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Section 1. It amends AS 45.94.020 to restate the purpose of the loan guarantee program as described above. The amendment drops out the provisions in the existing law dealing with the purchase of stock which were designed to deal specifically with the KPC situation.

AS 45.94.030 and .040 are left unchanged by the bill. Section .030 outlines the powers and duties of the department and the commissioner. Section .040 states income from investment of the fund is to go to the general fund.

Section 2. This section amends AS 45.94.050(a) to include the requirement in paragraph (2) of subsection (a) that the loan be commercially reasonable. It also requires that a controlling interest in the business be held by Alaska residents. The Commissioner of Revenue is given discretion to waive this requirement. Section 2 also requires that the business maintain its offices and operating facilities exclusively in the state unless engages in the export of forest products in which case offices and facilities overseas would be permitted. It also requires that a majority of employees of the business be residents of the state. The section further requires that the business be organized for profit. A subsection (5) is added requiring that the loan further the maintaining or increasing of production and employment in the forest products business in the state. A new subsection (6) requires that the portion of the loan not guaranteed by the state be held by a financial institution which meets the approval of the Commissioner.

Section 3. AS 45.94.050(b) is amended by this section to increase the guarantee from 50% to 80% but to limit that guarantee to \$6 million per borrower. The current law sets a \$30 million limit. As with the existing statute, the Department of Revenue would not be permitted to guarantee the payment of annual interest on the guaranteed portion of the loan. This conforms with other loan programs in the state.

Section 4. This section amends AS 45.94.050 by adding a new subsection (a) to require the charging of a user fee by the Department of Revenue not to exceed 1/4 of 1% for loans guaranteed under this chapter.

Section 5. Section 5 makes a small change in AS 45.94-.060 which is the definitions section. The change is to add to the definition of forest products business that it be organized under the laws of the state.

Section 6. This section provides for an effective date immediately in accordance with AS 01.10.070(c). This is the standard effective date provision.

TESTIMONY OF JAMES F. CLARK
ON THE FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM
SET FORTH IN THE HOUSE SPECIAL LOANS COMMITTEE WORK DRAFT
OF THE HOUSE CS FOR SENATE BILL NO. 78

My name is Jim Clark. I represent the Alaska Loggers Association (ALA), which very strongly supports Sections 30-34 of the House Special Loans Committee Work Draft of the House CS for Senate Bill No. 78 (hereinafter "the proposed legislation"). The ALA is made up of loggers, mill owners and their suppliers throughout Alaska and has more than 100 members.

It should be emphasized that the guarantee program proposed by the legislation does not constitute a call on new funds. It would continue to segregate funds in the rainy day account which had been segregated by the Legislature last year for the Forest Products Business Loan Guarantee Program. That program was enacted to provide employees of the Ketchikan Pulp Corporation a loan guarantee fund as part of a proposed employee stock-ownership plan (ESOP) to purchase the Ketchikan Pulp Company. Those funds will lapse on June 30, 1985 if the employees do not exercise their option to purchase the mill. The employees decided months ago not to purchase the mill, and thus this fund has not been, and will not be, utilized.

Last year's loan program was the first ever proposed for the forest industry. While other industries have received financial assistance, there has been no State program for the timber industry. In summary on this point, the proposed

legislation does not create a new fund. It uses the existing fund to make a loan guarantee program available to all firms within the industry.

Please understand that this is not a low interest loan program or subsidy program. Under the proposed legislation, the Department of Revenue would guarantee loans made by the banking community to Alaska owned forest products business for up to 80% of a given loan, and not more than \$6 million per borrower. There would be a 1% user fee for the loan guarantee to compensate the State for taking the risk. The loan must be fully collateralized and must be commercially reasonable. The 20% for which the banks will be liable will provide a strong incentive on each bank's part to make certain that those loans which are guaranteed are good loans.

The 50% guarantee of the existing legislation has been increased to 80%. In the ESOP situation, the concept was that the employees were to purchase the mill from Louisiana Pacific Corporation. Louisiana Pacific Corporation had no guarantee prior to the legislation and thus was happy with any guarantee. Banks, on the other hand, require a guarantee in the range described in the proposed legislation before they are interested in making the loan. The 80% figure has been discussed with Alaska banks and Administration officials who agree that it is reasonable for the purposes intended here. Please also note that the Small Business Administration (SBA) loan guarantee program

provides for a 90% guarantee and the Alaska Industrial Development Authority (AIDA) program provides for an 80% guarantee.

In the event of a default, as under the existing law, payments received to satisfy the debt are allocated between the lender and the guarantee fund according to the guaranteed percentage of the loan. The lender does not get a first position.

