

LEG. FINANCE - BILLS 1977 - 1978 929

SB 176 cont. thru SB 184 929

1 The term "state" also includes any neighboring foreign country and a
2 province or state of one.

3 ARTICLE XI

4 NON-BORDERING STATES

5 The governor may enter into this compact with any state which
6 does not border this state if he finds that joint action with the
7 state is desirable in meeting common intergovernmental problems of
8 emergency disaster planning, prevention, response, and recovery.

9 ARTICLE XII

10 UNITED STATES CIVIL DEFENSE AGENCY PARTICIPATION

11 The committee established under Article I of this compact may
12 request the Civil Defense Agency of the United States government to
13 act as an informational and coordinating body under this compact, and
14 representatives of that agency may attend meetings of the committee.

15 ARTICLE XIII

16 ENTRY INTO FORCE

17 This compact becomes operative immediately upon its ratification
18 by any state as between it and any other state or states so ratifying,
19 and is subject to approval by Congress, unless prior Congressional
20 approval has been given. Duly authenticated copies of this compact,
21 and of such supplementary agreements as may be entered into, shall, at
22 the time of their approval, be deposited with each of the party states,
23 the Civil Defense Agency and other appropriate agencies of the United
24 States government.

25 ARTICLE XIV

26 WITHDRAWAL

27 This compact continues in force and remains binding on each party
28 state until the legislature or the governor of such a state takes
29 action to withdraw from it. Withdrawal is not effective until 30 days

1 after notice of that action has been sent by the governor of the party
2 state desiring to withdraw to the governors of all other party states.

3 ARTICLE XV

4 SEVERABILITY

5 This compact shall be construed to effectuate the purposes
6 stated in Article I. If any provision of this compact is held unconsti-
7 tutional, or its applicability to any person or circumstance is held
8 invalid, the constitutionality of the remainder of this compact and
9 its applicability to other persons and circumstances are not affected
10 by that holding.

11 ARTICLE XVI

12 COVERAGE

13 (a) This Article is in effect only as among those states which
14 have enacted it into law or in which the governors have adopted it
15 under constitutional or statutory authority sufficient to give it the
16 force of law as part of this compact. Nothing contained in this
17 Article or in any supplementary agreement made in implementation of it
18 abridges, impairs, or supersedes any other provision of this compact
19 or any obligation undertaken by a state pursuant to it, except that if
20 its terms so provide, a supplementary agreement in implementation of
21 this Article may modify, expand, or add to any such obligation as
22 among the parties to the supplementary agreement.

23 (b) In addition to the occurrences, circumstances and subject
24 matter to which preceding Articles of this compact make it applicable,
25 this compact and its authorizations, entitlements, and procedures
26 apply to:

27 (1) searches for and rescue of persons who are lost, marooned,
28 or otherwise in danger;

29 (2) action useful in coping with disasters arising from any

1 cause or designed to increase the capability to cope with any such
2 disasters;

3 (3) incidents, or the imminence of them, which endanger the
4 health or safety of the public and which require the use of special
5 equipment, trained personnel, or personnel in larger numbers that are
6 locally available in order to reduce, counteract or remove the danger;

7 (4) the giving and receiving of aid by political subdivisions
8 of party states;

9 (5) exercises, drills or other training or practice activi-
10 ties designed to aid personnel to prepare for, cope with, or prevent
11 any disaster or other emergency to which this compact applies.

12 (c) Except as expressly limited by this compact or a supplementary
13 agreement in force pursuant to it, any aid authorized by this compact
14 or such a supplementary agreement may be furnished by any agency of a
15 party state, by a political subdivision of such a state, or by a joint
16 agency; such an agency or political subdivision is entitled to reim-
17 bursement for the aid to the same extent and in the same manner as a
18 state. The personnel of a joint agency, when rendering aid under this
19 compact, have the same rights, authority and immunity as personnel of
20 party states.

21 (d) Nothing in this Article excludes from the coverage of
22 Articles I - XV of this compact any matter which, in the absence of
23 this Article, could reasonably be construed to be covered by Articles
24 I - XV.

25 ARTICLE XVII

26 CONSTRUCTION

27 Nothing in this compact limits previous or future entry into the
28 Interstate Civil Defense and Disaster Compact of this state with other
29 states.

1 Sec. 26.23.140. LOCAL DISASTER EMERGENCIES. (a) A local
2 disaster emergency may be declared only by the principal executive
3 officer of a political subdivision. It may not be continued or
4 renewed for a period in excess of seven days, except by or with the
5 consent of the governing board of the political subdivision. Any
6 order or proclamation declaring, continuing, or terminating a local
7 disaster emergency shall be given prompt and general publicity, and
8 shall be filed promptly with the Alaska Division of Emergency Services
9 and the appropriate municipal clerk.

10 (b) The effect of a declaration of a local disaster emergency is
11 to activate the response and recovery aspects of any and all applicable
12 local or interjurisdictional disaster emergency plans, and to authorize
13 the furnishing of aid and assistance under those plans.

14 (c) No interjurisdictional agency or official of one may declare
15 a local disaster emergency unless expressly authorized by the agreement
16 under which the agency functions. An interjurisdictional disaster
17 agency shall provide aid and services in accordance with agreement
18 under which it functions.

19 Sec. 26.23.150. DISASTER PREVENTION. (a) In addition to
20 disaster prevention measures as included in the state, local and
21 interjurisdictional disaster plans, the governor shall consider, on a
22 continuing basis, steps that could be taken to prevent or reduce the
23 harmful consequences of disasters. At his direction, and under any
24 other authority and competence they have, state agencies, including
25 but not limited to, those charged with responsibilities in connection
26 with flood plain management, stream encroachment and flow regulation,
27 weather modification, fire prevention and control, air quality, public
28 works, land use and land use planning and construction standards,
29 shall make studies of disaster-prevention-related matters. The governor

1 from time to time, shall make recommendations to the legislature, local
2 governments, and other appropriate public and private entities as may
3 facilitate measures for the prevention or reduction of the harmful
4 consequences of disasters.

5 (b) Appropriate departments, in conjunction with the Alaska
6 Division of Emergency Services, shall keep land uses and location of
7 structures and other facilities under continuing study, and identify
8 areas which are particularly susceptible to severe land shifting, sub-
9 sidence, flood, or other catastrophic occurrence. The studies under
10 this subsection shall concentrate on means of reducing or avoiding the
11 dangers caused by this occurrence or the consequences of it.

12 (c) If the Alaska Division of Emergency Services believes,
13 on the basis of the studies or other competent evidence, and after
14 consultation with the appropriate local planning agencies, that an
15 area is susceptible to a disaster of catastrophic proportions without
16 adequate warning, that existing building standards and land use controls
17 in that area are inadequate and could add substantially to the magnitude
18 of the disaster, and that changes in zoning regulations, other land
19 use regulations, or building requirements are essential in order to
20 further the purposes of this section, it shall specify the essential
21 changes to the governor.

22 Sec. 26.23.160. COMPENSATION. (a) No personal services may be
23 compensated by the state or any political subdivision or agency of it,
24 except in accordance with Alaska law or a local ordinance.

25 (b) Compensation for property shall be made only if the property
26 was commandeered or otherwise used in coping with a disaster emergency,
27 and its use or destruction was ordered by the governor or by a member
28 of the disaster emergency forces of this state who is authorized by
29 the division of emergency services to issue such an order.

1 (c) Any person claiming compensation for the use, damage, loss,
2 or destruction of property occasioned by action taken under this
3 chapter shall file a claim for that compensation with the Alaska
4 Division of Emergency Services in the form and manner in which that
5 agency provides.

6 (d) Unless the amount of compensation resulting from property
7 damaged, lost, or destroyed is agreed upon between the claimant and
8 the Alaska Division of Emergency Services, the amount of compensation
9 shall be calculated in the same manner as compensation due for a
10 taking of property under the condemnation laws of this state.

11 Sec. 26.23.170. COMMUNICATIONS. The Alaska Division of Emergency
12 Services shall ascertain what means exist for rapid and efficient
13 communications in times of disaster emergency. The division shall
14 consider the desirability of supplementing these communications re-
15 sources, or of integrating them into a comprehensive state or state-
16 federal telecommunications network or other communication system or
17 network. In studying the character and feasibility of any system or
18 its several parts, the division shall evaluate the possibility of
19 multi-purpose use of it or its parts for general state and local
20 governmental purposes. The division shall make recommendations to the
21 governor as appropriate.

22 Sec. 26.23.180. MUTUAL AID. (a) Political subdivisions not
23 participating in interjurisdictional arrangements under this chapter
24 nevertheless shall be encouraged and assisted by the Alaska Division
25 of Emergency Services to conclude suitable arrangements for furnishing
26 mutual aid in coping with disasters. The arrangements shall include
27 provision of aid by persons and units in public employment.

28 (b) In concurring with local disaster plans, the governor shall
29 consider whether they contain adequate provisions for the rendering

1 and receipt of mutual aid.

2 (c) It is a sufficient reason for the governor to require an
3 interjurisdictional agreement or arrangement under sec. 70 of this
4 chapter that the area involved and political subdivisions in it have
5 available equipment, supplies, and forces necessary to provide mutual
6 aid on a regional basis, and that the political subdivisions have not
7 already made adequate provision for mutual aid; but in requiring an
8 interjurisdictional arrangement in order to accomplish the purpose of
9 this section, the governor need not require establishment and mainte-
10 nance of an interjurisdictional agency or arrangement for any other
11 disaster purposes.

12 Sec. 26.23.190. RIGHT OF ENTRY. If entry is reasonably necessary
13 to actually alleviate or prevent the disaster, all persons authorized
14 to carry out emergency measures directed under the provisions of this
15 chapter shall be accorded free access to all public and private land
16 and public buildings within the areas specified, and are authorized to
17 enter them and to perform such work and take such measures as are
18 appropriate without the consent of the owners of the land or buildings.

