce the maximum amount that can be refinanced from \$300,000 to \$200,000. The requirement (included in Work Draft 1/4/2006) that the current lender approve any requests to refinance an existing loan was deleted.
4. The maximum interest rate charged is capped at prime plus two percentage points instead of 10.5% as the current law stipulates. This mirrors existing policy.
5. The loan to value ration is reduced from a maximum of 90% to 80%.
6. The maximum loan amount for a tax obligation loan is increased from \$30,000 to \$35,000. This will not significantly impact the CFRLF as this program is rarely used.
7. The maximum that a borrower can have outstanding in loans at any given point in time is reduced from \$630,000 to \$335,000. This will have some impact on future borrowers although the vast majority of the portfolio is made up on loans well under \$335,000.
8. A section insuring that there is sufficient money available to cover small loan amounts (under \$35,000) is eliminated. Insufficient cash to cover small loan requests has never been a problem.

HB 304 Proposed Regulatory Amendments

The Division proposed the following regulatory amendments to 3 AAC 80, regarding loans from the Commercial Fishing Revolving Loan Fund (CFRLF), pursuant to HB 304:

9. Amend 3 AAC 80.010(b)(2) to lower the prequalification application fee from \$200 to \$50;
10. Amend 3 AAC 80.055 to require that a non-CFRLF loan to be refinanced under AS 16.10.310(a)(11) must be at least one year old. This requirement will set current Division policy into regulation.
11. Amend 3 AAC 80.055 to clarify that with the exception of the Pay on Time program described in 3AAC 80.055(P), the interest rate for loans to purchase limited entry permits under AS 16.10.310(a)(1)(A) may not be less than the prime rate plus two percentage points.

Prepared by grw 2/22/06

ALASKA DIVISION OF INVESTMENTS
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
MEMORANDUM

TO: Greg Winegar
Lending Branch Manager

FROM: Lujean Fedotov
Anchorage Lending Section Supervisor

DATE: February 21, 2006

SUBJECT: Interest rate survey

Per your request I conducted a survey of several lenders who make commercial fishing loans. The following information was received on February 21, 2006 via telephone conversations:

FARM CREDIT, Erik Olsen, Sr Credit Officer, Seattle, Washington, 206-691-2000

TYPES OF LOANS: Farm Credit is a private cooperative with $5 billion in assets, $90 million in net revenues, returning .7% to shareholders in 2005. Farm Credit finances quota shares, vessel upgrades, vessel refinances, vessel upgrades or other valid purposes for fishermen, processors, or commercial fishing-related businesses for individuals who live in Oregon, Washington, and Alaska, Idaho, and Montana. Farm Credit specializes in all types of loans, including investment properties, residential properties, etc for commercial fishers and families.

IFQs: 5-15 year term, 1% fee + $300 - $500 verification/filing fees charged at closing, rates variable or fixed, with a maximum 50% of value of IFQs as collateral value.

VESSELS: 10 years on existing, 15 years on new vessels, 1% fee + $300 - $500 verification/filing fees charged at closing, rates variable or fixed. Maximum collateral LTV is 60% on a new vessel and 50% on existing vessels.

RATES: Current interest rate for an average borrower P + 2%, currently 9.25%, and can tie the rate to LIBOR as well. Rates are fixed or variable and vary, dependent upon borrower strength, use of a pricing card, which includes liquidity, debt/asset ratio, production/liability ratio, LTV, and earning/debt coverage ratio. Funds are purchased from AgAmerica or from Western Farm Credit Bank in California.

OTHER INFO: According to Mr Olson, vessel upgrades, IFQ purchases, vessel purchases, and family transfers (where the younger generation is buying all or part of a parent's fishing business) are currently the most active loan requests. They can make construction loans and have technical help available to borrowers.

WEB SITE: **www.farm-credit.com**

<u>WELLS FARGO BANK, Jon Stavig, Cordova - 424-3258</u>
e-mail: jon.k.stavig@wellsfargo.com

TYPES OF LOANS: IFQs, vessel purchases, vessel refinances, upgrades. Most active types of loans this season are vessel purchases, repowering, and working capital.

IFQs: 5 -7year term, 50% LTV, 1% loan fee, variable rates, typically P + 2%, currently 9.25%, variable.

IFQ/VESSEL COMBO: 7-10 year term, 50% LTV, 1% loan fee, variable rates, typically P + 2% currently 9.25%, variable.

VESSELS: 7-10 year max term for existing vessels, 10-year term for new vessels. Vessel financing is 75% LTV, 1% loan fee, Prime + 2% currently 9.25%, variable.