19 Sec. 26.23.200. LIMITATIONS. Nothing in this chapter:

20 (1) interferes with or allows interference with the course
21 or conduct of a labor dispute, except that actions otherwise authorized
22 by this chapter or other laws may be taken when necessary to forestall
23 or mitigate imminent or existing danger to public health or safety;

24 (2) interferes with or allows interference with dissemi-
25 nation of news or comment on public affairs; but any communications
26 facility or organization (including, but not limited to radio and
27 television stations, wire services, and newspapers) may be requested
28 to transmit or print public service messages furnishing information or
29 instructions in connection with a disaster emergency, in a manner

1 which encroaches as little as possible upon the normal functions of
2 the news media;

3 (3) affects the jurisdiction or responsibilities of police
4 forces, fire-fighting forces, units of the armed forces of the United
5 States, or of any personnel of them, when on active duty; but state,
6 local, and interjurisdictional disaster emergency plans shall place
7 reliance upon the forces available for performance of functions related
8 to disaster emergencies; or

9 (4) limits, modifies, or abridges the authority of the
10 governor to proclaim martial law, or exercise any other powers vested
11 in him under the constitution, statutes, or common law of this state
12 independent of, or in conjunction with, any provision of this chapter.

13 Sec. 26.23.210. RELATIONSHIP TO CIVIL DEFENSE STATUTE. AS
14 26.20, the Alaska civil defense statute, applies to preparedness,
15 response, and recovery from disasters caused by enemy attack and other
16 hostile military or paramilitary action. The provisions of this
17 chapter, other than AS 26.23.130, apply to preparedness, response, and
18 recovery in cases of natural and non-military man-made disasters.

19 Sec. 26.23.220. ADMINISTRATION. This chapter shall be administered
20 by the Department of Military Affairs, which is responsible to, and
21 which may receive delegations of authority from, the governor.

22 Sec. 26.23.230. DEFINITIONS. As used in this chapter:

23 (1) "disaster" means the occurrence or imminent threat of
24 widespread or severe damage, injury, or loss of life or property
25 resulting from any natural or non-military man-made cause including,
26 but not limited to, fire, flood, earthquake, landslide, mudslide,
27 avalanche, wind-driven water, weather condition, tsunami, oil spill or
28 other water contamination requiring emergency action to avert danger
29 or damage, volcanic activity, epidemic, air contamination, blight,

1 infestation, explosion, riot, equipment failure, or shortage of food,
2 water, fuel, or clothing;

3 (2) "disaster emergency" means the condition declared by
4 proclamation of the governor or declared by the principal executive
5 officer of a political subdivision to designate the imminence or
6 occurrence of a disaster;

7 (3) "emergency" means the same thing as in the federal
8 Disaster Relief Act of 1974 (P.L. 93-288, 88 Stat. 143);

9 (4) "major disaster" means the same thing as in the federal
10 Disaster Relief Act of 1974 (P.L. 93-288, 88 Stat. 143);

11 (5) "political subdivision" means a borough or city,
12 whether home rule or otherwise, including municipalities unified under
13 AS 29.68.240 - 29.68.440, unincorporated village, or other unit of
14 local government;

15 (6) "temporary housing" means the same thing as in the
16 federal Disaster Relief Act of 1974 (P.L. 93-288, 88 Stat. 143); and

17 (7) "unorganized militia" means all able-bodied persons
18 between the ages of 17 and 59 years, inclusive, who reside in the
19 state.

20 * Sec. 4. AS 44.19.171(b) is amended to read:

21 (b) Subject to the restrictions of (d) and (e) of this section,
22 the governor may, without additional legislative authorization,
23 expend not more than \$1,000,000 [\$500,000] of the assets of the
24 disaster relief fund for the following purposes:

25 (1) to implement provisions of law relating to [NATURAL]
26 disaster relief in the case of a [NATURAL] disaster as defined in sec.
27 175 of this chapter occurring after October 11, 1967;

28 (2) to alleviate the effects of a [NATURAL] disaster as
29 defined in sec. 175 of this chapter occurring after October 11, 1967.

1 * Sec. 5. AS 44.19.171(c) is amended to read:

2 (c) Subject to the restrictions of (d) and (e) of this section,
3 the governor may, without additional legislative authorization, expend
4 for any fiscal year not more than \$500,000 [\$250,000] of the assets of
5 the disaster relief fund to prevent or minimize the effects of an
6 event which occurs in any part of the state after October 11, 1967 and
7 which, in the determination of the governor, poses a direct and immi-
8 nent threat of resulting in a [NATURAL] disaster of sufficient magnitude
9 and severity to justify state action.

10 * Sec. 6. AS 44.19.175 is repealed and re-enacted to read:

11 Sec. 44.19.175. DEFINITION. In secs. 171 - 177 of this chapter,
12 "disaster" means the occurrence or imminent threat of widespread or
13 severe damage, injury, or loss of life or property resulting from any
14 natural or man-made cause including, but not limited to, fire, flood,
15 earthquake, landslide, avalanche, wind-driven water, weather condition,
16 tsunami, oil spill or other water contamination requiring emergency
17 action to avert damage, volcanic activity, epidemic, air contamination,
18 blight, infestation, explosion, or riot.

19 * Sec. 7. AS 44.19.177(a) is amended to read:

20 Sec. 44.19.177. GRANTS AND LOANS TO MUNICIPALITIES DAMAGED BY A
21 [NATURAL] DISASTER. (a) Grants and loans for urban renewal shall be
22 made available to municipalities damaged by [NATURAL] disasters occur-
23 ring in the state after August 1, 1967 in order to match federal funds
24 under federal urban renewal programs. A grant or loan of state funds
25 to a municipality for an urban renewal program under this section may
26 not exceed 25 per cent of the aggregate of the net project costs of
27 the urban renewal project. Funds shall be made available to a munici-
28 pality to match federal funds only if the urban renewal project is
29 made necessary by the [NATURAL] disaster

1 * Sec. 8. AS 44.19.177(d)(3) is amended to read:

2 (3) whether or not the urban renewal project was made
3 necessary by a [NATURAL] disaster;

4 * Sec. 9. AS 44.19.177(d)(4) is amended to read:

5 (4) the needs of other municipalities damaged by the
6 [NATURAL] disaster for funds to match federal funds for urban renewal
7 projects, and the urgency of the needs of other communities as compared
8 with the community under consideration;

9 * Sec. 10. AS 44.19.177(g) is amended to read:

10 (g) In this section "[NATURAL] disaster" means a [NATURAL]
11 disaster proclaimed by the President of the United States.

12 * Sec. 11. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).

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JAY S. HAMMOND
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 31, 1977

Mr. Jay Hogan
Director
Division of Legislative Finance
Pouch WF
Juneau, Alaska 99811

Dear Mr. Hogan:

This letter is to provide the annual accounting of the Disaster Relief Fund as required by AS 44.19.171(e).

The fund balance on June 30, 1976, was \$7,900.00. There was no expenditure activity against this fund during FY76.

Should additional information be required, please contact my Administrative Assistant, Kent Dawson.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jay S. Hammond".

Jay S. Hammond
Governor

Current Disaster Legislation:

Civil Defense Statutes
(AS 26.20)

Originally enacted to deal with military or para-military situations. Has been broadened in interpretation to include floods, earthquakes, etc. One set of statutes covering both military and non-military disasters has proven to be cumbersome.

Disaster Relief Statutes
(AS 44.19.171 et. seq.)

Provides funds in the Governor's office for "natural disasters." During Bristol Bay Disaster of 1974, efficient response was inhibited by arguments over whether the disaster was "natural" or "man-made."

SB 176 Would:

LIMIT

the Civil Defense Statutes to military or para-military emergencies, and

ENACT

the Alaska Disaster Act and thereby establish the Alaska Division of Emergency Services to deal with non-military disasters.

The Alaska Division of Emergency Services would prepare a state disaster plan, thereby making Alaska eligible for certain types of federal assistance (under the federal Disaster Relief Act Amendments of 1974).

A large part of the Alaska Disaster Act is the Interstate Civil Defense and Disaster Compact. This establishes the legal basis for interstate (includes Canada) cooperation in disaster situations. This compact has been enacted by 1/2 of the U.S. This part of the Alaska Disaster Act applies to both military and non-military emergencies.

ELIMINATE

the word "natural." from the Disaster Relief Statutes, thereby making the funds available to areas struck by either "natural" or "man-made" disasters.

* Enactment of the Alaska Disaster Act per se will not result in increased expenditures above the level now authorized for and administered by the Alaska Disaster Office. The Alaska Division of Emergency Services will supersede the Alaska Disaster Office, and will take over its funding, facilities, manpower, and resources.

FACT SHEET
SB-176

AN ACT RELATING TO POWERS AND ORGANIZATION TO COPE WITH NATURAL AND MAN-MADE DISASTERS; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed legislation embodied in SB 176 is intended to:

1. Establish by statute the Division of Emergency Services replacing the Alaska Disaster Office.
2. Provide specific guidance and responsibilities aimed at;
 - a. Reducing the vulnerability of people and communities of this State to damage, injury, and loss of life and property resulting from disasters,
 - b. Preparing for the prompt and efficient rescue, care, and treatment of persons victimized or threatened by a disaster,
 - c. Providing a setting conducive to the rapid and orderly start of rehabilitation of persons and restoration of property affected by a disaster,
 - d. Clarifying and strengthening the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to, and recovery from a disaster,
 - e. Authorizing and providing for cooperation in disaster prevention, preparedness, response, and recovery,
 - f. Authorizing and providing for the coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of the state, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate, and
 - g. Assisting in the prevention of disasters caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.
3. Amend AS 44.19.171 (b) & (c), increasing the amount the Governor may expend from the disaster relief fund for; implementing the law to alleviate the effects of disasters or minimize the effects of an event which poses imminent threat of disaster. This proposes to allow for the effects of inflation over the past 10 plus years.
4. NO INCREASE in personnel or state funding are necessitated by this proposed legislation!

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

April 6, 1977

TO Sen
Sachitt
The Honorable *Jay* Jalmar M. Kerttula
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Le Witt
Re: Proposed Disaster Act
Our file no. J-77-025-77

Dear Senator Kerttula:

In response to your request, here is a sectional analysis of the proposed Disaster Act requested by Governor Hammond.

Proposed AS 23.30.244 would ensure that Alaska Civil Defense and Disaster Forces engaged in activities outside the State of Alaska in accordance with the Interstate Civil Defense and Disaster Compact (proposed AS 26.23.130) are considered "state employees" for purposes of Alaska's Workmen's Compensation Law. (Art. 7 of the proposed compact requires that such coverage be provided.)

The proposed amendment to AS 26.20.010(a) would limit the coverage of the civil defense statute (AS 26.20) to military or para-military situations.

Proposed AS 26.23.010 would set out the purposes of the Alaska Disaster Act. They appear self-explanatory.

Proposed AS 26.23.020 would define the role of the governor in a disaster emergency. It would place the governor, as chief executive of the state, in the position of primary responsibility for meeting the dangers presented by disasters. It would give him certain emergency powers to deal with disasters for a period of up to 30 days; the legislature could terminate a proclamation of disaster at any time or renew a proclamation of disaster for more than 30 days. Among other powers conferred on the governor, subsection (g) would give him the power to suspend the provisions of any regulatory statute, order, or regulation of a state agency which adversely affects the state's ability to respond to a disaster emergency. This is a recognition that, in an emergency situation, time constraints may not allow the state to comply with regulatory procedures and still respond effectively to a disaster.

The Honorable Jalmar M. Kerttula
Senator

April 6, 1977

- 2 -

Proposed AS 26.23.030 would establish the Alaska Division of Emergency Services. This division would replace the present Alaska Disaster Office, an office which presently exists only by administrative order.

Proposed AS 26.23.040 delineates the duties and powers of the Alaska Division of Emergency Services. Central to the duties of the division are the establishment of a state disaster plan and a coordination and development of local and regional disaster plans required by the federal and proposed state disaster laws.

Proposed AS 26.23.050 addresses the funding of disaster relief efforts under the proposed Act. It would establish the sources of funds for disaster relief efforts in order of their priority. In addition to the funds appropriated to the agencies responding to a disaster and those available in the disaster relief fund, the governor would be granted the authority to transfer and expend money appropriated for other purposes. This provision would take precedence over AS 37.07.080(e) which presently prohibits such transfers. In addition, it would permit the governor to borrow necessary funds from any source for the purpose of dealing with "natural disasters," borrowing permitted without ratification by the voters in art. IX, sec. 8 of the Alaska Constitution.

Proposed AS 26.23.060 would enable municipalities to maintain disaster agencies or participate in a local or interjurisdictional disaster agency. It would give the governor power to determine which localities need disaster agencies of their own and to require that they be established and maintained. It would specify certain criteria he must use in making these determinations.

Proposed AS 26.23.070 would enable the governor to establish disaster planning in service areas which cross political subdivision boundaries or international boundaries.

Proposed AS 26.23.080 would establish the procedures for applying to the federal government, on behalf of a local government, for a loan to meet a disaster emergency. It would also provide procedures for disbursement of the loan and recommendations to the federal government for cancellation of all or any part of repayment when such repayment is beyond the capacity of the local government.

The Honorable Jalmar M. Kerttula
Senator

April 6, 1977
- 4 -

Alaska Division of Emergency Services to specify essential changes in building standards and land use controls to the governor for the purpose of making recommendations.

Proposed AS 26.23.160 would govern the compensation for personal services or property under the Act.

Proposed AS 26.23.170 would enable the Alaska Division of Emergency Services to study means available for rapid and efficient communications in times of disaster emergency, and make appropriate recommendations to the governor.

Proposed AS 26.23.180 would provide for mutual aid between political subdivisions not participating in an interjurisdictional arrangement under the Act.

Proposed AS 26.23.190 would establish a right of entry to all private and public land and public buildings to alleviate or prevent a disaster without the consent of the owners of the land or buildings.

Proposed AS 26.23.200 would establish limitations on the Act which are, for the most part, self-explanatory. Of particular note are the following: (1) the Act could not be used to interfere with or permit interference with the course or conduct of a labor dispute, except as specified; (2) interfere with or permit interference with dissemination of news or comment on public affairs, although the media could be requested to transmit or print public service messages; (3) affect the jurisdiction or responsibilities of police forces, fire-fighting forces or units of the armed forces of the United States, although state and local disaster emergency plans may place reliance upon such forces; and (4) limit the governor's power to proclaim martial law or exercise any other power he possesses.

Proposed AS 26.23.210 specifies that AS 26.20, the Alaska Civil Defense Statute, applies only to military and paramilitary situations and that AS 26.23, the Alaska Disaster Act (with the exception of proposed AS 26.23.130) would apply only to natural and non-military man-made disasters.

Proposed AS 26.23.220 provides that the chapter shall be administered by the Department of Military Affairs.

Proposed AS 26.23.230 is the definition section for the chapter and is self-explanatory.

The Honorable Jalmar M. Kerttula
Senator

April 6, 1977
- 5 -

The proposed amendments to AS 44.19.171(b) and (c) would increase the amount of money which the governor may spend for disaster prevention or relief without additional legislative authorization from \$500,000 and \$250,000 to \$1,000,000 and \$500,000 respectively. In addition, AS 44.19.171 - 44.19.177 would be amended to delete the word "natural" wherever it appears in those statutes. These amendments are suggested as a result of problems such as those encountered during the Bristol Bay disaster of 1974. At that time, much discussion occurred as to whether the Bristol Bay disaster was a "natural" disaster or a disaster resulting from man-made causes. Because of these discussions, valuable time was lost in responding to the needs of the people of the area. The cause of a disaster is somewhat irrelevant when the purpose of the law is to ease the burdens which are imposed on the victims. This section would eliminate the "natural/man-made" dichotomy from Alaska statutes.

We hope this answers your questions.

Sincerely,

Avrum M. Gross
Attorney General

by *G. Thomas Hester*

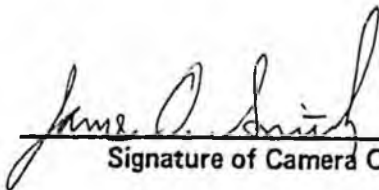
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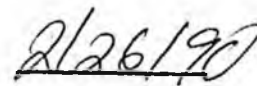
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I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.



Signature of Camera Operator



Date

COMMITTEE REPORT

SENATE

3/30/77

_____ Date

Mr. President:

The Committee on FINANCE has had SB 184
limitation on commercial fishing loans
under consideration. A majority of the members of the Committee

- recommends it do pass *with amendments*
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____ and that
CS for _____ do pass
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation
- AND attaches a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

<i>John Bennett</i>	_____	_____
<i>Holman</i>	<i>John Benting</i>	_____
<i>Melend</i>	<i>Nancy D</i>	_____
<i>Tillion</i>	_____	_____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

John P. Lockett

Chairman

A M E N D M E N T

Offered in the SENATE

By SENATE FINANCE COMMITTEE

To: _____ SENATE BILL NO. 104

_____ HOUSE BILL NO. _____

AMENDMENT: Page _____ Line _____

Page 1, lines 16 through 20 - delete 'a . . . and loans granted under Sec. 310(a)(1)(B) of this chapter may be secured by other acceptable collateral as determined appropriate by the department, including but not limited to a pledge of assessments from fishermen to finance the establishment of hatcheries under secs. 400 - 470 of this chapter.'

Page 2, lines 15 through 16 - delete "Except for loans granted under sec. 310 (a)(1)(B) of this chapter."

Introduced: 2/24/77
Referred: Resources,
Commerce and Finance

1 IN THE SENATE

BY POLAND

2 SENATE BILL NO. 184

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the limitation on commercial fishing
7 loans; and providing for an effective date."

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

9 * Section 1. AS 16.10.320 is amended to read:

10 Sec. 16.10.320. LIMITATIONS ON LOANS. A commercial fishing loan
11 may not exceed \$150,000 [\$100,000]. A loan may not run longer than 15
12 years or bear interest exceeding seven per cent, and it shall be secured
13 by a first lien and appropriate security agreements, except that a lien
14 in favor of the state is not required for loans guaranteed fully by the
15 federal government under the Federal Ship Financing Act of 1972 (46
16 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended, and loans granted
17 under sec. 310(a)(1)(B) of this chapter may be secured by other accept-
18 able collateral as determined appropriate by the department, including
19 but not limited to a pledge of assessments from fishermen to finance the
20 establishment of hatcheries under secs. 400 - 470 of this chapter. In
21 the case of a security agreement given to secure a loan made under secs.
22 300 - 370 of this chapter and covering a vessel documented under the
23 laws of the United States and so long as the Ship Mortgage Act of 1920
24 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as amended, and the Shipping
25 Act of 1916 (46 U.S.C. secs. 801 - 842; 39 Stat. 728), as amended,
26 remain ambiguous with respect to whether or not a state or state agency
27 qualifies as a citizen of the United States for purposes of those Acts,
28 the first lien requirement of this section may be satisfied by the
29 recordation and endorsement of a first preferred ship mortgage under the

1 Ship Mortgage Act of 1920, and by perfection of a security interest
2 under the Uniform Commercial Code - Secured Transactions (AS 45.05.690 -
3 45.05.794), if the approval of the Secretary of Commerce is obtained
4 under 46 U.S.C. sec. 839 for the transfer to the department of the
5 interest in a vessel documented under the laws of the United States. In
6 the case of a security agreement given to secure a loan made under secs.
7 300 - 370 of this chapter and covering a vessel documented under the
8 laws of the United States, the first lien requirement of this section
9 may also be satisfied by use of a trust deed and bond issue under it, if
10 the trustee is a citizen of the United States and obtains a first pre-
11 ferred ship mortgage on the vessel under the Ship Mortgage Act of 1920,
12 and the approval of the Secretary of Commerce is obtained under 46
13 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the
14 department if the trustee is not a trustee approved by the Secretary of
15 Commerce under 46 U.S.C. secs. 808, 835 and 961. Except for loans
16 granted under sec. 310(a)(1)(B) of this chapter, loans may not exceed
17 75 per cent of the appraised value of the collateral used to secure the
18 loan.