OTHER: Jon states that the general attitude in the local PWS fishery economy is that the drift fleet will be fine this year, but the salmon seine fishery will likely face challenges with the hatcheries in cost recovery mode. Those who participate in the bottom fisheries will continue to be strong.

RATES: Most loans are variable rate of P + 2% currently 9.25%.

WEB SITE: Wells Fargo has a web site at **www.wellsfargo.com,**

<u>FIRST NATIONAL BANK ALASKA, Mike Dye, Branch Manager, Homer, Alaska – 235-5801</u>
e-mail: mdye@fnbalaska.com

TYPES OF LOANS: IFQs and vessels on a case-by-case basis to strong borrowers or to those who have long term relationships with FNBA and/or other collateral to pledge as security.

TERMS: Vary, will base loan on 50% Loan-to-Value of IFQs or vessel, 1% bank fee + closing costs, term usually 5-7 years.

RATES: Most loans are variable rates. Variable rate is commonly P + 2%, currently 9.25%.

FNB has had little change in rates and terms in the past year except the increasing prime interest rate.

WEB SITE: **www.fnbalaska.com** has no information concerning commercial fishing loans.

CFAB, Bob Clark, VP, Anchorage, Alaska – 276-2007 e-mail: robert@cfabalaska.com

TYPES OF LOANS:	Permits, quota shares, vessels, tourism, processing plants in Alaska, tenders
PERMITS:	1% loan fee, variable rates, currently 7.5%, no set Loan-to-Value.
IFQs:	1% loan fee, variable rates, currently 7.25 %, with 50% Loan-to-Value. (This is the only rate that has changed since 2005)
VESSEL/PERMIT: OR IFQ COMBO	1% loan fee, variable rates, currently 8.0%
VESSEL ONLY:	1% loan fee, variable rates, currently 9.0%
FEES/TERMS:	CFAB requires that borrowers purchase 2% (cap of $2500) of Class B preferred stock. Term is usually 10-12 years. Smaller loan amounts have shorter terms. Interest rate base for CFAB is 6.0%, same as 2005. Interest rate can change at any time. Payments are fixed for 3-year periods. Interest rates are set based on base rate plus a percentage with collateral being the determining factor.
PATRONAGE REBATE:	Borrowers receive up to 1% check back from CFAB annually. The CFAB Board decides annually what percentage borrowers will receive.
SOURCE OF FUNDS:	Spokane Bank of Cooperatives (blended bond rate)
OTHER INFO:	Most active loan types are salmon permits & boats with most activity in PWS and SE fisheries. IFQ market is tight. A few tourism loans are being done.
WEB SITE:	www.cfabalaska.com is informative and has applications on-line

NORTHRIM BANK, Herman White, Anchorage – 261-3558

TYPES OF LOANS:	Northrim Bank is not making direct commercial fishing loans, refers commercial fishing business to CFAB.
Note:	Originally called Northrim Bank to talk to Stephen Street, formerly of ABDC, about loans and interest rates. Stephen Street resigned Northrim a week ago.

NMFS Financial, Paige Parasiche, Loan Officer, 7600 Sand Point Way NE, Bin C15700, Bldg. 1, Seattle, WA 98115 - 206-526-6122

TYPES OF LOANS: Quota Share purchases and refinances, vessels, Aquaculture, and Shore-based processors. $5,000,000 has been designated as IFQ financing and $59,000,000 has been designated for vessels/processors.

VESSELS: Most vessels are $2,000,000 or over in purchase price.

IFQs: Purchases are 80% Loan-to-Value, must pay 20% down in cash. Refinances are 80% Loan-to-Value. Not able to do the new crab quota shares yet, but talking about it.

TERMS: Term is up to 25 years. Little change in interest rates from 2005. Rates are fixed - based on T-Bill rate (at www.treas.gov) + 2% (interest rate currently 6.57% for 10 years and 6.72% for 20 years – up about .25% from 2005). Prequalifications are issued with no set time limit to find quota shares to purchase. Most IFQ borrowers are Alaska, Washington, or Oregon residents.

OTHER: Funding is seasonal with NMFS Financial. They receive funding in March each year--$5,000,000 for quota and this year and last year for quota shares+ $59,000,000 for vessels. Commitments are issued when funding is available.

There is no prepayment penalty, but there is a default rate on a case-by-case basis. Borrowers lose their "initial issuee" status if financed by NMFS Financial. If a borrower owns more than 50,000 pounds of quota shares, he is ineligible for financing. Borrowers cannot own a vessel larger than 60'.

NMFS Financial records a vessel mortgage on all quota share loans. Equity in the vessel is not an issue for the mortgage.

There are few changes in the program over the past year.

WEB SITE: None