19 * Sec. 2. This Act takes effect immediately in accordance with AS 070(c).
20

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

SB 184



Kathleen A. Sackett

March 21, 1977

Senator John Sackett, Chairman
Senate Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett,

Our organization wholeheartedly supports Senate Bill #184, "An Act increasing the limitation on commercial fishing loans."

With ever increasing inflation, even 40 foot class boats are now all exceeding the \$100,000 cost. We feel that increasing the limitation is very necessary to keep up with the times.

Sincerely,

Bob Blake

Bob Blake
Chairman

bb/mh

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

SB 184

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D - JUNEAU 99811

March 8, 1977

Honorable W. E. Bradley, Chairman
Senate Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for your letter of March 2 requesting our comments on Senate Bill 184, relating to increasing the limitation on commercial fishing loans.

We fully support the concept of this legislation raising the limits on commercial fishing loans. In the past five years vessel construction costs have increased 40-60 percent. This, in our view, justifies an increase in the loan limit from \$100,000 to \$150,000.

We do have two amendments to offer the committee.



delete
Revised

Lines 16 through 20 ("...and loans granted under sec. 310(a)(1)(B) of this chapter may be secured by other acceptable collateral as determined appropriate by the department, including but not limited to a pledge of assessments from fishermen to finance the establishment of hatcheries under secs. 400 - 470 of this chapter.")

Lines 15 through 16, page two ("Except for loans granted under sec. 310 (a)(1)(B) of this chapter,") should be deleted as they have already been repealed by Section 2, Chapter 190 SLA 1976.

Yours truly,

H. Phillip Hubbard
H. Phillip Hubbard
Commissioner

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

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Passal
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Yours truly,

Phillip Hubbard
H. Phillip Hubbard
Commissioner

CORRECTION

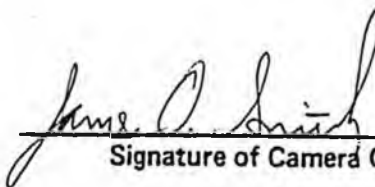
THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

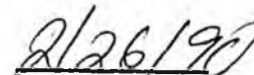


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Signature of Camera Operator


Date

COMMITTEE REPORT
SENATE

3/30/77

_____ Date

Mr. President:

The Committee on FINANCE has had SB 184
~~limitation on commercial liability loans~~
under consideration. A majority of the members of the Committee

- recommends it do pass *with amendments.*
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____ and that
CS for _____ do pass
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation
- AND attaches a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

<i>John L. Lockett</i>	_____	_____
<i>William H. Allen</i>	_____	_____
<i>Wesley C. Tillon</i>	_____	_____
<i>Henry H. ...</i>	_____	_____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

John L. Lockett

Chairman

A M E N D M E N T

Offered in the SENATE

By SENATE FINANCE COMMITTEE

To: _____ SENATE BILL NO. 184

_____ HOUSE BILL NO. _____

AMENDMENT: Page _____ Line _____

Page 1, lines 14 through 20 - delete "a . . . and loans granted under Sec. 310(a)(1)(B) of this chapter may be secured by other acceptable collateral as determined appropriate by the department, including but not limited to a pledge of assessments from fishermen to finance the establishment of hatcheries under secs. 400 - 470 of this chapter."

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Introduced: 2/24/77
Referred: Resources,
Commerce and Finance

1 IN THE SENATE

BY POLAND

2 SENATE BILL NO. 184

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the limitation on commercial fishing
7 loans; and providing for an effective date."

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11 may not exceed \$150,000 [\$100,000]. A loan may not run longer than 15
12 years or bear interest exceeding seven per cent, and it shall be secured
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14 in favor of the state is not required for loans guaranteed fully by the
15 federal government under the Federal Ship Financing Act of 1972 (46
16 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended, and loans granted
17 under sec. 310(a)(1)(B) of this chapter may be secured by other accept-
18 able collateral as determined appropriate by the department, including
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20 establishment of hatcheries under secs. 400 - 470 of this chapter. In
21 the case of a security agreement given to secure a loan made under secs.
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23 laws of the United States and so long as the Ship Mortgage Act of 1920
24 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as amended, and the Shipping
25 Act of 1916 (46 U.S.C. secs. 801 - 842; 39 Stat. 728), as amended,
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1 Ship Mortgage Act of 1920, and by perfection of a security interest
2 under the Uniform Commercial Code - Secured Transactions (AS 45.05.690 -
3 45.05.794), if the approval of the Secretary of Commerce is obtained
4 under 46 U.S.C. sec. 839 for the transfer to the department of the
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6 the case of a security agreement given to secure a loan made under secs.
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8 laws of the United States, the first lien requirement of this section
9 may also be satisfied by use of a trust deed and bond issue under it, if
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17 75 per cent of the appraised value of the collateral used to secure the
18 loan.

19 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
20 070(c).

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

SB 184



Kathy A. Sackett

March 21, 1977

Senator John Sackett, Chairman
Senate Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett,

Our organization wholeheartedly supports Senate Bill #184, "An Act increasing the limitation on commercial fishing loans."

With ever increasing inflation, even 40 foot class boats are now all exceeding the \$100,000 cost. We feel that increasing the limitation is very necessary to keep up with the times.

Sincerely,

Bob Blake

Bob Blake
Chairman

bb/mh

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

SB 184

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D - JUNEAU 93811

March 8, 1977

Honorable W. E. Bradley, Chairman
Senate Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for your letter of March 2 requesting our comments on Senate Bill 184, relating to increasing the limitation on commercial fishing loans.

We fully support the concept of this legislation raising the limits on commercial fishing loans. In the past five years vessel construction costs have increased 40-60 percent. This, in our view, justifies an increase in the loan limit from \$100,000 to \$150,000.

We do have two amendments to offer the committee.

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Revised

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Yours truly,

H. Phillip Hubbard
H. Phillip Hubbard
Commissioner

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D - JUNEAU 99811

March 8, 1977

*How many loans
\$ impact on 9.1.*

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Senate Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

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*Reel
Process*

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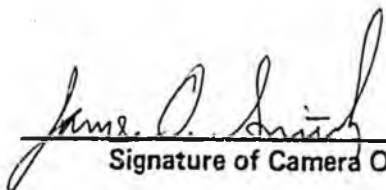
Phillip Hubbard
H. Phillip Hubbard
Commissioner

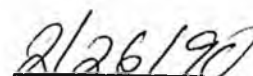


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Signature of Camera Operator


Date

COMMITTEE REPORT

HOUSE

4/21/78

FURTHER: _____

Date: _____

Mr. Speaker: Taken from Rules and
Returned to

The Committee on FINANCE has had SB 184 am
(for second time)

"An Act increasing the limitations on commercial fishing loans;
effective date."

under consideration and (a majority of the committee) (the committee
reports it back as follows)

() recommends it do pass () recommends it do not pass

() recommends it do pass with attached amendment(s)

() recommends it be replaced with CS for SB 184

and _____ () new title () same title

() AND attaches a Letter of Intent () New Fiscal Note

() reports it back without recommendation

() and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Freeman

Freeman

Freeman

Freeman

Freeman

Freeman

Chairman

COMMITTEE REPORT

HOUSE

FURTHER: _____

4/21/78

Date: _____

Mr. Speaker: Taken from Rules and

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() and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Chairman

Original sponsor: Poland

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 184 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the Commercial Fishing Loan Act; and
7 providing for an effective date."

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

9 * Section 1. AS 16.10.310(a)(1)(A) is amended to read:

10 (A) individual commercial fishermen who have been state
11 residents for a continuous period of five years immediately pre-
12 ceding the date of application for a loan under secs. 300 - 370 of
13 this chapter and have had a crewmember or commercial fishing li-
14 cense under AS 16.05.480 or a permit under ch. 43 of this title for
15 any three of the past five years, and who actively participated in
16 the fishery during that period, for the repair, restoration or
17 upgrading of existing vessels and gear, for the purchase of entry
18 permits and gear, and for the construction and purchase of vessels;
19 and

20 * Sec. 2. AS 16.10.310(a)(1) is amended by adding a new subparagraph to
21 read:

22 (C) corporations, partnerships, or joint ventures, 100
23 per cent of which are owned by individual commercial fishermen who
24 have been state residents for a continuous period of five years
25 immediately preceding the date of application for a loan under
26 secs. 300 - 370 of this chapter and have had a crewmember or com-
27 mercial fishing license under AS 16.05.480 or a permit under ch. 43
28 of this title for any three of the past five years, and who
29 actively participated in the fishery during that period, for the

1 repair, restoration or upgrading of existing vessels and gear, for
2 the purchase of gear, and for the construction and purchase of
3 vessels.

4 * Sec. 3. AS 16.10.320 is repealed and re-enacted to read:

5 Sec. 16.10.320. LIMITATIONS ON LOANS. (a) Except as provided in
6 (b), (c), (d), and (e) of this section, commercial fishing loans granted
7 under secs. 300 - 370 of this chapter

8 (1) may not exceed \$500,000;

9 (2) may not exceed a term of 15 years;

10 (3) may not bear interest exceeding seven per cent;

11 (4) shall be secured by a first priority lien and appropriate
12 security agreement; and

13 (5) may not exceed 75 per cent of the appraised value of the
14 collateral used to secure the loan.

15 (b) A lien in favor of the state is not required for loans guar-
16 anteed fully by the federal government under the Federal Ship Financing
17 Act of 1972 (46 U.S.C. secs. 1271-1279(b); 86 Stat. 909), as amended.
18 In the case of a security agreement given to secure a loan made under
19 secs. 300 - 370 of this chapter and covering a vessel documented under
20 the laws of the United States and so long as the Ship Mortgage Act of
21 1920 (46 U.S.C. secs. 911-984; 41 Stat. 1000), as amended, and the
22 Shipping Act of 1916 (46 U.S.C. secs. 801-842; 39 Stat. 728), as
23 amended, remain ambiguous with respect to whether or not a state or
24 state agency qualifies as a citizen of the United States for purposes of
25 those Acts, the first lien requirement of this section may be satisfied
26 by the recordation and endorsement of a first preferred ship mortgage
27 under the Ship Mortgage Act of 1920, and by perfection of a security
28 interest under the Uniform Commercial Code - Secured Transactions (AS
29 45.05.690 - 45.05.794), if the approval of the Secretary of Commerce is

1 obtained under 46 U.S.C. sec. 839 for the transfer to the department of
2 the interest in a vessel documented under the laws of the United States.
3 In the case of a security agreement given to secure a loan made under
4 secs. 300 - 370 of this chapter and covering a vessel documented under
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7 it, if the trustee is a citizen of the United States and obtains a first
8 preferred ship mortgage on the vessel under the Ship Mortgage Act of
9 1920, and the approval of the Secretary of Commerce is obtained under 46
10 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the
11 department if the trustee is not a trustee approved by the Secretary of
12 Commerce under 46 U.S.C. secs. 808, 835 and 961.

13 (c) A commercial fishing loan for the construction of a new
14 fishing vessel or the purchase of an existing fishing vessel may be
15 secured by a second priority lien or mortgage which is subordinate to a
16 valid first priority lien or mortgage in favor of a private lending
17 institution if the total financing does not exceed 75 per cent of the
18 appraised value of the collateral used to secure the loan. A loan
19 granted under this subsection

20 (1) shall be to an obligor who has previously obtained a
21 commitment for a commercial fishing loan from a private lending insti-
22 tution;

23 (2) may not exceed \$1,000,000 or 35 per cent of the total
24 purchase price of the fishing vessel, whichever amount is less;

25 (3) may not exceed a term of 15 years;

26 (4) may not bear interest exceeding seven per cent, except
27 that loans granted under this subsection may bear interest at a rate not
28 to exceed eight per cent if the commissioner determines that an increase
29 in the interest rate is necessary for the security of the loan.

1 (d) Except as provided in (e) of this section, no more than one
2 commercial fishing loan may be made to a person for the purchase, con-
3 struction, repair or upgrading of a fishing vessel or its gear. A loan
4 to an associate of the borrower is considered to be a loan to the bor-
5 rower. For the purposes of this section, "associate of the borrower"
6 means

7 (1) a corporation or other organization of which the borrower
8 is an officer, director or partner, or is, directly or indirectly, the
9 beneficial owner of 10 per cent or more of any class of equity securi-
10 ties;

11 (2) a person who is, directly or indirectly, the beneficial
12 owner of 10 per cent or more of any class of equity securities of the
13 borrower;

14 (3) a trust or other estate in which the borrower has a sub-
15 stantial beneficial interest or as to which the borrower serves as
16 trustee or in a similar fiduciary capacity;

17 (4) a relative or spouse of the borrower or a relative of the
18 spouse, who has the same home as the borrower;

19 (5) a person directly or indirectly controlling, controlled
20 by, or under common control with, the borrower.

21 (e) Two or more individual commercial fishermen who each satisfy
22 the requirements specified in sec. 310(a)(1)(A) of this chapter may
23 jointly obtain a commercial fishing loan for the construction of a
24 fishing vessel or the purchase of an existing fishing vessel. Loans
25 granted under this subsection

26 (1) may not exceed the amount specified in (a)(1) of this
27 section multiplied by the number of qualified commercial fishermen
28 applying for the loan;

29 (2) may not exceed a term of 15 years;

1 (3) shall be secured by a first priority lien and appropriate
2 security agreement;

3 (4) may not bear interest exceeding seven per cent; and

4 (5) may not exceed 75 per cent of the appraised value of the
5 collateral used to secure the loan.

6 * Sec. 4. AS 16.10 is amended by adding new sections to read:

7 Sec. 16.10.333. LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PER-
8 MITS. (a) Loans under sec. 320(a) of this chapter may be made to an
9 individual commercial fisherman for the purchase of a limited entry
10 permit upon certification by the commission that the fisherman is a
11 person who qualifies as a transferee for the permit under ch. 43 of this
12 title and the regulations adopted by the commission.

13 (b) Upon approval by the commissioner, the permit to be purchased
14 may be pledged as security for a loan under (a) of this section, if

15 (1) the certificate for the pledged permit lists the commis-
16 sioner as the legal owner of the permit;

17 (2) the certificate for the pledged permit lists the debtor
18 as the equitable owner of the permit;

19 (3) all annual permit cards issued under the pledged permit
20 list the name of the debtor;

21 (4) all obligations and responsibilities of a permit owner
22 are assumed by the debtor;

23 (5) co-signers or other sureties for performance under the
24 note are not vested with any rights in the pledged permit and their
25 obligation is limited to satisfaction of the note and payment of costs
26 directly incurred by the department in administering the loan.

27 (c) The commissioner is not liable for any act or omission re-
28 sulting from permit ownership nor will that act or omission affect his
29 title to the permit or his rights under it.

1 (d) Upon satisfaction of the note by the debtor, the commissioner
2 shall certify to the commission that the note has been satisfied.

3 (e) Upon certification as provided in (d) of this section, the
4 commission shall amend the permit certificate to list the debtor as the
5 legal owner.

6 Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor
7 defaults upon a note for which a limited entry permit has been pledged
8 as security under sec. 333 of this chapter, the commissioner shall
9 provide the debtor, by registered or certified mail sent to his last
10 known address on file with the commissioner, with a notice of default
11 which includes

12 (1) a description of the security given for the note includ-
13 ing the number assigned to the pledged permit by the commission;

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

15 (3) the amount of arrearages as of the date of the notice,
16 the total amount remaining on the note less unearned interest, and the
17 amount of daily interest;

18 (4) a statement that the debtor may, within 15 days of the
19 postmark date of the notice, request a hearing at which he may submit
20 evidence showing he has not defaulted;

21 (5) a statement that the note may be reinstated if brought
22 current within 60 days from the postmark date of the notice;

23 (6) a statement that the note may be paid in full less un-
24 earned interest within 90 days from the postmark date of the notice;

25 (7) the place where reinstatement or payment in full may be
26 made; and

27 (8) a notice in at least 10-point bold type stating: "IM-
28 PORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE
29 SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND

1 THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

2 (b) Upon the debtor's failure to reinstate or satisfy the note
3 within the time specified in (a) of this section, his equitable interest
4 is terminated by operation of law without further notice. Any entry
5 permit cards issued to him under the permit shall be cancelled immedi-
6 ately upon receipt by the commission of a certificate of termination
7 containing a copy of the notice required by (a) of this section issued
8 by the commissioner.

9 Sec. 16.10.337. DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER
10 FORECLOSURE. (a) Upon a foreclosure on an entry permit as provided in
11 sec. 335 of this chapter, the commissioner shall offer the commission a
12 right of first refusal if the permit is subject to a buy-back program
13 under AS 16.43.290 - 16.43.330 at a price equal to the amount outstand-
14 ing on the note plus any costs the department directly incurred in
15 administering the loan.

16 (b) If the commission does not exercise its right of first refusal
17 within 30 days after it receives the offer, or if the permit is not
18 subject to a buy-back program under AS 16.43.290 - 16.43.330, the de-
19 partment shall promptly notify the debtor of this fact. The debtor has
20 30 days from the postmark date of the notice to nominate a person quali-
21 fied to assume the note. The person nominated must qualify under the
22 requirements of sec. 333(a) of this chapter. If qualified, he may
23 assume all rights and liabilities of the original debtor.

24 (c) If the debtor is unable to nominate a qualified person to
25 assume the note under (b) of this section, the permit must be made
26 available to a qualified person, chosen as provided in this section, who
27 must assume the note subject to all rights and liabilities of the ori-
28 ginal debtor. The commission shall provide the commissioner with a list
29 of persons chosen by lottery who qualify as transferees of entry permits

1 under ch. 43 of this title and regulations adopted by the commission and
2 who have met the residency and commercial fishing participation require-
3 ments of sec. 310(a) of this chapter. The commissioner then shall
4 determine, in order of presentation, any remaining qualifications. The
5 commissioner shall allow the first applicant meeting all qualifications
6 to assume the note.

7 (d) Nothing in this section affects the right of the commissioner
8 to institute legal action for a deficiency resulting from a default on a
9 note given under sec. 333 of this chapter. In addition to any defi-
10 ciency, the debtor is liable for the costs of administering the note and
11 for costs and attorney fees.

12 Sec. 16.10.339. REGULATIONS. The commission, with the approval of
13 the department, shall adopt regulations to implement secs. 333 - 337 of
14 this chapter.

15 Sec. 16.10.342. SPECIAL ACCOUNT ESTABLISHED. (a) There is estab-
16 lished as a special account within the commercial fishing revolving loan
17 fund the foreclosure expense account.

18 (b) The commissioner may credit the foreclosure expense account
19 with money earned as a result of an increased interest rate on a com-
20 mercial fishing loan granted under sec. 320(c) of this chapter.

21 (c) The commissioner may expend money credited to the foreclosure
22 expense account when necessary to protect the state's security interest
23 in collateral on loans granted under secs. 300 - 370 of this chapter or
24 to defray expenses incurred during foreclosure proceedings after a
25 default by an obligor.

26 * Sec. 5. AS 16.10.360 is amended by adding new paragraphs to read:

27 (3) "commission" means the Commercial Fisheries Entry Commis-
28 sion;

29 (4) "debtor" means an individual commercial fisherman who

1 either initially contracts for a loan under secs. 333 - 337 of this
2 chapter or assumes a loan as provided in those sections.

3 * Sec. 6. AS 16.43.150(g) is amended to read:

4 (g) Except as provided in AS 16.10.333 - 16.10.337, an [AN] entry
5 permit may not be:

6 (1) pledged, mortgaged, leased, or encumbered in any way;

7 (2) transferred with any retained right of repossession or
8 foreclosure; or

9 (3) attached, distrained, or sold on execution of judgment or
10 under any other process or order of any court.

11 * Sec. 7. AS 16.43.170(a) is amended to read:

12 (a) Except as provided in AS 16.10.333 - 16.10.337, entry [ENTRY]
13 permits and interim-use permits are transferable only through the com-
14 mission as provided in this section and sec. 180 of this chapter and
15 under regulations adopted by the commission.

16 * Sec. 8. This Act takes effect July 1, 1978.

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MEMORANDUM

State of Alaska

TO:

DEPT. _____

DIV. _____

SEC. _____

Legislative Affairs

DATE : April 24, 1978

FROM: Vicki Wilson
HFC Rm 411
Phone: 3795/3796

SUBJECT: House CS SB 184

Please prepare House Committee Substitute for SB 184, incorporating work draft copy of Finance CS for HB 573, with change noted on page 3, line 17 of the work draft, and return to me as soon as possible.

Thank you.

Original sponsor: Poland

Offered: 5/27/77
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 184

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the limitation on commercial fishing
7 loans; and providing for an effective date."

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

9 * Section 1. AS 16.10.320 is amended to read:

10 Sec. 16.10.320. LIMITATIONS ON LOANS. A commercial fishing loan
11 may not exceed \$200,000 [\$100,000]. A loan may not run longer than 15
12 years or bear interest exceeding seven per cent, and it shall be secured
13 by a first lien and appropriate security agreements, except that a lien
14 in favor of the state is not required for loans guaranteed fully by the
15 federal government under the Federal Ship Financing Act of 1972 (46
16 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended [, AND LOANS
17 GRANTED UNDER SEC. 310(a)(1)(B) OF THIS CHAPTER MAY BE SECURED BY OTHER
18 ACCEPTABLE COLLATERAL AS DETERMINED APPROPRIATE BY THE DEPARTMENT,
19 INCLUDING BUT NOT LIMITED TO A PLEDGE OF ASSESSMENTS FROM FISHERMEN TO
20 FINANCE THE ESTABLISHMENT OF HATCHERIES UNDER SECS. 400 470 OF THIS
21 CHAPTER]. In the case of a security agreement given to secure a loan
22 made under secs. 300 - 370 of this chapter and covering a vessel docu-
23 mented under the laws of the United States and so long as the Ship
24 Mortgage Act of 1920 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as
25 amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801 - 842; 39
26 Stat. 723), as amended, remain ambiguous with respect to whether or not
27 a state or state agency qualifies as a citizen of the United States for
28 purposes of those Acts, the first lien requirement of this section may
29 be satisfied by the recordation and endorsement of a first preferred

1 ship mortgage under the Ship Mortgage Act of 1920, and by perfection of
2 a security interest under the Uniform Commercial Code - Secured Trans-
3 actions (AS 45.05.690 - 45.05.794), if the approval of the Secretary of
4 Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the
5 department of the interest in a vessel documented under the laws of the
6 United States. In the case of a security agreement given to secure a
7 loan made under secs. 300 - 370 of this chapter and covering a vessel
8 documented under the laws of the United States, the first lien require-
9 ment of this section may also be satisfied by use of a trust deed and
10 bond issue under it, if the trustee is a citizen of the United States
11 and obtains a first preferred ship mortgage on the vessel under the Ship
12 Mortgage Act of 1920, and the approval of the Secretary of Commerce is
13 obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond
14 or bonds to the department if the trustee is not a trustee approved by
15 the Secretary of Commerce under 46 U.S.C. secs. 808, 835 and 961.

16 [EXCEPT FOR LOANS GRANTED UNDER SEC. 310(a)(1)(B) OF THIS CHAPTER,
17 LOANS] Loans may not exceed 75 per cent of the appraised value of the
18 collateral used to secure the loan.

19 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
20 070(c).



Official Business

Alaska State Legislature

House of Representatives

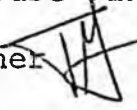
Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

April 20, 1978

Memo

To: Representative Steve Cowper
Chairman, House Finance Committee

From: Terry Gardiner 

Re: Proposed CS for HB 573

Contained in this packet are a proposed CS by the Finance Committee for HB 573 and a sectional analysis prepared by the Legislative Research Division. Basicly, the purposes of the amendments I have suggested to HB 573 are to promote the financing of bottomfish vessels through the Fishermen's Loan Program that presently exists.

Because the proposed bill amends many sections of existing law, I thought a sectional analysis explaining the effect of the changes to existing law would be helpful to the committee members.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 18, 1978

SUBJECT: Draft CS for HB 573 (Finance); W.O. #24/R

TO: The Honorable Terry Gardiner

FROM: John Williams
Research Analyst *JW*

You have asked that we prepare a sectional analysis of the draft Finance Committee Substitute for HB 573. The following is a general description of the bill and a more detailed sectional analysis.

There are four major revisions and one minor revision of the commercial fishing loan program contained in the Committee Substitute. Section 1 provides for a minor revision--clarifying the present eligibility requirements for applicants. Section 2 expands the eligibility requirements for applicants. Section 3 raises the loan size to \$500,000 and provides for the state to assume a subordinate lien in some instances. Section 4 adds language that would allow applicants to receive a loan to purchase a limited entry permit.

SECTION 1

The section adds language to clarify the legislative intent with regard to eligible fishermen who may apply for commercial fishing loans. The language added specifies that eligible applicants must have been residents for five continuous years prior to making application for a loan, and must have been commercial fishermen for any three of those five years (and actively participated in a fishery).

SECTION 2

The present commercial fishing loan program is available only to individual commercial fishermen. Section 2 expands the eligibility

standards to include business ventures owned 100 percent by individual commercial fishermen. The allowable business arrangements are joint ventures, partnerships, and corporations.

Commercial fishing has become a major business activity for a large number of Alaskan fishermen, many of whom can no longer avoid taking advantage of the various business arrangements which allow them to limit liability, leverage capital, share risk, and take advantage of several other benefits offered by incorporation or other business arrangements. Present language would not allow a fisherman to receive a loan in the name of his fishing business or to apply with other fishermen for a loan to be utilized by a consortium. The provisions provided in section 2 should allow for a greater number of Alaskan fishermen to utilize the loan program.

SECTION 3

Paragraph (a) of section 3 (AS 16.10.320) provides for the limit on commercial fishing loans to be raised from \$150,000 (existing law) to \$500,000. The language also reorganizes the section so that loan terms are clearly presented. The paragraph contains no other changes in present law.

Paragraph (b) is contained in existing law.

Paragraph (c) is new language which sets out conditions whereby the state may accept a subordinate lien as loan security for the purchase of a new or existing vessel. The conditions are that (1) the borrower must have prior written agreement from a private lending institution to

accept a first lien on the vessel; (2) the size of the state loan may not exceed 35 percent of the vessel appraised value or \$1 million, whichever is less; (3) the term of the loan shall not exceed 15 years; and (4) the interest on the loan shall be between 7 and 8 percent at the discretion of the Department of Commerce and Economic Development.

Paragraph (d) prohibits more than one commercial fishing loan being made to an individual or associate of the individual, except as provided in paragraph (e).

Paragraph (e) allows for two or more eligible commercial fishermen to jointly obtain a loan, the size of which cannot exceed \$500,000 times the number of participating fishermen applying for the loan. The terms of the loan are identical to provisions in section 3, paragraph (a) of the bill.

SECTION 4

This section adds new language to AS 16.10 which allows the commercial fishing loan program to make loans to fishermen for the purpose of buying limited entry permits. Terms for loans shall be the same as provided in section 3, paragraph (a)¹. Paragraph (b) defines the procedure that would be utilized for entry permit loans; specifically that the commissioner of Commerce and Economic Development shall be the legal owner of the permit; the fishermen shall be listed as equity owner and debtor; and the debtor shall be issued the annual permit cards and shall bear full responsibility as permit owner. Paragraph (c) stipulates that

¹The term provisions are not specified in the draft CS. At page 5, line 6 of the work draft, delete "secs. 300-370" and insert "sec. 320(a)".

the commissioner is not liable for any act (or lack thereof) with respect to the permit. Once the debtor has satisfied his debt, the commissioner shall so notify the Commercial Fisheries Entry Commission (paragraph (d)) and shall amend the permit to list the debtor as legal owner (paragraph (e)).

Sec. 16.10.335 of section 4 specifies the actions to be taken by the commissioner if a debtor falls in arrears on an entry permit loan. The debtor shall be notified and given 60 days from the postmark of the notice to correct the situation. If he does not respond within the time allowed, any interest he may have in the permit may be terminated.

Sec. 16.10.337 specifies the means of disposing of permits which by default are the property of the state. The Commercial Fisheries Entry Commission is given first option to buy the permit (if the permit is for a fishery which has a buy-back program) for the amount outstanding on the loan (plus handling charges). If the commission does not exercise its option within 30 days, the person listed as debtor may name a qualified fisherman to whom he wishes to assign his former rights. If the nominated individual meets all necessary requirements to hold a limited entry permit, he may assume all rights and responsibilities of the original debtor. If the original debtor does not nominate a successor, the commissioner shall select at random, from a list provided by the Commercial Fisheries Entry Commission, a fisherman who may assume the loan.

Sec. 16.10.339 provides for the Entry Commission to adopt regulations to implement this portion of the bill.

Sec. 16.10.342 creates a foreclosure expense account from the "excess" interest earned on loans made with second mortgages (section 3,

paragraph (c)). Money may be expended from the account when necessary to protect the state's interest in collateral on loans granted under this chapter or to defray expenses incurred during foreclosure proceedings after a default.

Sections 5 and 6 of the bill provide for technical amendments (definitions and amendments to chapter 43). Section 8 is the effective date clause. The bill would take effect on July 1, 1978.

Please let us know if we may be of further assistance.

JW:jm

Original sponsors: Osterback and Snider

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 573 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the Commercial Fishing Loan Act; and
7 providing for an effective date."

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

9 * Section 1. AS 16.10.310(a)(1)(A) is amended to read:

10 (A) individual commercial fishermen who have been state
11 residents for a continuous period of five years immediately pre-
12 ceding the date of application for a loan under secs. 300 - 370 of
13 this chapter and have had a crewmember or commercial fishing li-
14 cense under AS 16.05.480 or a permit under ch. 43 of this title for
15 any three of the past five years, and who actively participated in
16 the fishery during that period, for the repair, restoration or
17 upgrading of existing vessels and gear, for the purchase of entry
18 permits and gear, and for the construction and purchase of vessels;
19 and

20 * Sec. 2. AS 16.10.310(a)(1) is amended by adding a new subparagraph to
21 read:

22 (C) corporations, partnerships, or joint ventures, 100
23 per cent of which are owned by individual commercial fishermen who
24 have been state residents for a continuous period of five years
25 immediately preceding the date of application for a loan under
26 secs. 300 - 370 of this chapter and have had a crewmember or com-
27 mercial fishing license under AS 16.05.480 or a permit under ch. 43
28 of this title for any three of the past five years, and who
29 actively participated in the fishery during that period, for the

1 repair, restoration or upgrading of existing vessels and gear, for
2 the purchase of gear, and for the construction and purchase of
3 vessels.

4 * Sec. 3. AS 16.10.320 is repealed and re-enacted to read:

5 Sec. 16.10.320. LIMITATIONS ON LOANS. (a) Except as provided in
6 (b), (c), (d), and (e) of this section, commercial fishing loans granted
7 under secs. 300 - 370 of this chapter

8 (1) may not exceed \$500,000;

9 (2) may not exceed a term of 15 years;

10 (3) may not bear interest exceeding seven per cent;

11 (4) shall be secured by a first priority lien and appropriate
12 security agreement; and

13 (5) may not exceed 75 per cent of the appraised value of the
14 collateral used to secure the loan.

15 (b) A lien in favor of the state is not required for loans guar-
16 anteed fully by the federal government under the Federal Ship Financing
17 Act of 1972 (46 U.S.C. secs. 1271-1279(b); 86 Stat. 909), as amended.
18 In the case of a security agreement given to secure a loan made under
19 secs. 300 - 370 of this chapter and covering a vessel documented under
20 the laws of the United States and so long as the Ship Mortgage Act of
21 1920 (46 U.S.C. secs. 911-984; 41 Stat. 1000), as amended, and the
22 Shipping Act of 1916 (46 U.S.C. secs. 801-842; 39 Stat. 728), as
23 amended, remain ambiguous with respect to whether or not a state or
24 state agency qualifies as a citizen of the United States for purposes of
25 those Acts, the first lien requirement of this section may be satisfied
26 by the recordation and endorsement of a first preferred ship mortgage
27 under the Ship Mortgage Act of 1920, and by perfection of a security
28 interest under the Uniform Commercial Code - Secured Transactions (AS
29 45.05.690 - 45.05.794), if the approval of the Secretary of Commerce is

1 obtained under 46 U.S.C. sec. 839 for the transfer to the department of
 2 the interest in a vessel documented under the laws of the United States.
 3 In the case of a security agreement given to secure a loan made under
 4 secs. 300 - 370 of this chapter and covering a vessel documented under
 5 the laws of the United States, the first lien requirement of this sec-
 6 tion may also be satisfied by use of a trust deed and bond issue under
 7 it, if the trustee is a citizen of the United States and obtains a first
 8 preferred ship mortgage on the vessel under the Ship Mortgage Act of
 9 1920, and the approval of the Secretary of Commerce is obtained under 46
 10 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the
 11 department if the trustee is not a trustee approved by the Secretary of
 12 Commerce under 46 U.S.C. secs. 808, 835 and 961.

13 (c) A commercial fishing loan for the construction of a new
 14 fishing vessel ~~or the purchase of an existing fishing vessel~~ may be
 15 secured by a second priority lien or mortgage which is subordinate to a
 16 valid first priority lien or mortgage in favor of a private lending
 17 institution. *if the total financing does not exceed 75% of the appraised value of the collateral used to secure the loan.*

18 (1) shall be to an obligor who has previously obtained a
 19 commitment for a commercial fishing loan from a private lending insti-
 20 tution;

21 (2) may not exceed \$1,000,000 or 35 per cent of the total
 22 purchase price of the fishing vessel, whichever amount is less;

23 (3) may not exceed a term of 15 years;

24 (4) may not bear interest exceeding seven per cent, except
 25 that loans granted under this subsection may bear interest at a rate not
 26 to exceed eight per cent if the commissioner determines that an increase
 27 in the interest rate is necessary for the security of the loan.

28 (d) Except as provided in (e) of this section, no more than one
 29 commercial fishing loan may be made to a person for the purchase, con-

1 struction, repair or upgrading of a fishing vessel or its gear. A loan
2 to an associate of the borrower is considered to be a loan to the bor-
3 rower. For the purposes of this section, "associate of the borrower"
4 means

5 (1) a corporation or other organization of which the borrower
6 is an officer, director or partner, or is, directly or indirectly, the
7 beneficial owner of 10 per cent or more of any class of equity securi-
8 ties;

9 (2) a person who is, directly or indirectly, the beneficial
10 owner of 10 per cent or more of any class of equity securities of the
11 borrower;

12 (3) a trust or other estate in which the borrower has a sub-
13 stantial beneficial interest or as to which the borrower serves as
14 trustee or in a similar fiduciary capacity;

15 (4) a relative or spouse of the borrower or a relative of the
16 spouse, who has the same home as the borrower;

17 (5) a person directly or indirectly controlling, controlled
18 by, or under common control with, the borrower.

19 (e) Two or more individual commercial fishermen who each satisfy
20 the requirements specified in sec. 310(a)(1)(A) of this chapter may
21 jointly obtain a commercial fishing loan for the construction of a
22 fishing vessel or the purchase of an existing fishing vessel. Loans
23 granted under this subsection

24 (1) may not exceed the amount specified in (a)(1) of this
25 section multiplied by the number of qualified commercial fishermen
26 applying for the loan;

27 (2) may not exceed a term of 15 years;

28 (3) shall be secured by a first priority lien and appropriate
29 security agreement;

1 (4) may not bear interest exceeding seven per cent; and
2 (5) may not exceed 75 per cent of the appraised value of the
3 collateral used to secure the loan.

4 * Sec. 4. AS 16.10 is amended by adding new sections to read:

5 Sec. 16.10.333. LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PER-
6 MITS. (a) Loans under secs. 300 - 370 of this chapter may be made to
7 an individual commercial fisherman for the purchase of a limited entry
8 permit upon certification by the commission that the fisherman is a
9 person who qualifies as a transferee for the permit under ch. 43 of this
10 title and the regulations adopted by the commission.

11 (b) Upon approval by the commissioner, the permit to be purchased
12 may be pledged as security for a loan under (a) of this section, if

13 (1) the certificate for the pledged permit lists the commis-
14 sioner as the legal owner of the permit;

15 (2) the certificate for the pledged permit lists the debtor
16 as the equitable owner of the permit;

17 (3) all annual permit cards issued under the pledged permit
18 list the name of the debtor;

19 (4) all obligations and responsibilities of a permit owner
20 are assumed by the debtor;

21 (5) co-signers or other sureties for performance under the
22 note are not vested with any rights in the pledged permit and their
23 obligation is limited to satisfaction of the note and payment of costs
24 directly incurred by the department in administering the loan.

25 (c) The commissioner is not liable for any act or omission re-
26 sulting from permit ownership nor will that act or omission affect his
27 title to the permit or his rights under it.

28 (d) Upon satisfaction of the note by the debtor, the commissioner
29 shall certify to the commission that the note has been satisfied.

1 (e) Upon certification as provided in (d) of this section, the
2 commission shall amend the permit certificate to list the debtor as the
3 legal owner.

4 Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor
5 defaults upon a note for which a limited entry permit has been pledged
6 as security under sec. 333 of this chapter, the commissioner shall
7 provide the debtor, by registered or certified mail sent to his last
8 known address on file with the commissioner, with a notice of default
9 which includes

10 (1) a description of the security given for the note includ-
11 ing the number assigned to the pledged permit by the commission;

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

13 (3) the amount of arrearages as of the date of the notice,
14 the total amount remaining on the note less unearned interest, and the
15 amount of daily interest;

16 (4) a statement that the debtor may, within 15 days of the
17 postmark date of the notice, request a hearing at which he may submit
18 evidence showing he has not defaulted;

19 (5) a statement that the note may be reinstated if brought
20 current within 60 days from the postmark date of the notice;

21 (6) a statement that the note may be paid in full less un-
22 earned interest within 90 days from the postmark date of the notice;

23 (7) the place where reinstatement or payment in full may be
24 made; and

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

29 (b) Upon the debtor's failure to reinstate or satisfy the note

1 within the time specified in (a) of this section, his equitable interest
2 is terminated by operation of law without further notice. Any entry
3 permit cards issued to him under the permit shall be cancelled immedi-
4 ately upon receipt by the commission of a certificate of termination
5 containing a copy of the notice required by (a) of this section issued
6 by the commissioner.

7 Sec. 16.10.337. DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER
8 FORECLOSURE. (a) Upon a foreclosure on an entry permit as provided in
9 sec. 335 of this chapter, the commissioner shall offer the commission a
10 right of first refusal if the permit is subject to a buy-back program
11 under AS 16.43.290 - 16.43.330 at a price equal to the amount outstand-
12 ing on the note plus any costs the department directly incurred in
13 administering the loan.

14 (b) If the commission does not exercise its right of first refusal
15 within 30 days after it receives the offer, or if the permit is not
16 subject to a buy-back program under AS 16.43.290 - 16.43.330, the de-
17 partment shall promptly notify the debtor of this fact. The debtor has
18 30 days from the postmark date of the notice to nominate a person quali-
19 fied to assume the note. The person nominated must qualify under the
20 requirements of sec. 333(a) of this chapter. If qualified, he may
21 assume all rights and liabilities of the original debtor.

22 (c) If the debtor is unable to nominate a qualified person to
23 assume the note under (b) of this section, the permit must be made
24 available to a qualified person, chosen as provided in this section, who
25 must assume the note subject to all rights and liabilities of the ori-
26 ginal debtor. The commission shall provide the commissioner with a list
27 of persons chosen by lottery who qualify as transferees of entry permits
28 under ch. 43 of this title and regulations adopted by the commission and
29 who have met the residency and commercial fishing participation require-

1 ments of sec. 310(a) of this chapter. The commissioner then shall
2 determine, in order of presentation, any remaining qualifications. The
3 commissioner shall allow the first applicant meeting all qualifications
4 to assume the note.

5 (d) Nothing in this section affects the right of the commissioner
6 to institute legal action for a deficiency resulting from a default on a
7 note given under sec. 333 of this chapter. In addition to any defi-
8 ciency, the debtor is liable for the costs of administering the note and
9 for costs and attorney fees.

10 Sec. 16.10.339. REGULATIONS. The commission, with the approval of
11 the department, shall adopt regulations to implement secs. 333 - 337 of
12 this chapter.

13 Sec. 16.10.342. SPECIAL ACCOUNT ESTABLISHED. (a) There is estab-
14 lished as a special account within the commercial fishing revolving loan
15 fund the foreclosure expense account.

16 (b) The commissioner may credit the foreclosure expense account
17 with money earned as a result of an increased interest rate on a com-
18 mercial fishing loan granted under sec. 320(c) of this chapter.

19 (c) The commissioner may expend money credited to the foreclosure
20 expense account when necessary to protect the state's security interest
21 in collateral on loans granted under secs. 300 - 370 of this chapter or
22 to defray expenses incurred during foreclosure proceedings after a
23 default by an obligor.

24 * Sec. 5. AS 16.10.360 is amended by adding new paragraphs to read:

25 (3) "commission" means the Commercial Fisheries Entry Commis-
26 sion;

27 (4) "debtor" means an individual commercial fisherman who
28 either initially contracts for a loan under secs. 333 - 337 of this
29 chapter or assumes a loan as provided in those sections.

1 * Sec. 6. AS 16.43.150(g) is amended to read:

2 (g) Except as provided in AS 16.10.333 - 16.10.337, an [AN] entry
3 permit may not be:

4 (1) pledged, mortgaged, leased, or encumbered in any way;

5 (2) transferred with any retained right of repossession or
6 foreclosure; or

7 (3) attached, distrained, or sold on execution of judgment or
8 under any other process or order of any court.

9 * Sec. 7. AS 16.43.170(a) is amended to read:

10 (a) Except as provided in AS 16.10.333 - 16.10.337, entry [ENTRY]
11 permits and interim-use permits are transferable only through the com-
12 mission as provided in this section and sec. 180 of this chapter and
13 under regulations adopted by the commission.

14 * Sec. 8. This Act takes effect July 1, 1978.

Introduced: 2/24/77
Referred: Resources,
Commerce and Finance

1 IN THE SENATE

BY POLAND

2 SENATE BILL NO. 184

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the limitation on commercial fishing
7 loans; and providing for an effective date."

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

9 * Section 1. AS 16.10.320 is amended to read:

10 Sec. 16.10.320. LIMITATIONS ON LOANS. A commercial fishing loan
11 may not exceed \$150,000 [\$100,000]. A loan may not run longer than 15
12 years or bear interest exceeding seven per cent, and it shall be secured
13 by a first lien and appropriate security agreements, except that a lien
14 in favor of the state is not required for loans guaranteed fully by the
15 federal government under the Federal Ship Financing Act of 1972 (46
16 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended, and loans granted
17 under sec. 310(a)(1)(B) of this chapter may be secured by other accept-
18 able collateral as determined appropriate by the department, including
19 but not limited to a pledge of assessments from fishermen to finance the
20 establishment of hatcheries under secs. 400 - 470 of this chapter. In
21 the case of a security agreement given to secure a loan made under secs.
22 300 - 370 of this chapter and covering a vessel documented under the
23 laws of the United States and so long as the Ship Mortgage Act of 1920
24 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as amended, and the Shipping
25 Act of 1916 (46 U.S.C. secs. 801 - 842; 39 Stat. 728), as amended,
26 remain ambiguous with respect to whether or not a state or state agency
27 qualifies as a citizen of the United States for purposes of those Acts,
28 the first lien requirement of this section may be satisfied by the
29 recordation and endorsement of a first preferred ship mortgage under the

1 Ship Mortgage Act of 1920, and by perfection of a security interest
2 under the Uniform Commercial Code - Secured Transactions (AS 45.05.690 -
3 45.05.794), if the approval of the Secretary of Commerce is obtained
4 under 46 U.S.C. sec. 839 for the transfer to the department of the
5 interest in a vessel documented under the laws of the United States. In
6 the case of a security agreement given to secure a loan made under secs.
7 300 - 370 of this chapter and covering a vessel documented under the
8 laws of the United States, the first lien requirement of this section
9 may also be satisfied by use of a trust deed and bond issue under it, if
10 the trustee is a citizen of the United States and obtains a first pre-
11 ferred ship mortgage on the vessel under the Ship Mortgage Act of 1920,
12 and the approval of the Secretary of Commerce is obtained under 46
13 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the
14 department if the trustee is not a trustee approved by the Secretary of
15 Commerce under 46 J.S.C. secs. 808, 835 and 961. Except for loans
16 granted under sec. 310(a)(1)(B) of this chapter, loans may not exceed
17 75 per cent of the appraised value of the collateral used to secure the
18 loan.

19 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
20 070(c).

Introduced: 2/24/77
Referred: Resources,
Commerce and Finance

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15 federal government under the Federal Ship Financing Act of 1972 (46
16 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended [, AND LOANS GRANTED
17 UNDER SEC. 310(a)(1)(B) OF THIS CHAPTER MAY BE SECURED BY OTHER ACCEPT-
18 ABLE COLLATERAL AS DETERMINED APPROPRIATE BY THE DEPARTMENT, INCLUDING
19 BUT NOT LIMITED TO A PLEDGE OF ASSESSMENTS FROM FISHERMEN TO FINANCE THE
20 ESTABLISHMENT OF HATCHERIES UNDER SECS. 400 - 470 OF THIS CHAPTER]. In
21 the case of a security agreement given to secure a loan made under secs.
22 300 - 370 of this chapter and covering a vessel documented under the
23 laws of the United States and so long as the Ship Mortgage Act of 1920
24 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as amended, and the Shipping
25 Act of 1916 (46 U.S.C. secs. 801 - 842; 39 Stat. 723), as amended,
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13 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the
14 department if the trustee is not a trustee approved by the Secretary of
15 Commerce under 46 U.S.C. secs. 808, 835 and 961. [EXCEPT FOR LOANS
16 GRANTED UNDER SEC. 310(a)(1)(B) OF THIS CHAPTER, LOANS] Loans may
17 not exceed 75 per cent of the appraised value of the collateral used
18 to secure the loan.

19 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
20 070(c).

SB184

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 255 & SB184
 Title "An Act Relating to the Commercial Fishing Loan Act"
 Requested by House Finance Committee / Pete Jeans Date 2/24/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development
 Program Category Affected Development
 Budget Request Unit(s) Affected Division of Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC	0	0	0	0	0	0
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

House Bill 255 will have no fiscal impact on the division.

IV. DATE February 24, 1977 PREPARED BY Pete Jeans, Director
 AGENCY Commerce & Economic Development
 Original: Legislative Finance PHONE 465-2525
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

"An Act increasing the limitation on commercial fishing loans; and providing for an effective date."

4-27-77

COMMITTEE REPORT

HOUSE

Rule

May 27, 1977 Date

Mr. Speaker:

The Committee on FINANCE has had SB 184 am under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with House Finance CS for SB 184 and that House Finance CS for SB 184 to pass
- (and) recommends it be referred to the _____ committee
- reports it back without recommendation
- AND attaches a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

<u>Buchheit</u>	<u>Rhode</u>	_____
<u>Swanson</u>	<u>Fussman</u>	_____
<u>Meekins</u>	<u>Conyer</u>	_____
<u>Haugen</u>	_____	_____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

John Cooper
Chairman

Introduced: 2/24/77
Referred: Resources,
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