The question arises why, if these loans are good loans to begin with, is a State loan guarantee program necessary? The short answer is that we are trying to improve the quality and diversity of our products to penetrate the Alaska markets and expand our export markets. In most cases, the sawmills we are trying to help do this are constrained by State budgetary constraints in putting up long term timber sales and the limited line of credit of Alaska banks. The loggers we are trying to help are faced with large up front expenditures as a result of the failure of the Federal government to build roads and State and Federal bonding policies.

There are two main groups that will benefit from this bill: (1) sawmills, and (2) loggers. It is our objective to penetrate the existing State forest products market of 110 million board feet per year (which is primarily located along the railbelt area) and to enhance our products for export. We want to create a more diverse product line, which has better quality

control. To do these things, existing sawmills need to make major capital expenditures in planers, kiln driers and creosote or pressure plants in order to produce the full array of products used in the Alaska market and needed to enhance our products for export. We have never been able to take advantage of the preference for State timber products set forth in AS 36.15.010 and 36.15.020 because our products are rough cut, not moisture stabilized and often not precision cut. By purchasing planers and kilns to reduce the moisture of the wood, Alaska sawmill owners could produce timber products which would qualify for use in State contracts and State financed projects as well as private construction in Alaska. In addition, if our sawmills are able to install creosote or pressure plants, we would be able to supply the State railroad tie and the piling market. The Timber Task Force estimates that all of the above will increase our share of this market from its 5-10% to 60%.

It is difficult to obtain commercial funds for such loans at the present time. In Southcentral, Kodiak and the Interior, most mills are having difficulty obtaining a long term wood supply. Thus, the mills are unable to assure a bank that they have sufficient timber committed to their mill for the period over which the loan is made. In large part this is because the Department of Natural Resources does not have the funds available to lay out a long term plan of intermediate term timber sales to local mills. This does not mean that the mills

have been unable to obtain the wood on a year by year basis. Rather, the problem is that the mills are unable to show a banker a long term supply of wood. Without this guarantee, the bankers are reluctant to make loans. We are trying to resolve this problem by substituting the guarantee of a long term supply with the proposed State loan guarantee.

Mr. Chairman, these mill owners have been long term providers of jobs in Alaska. They are good businesses with a good commercial record. The loans will be repaid. It is our estimate that none of them will default.

The loggers will also benefit from this program. Bonds are required of them by State and Federal timber sale contracts. The bonds must cover the timber to be logged, and the roads to be built. These bonds are very expensive and difficult to obtain. A loan guarantee program would supply the funds necessary to obtain the bonds.

Road building requires a large up-front capital investment upon which there will be no return for at least one to two years following the construction of the road. The loan guarantee program would provide loggers the ability to secure loans to purchase timber sale contracts requiring road building. Many of the existing mills in Southcentral, Kodiak and the Interior would be able to purchase larger timber sales.

The "cost of road building" problem is particularly acute in Southeast Alaska where the Forest Service has made

available in 1984 only 56% of the preroad money promised by the Government under the Alaska Natural Interest Lands Conservation Act (ANILCA). Attached to this testimony is a letter that the Congressional Delegation has recently sent to the Forest Service on this subject which documents this point. If the ANILCA funds for preroad were available, this loan guarantee program would not be so badly needed for the timber sale contracts in Southeast which require road building.

In addition, those who log on the National Forests in Alaska are unable to take advantage of a privilege enjoyed by loggers in every other state. That is the opportunity to have a timber sale purchaser elect to have the Forest Service build roads. (See Section 14(i) of the National Forest Management Act.) There is a proviso in Section 14(i) which excludes Alaskans from participating in this program. While the Timber Task Force has asked the assistance of the Governor and the Congressional delegation to get this changed, it has not been changed yet, and will take some time. Thus, the loan guarantee program proposed here would be of great assistance during the interim during which we are attempting to increase ANILCA funding and get the 14(i) proviso changed.

In conclusion Mr. Chairman, what the proposed legislation would provide is the means by which existing funds earmarked for the Ketchikan ESOP program would be used by the entire industry with special emphasis on upgrading and diversifying the

products produced by Alaska sawmills, so that Alaska timber could be used in the Alaska market and provide Alaskan jobs, and to assist loggers throughout the State.

We would certainly appreciate your support for the proposed legislation.

Original sponsor: Rules/Governor

1
2 IN THE SENATE

BY THE HOUSE SPECIAL
COMMITTEE ON STATE LOANS

3 HOUSE CS FOR CS FOR SENATE BILL NO. 78 (Loans)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act making miscellaneous amendments to state loan
8 programs; and providing for an effective date."

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

10 * Section 1. AS 16.10.370(a) is amended to read:

11 (a) The department may

12 (1) make loans to

13 (A) individual commercial fishermen who have been
14 state residents for a continuous period of two years immediately
15 preceding the date of application for a loan under AS 16.10.300 -
16 16.10.370 and have had a crewmember or commercial fishing license
17 under AS 16.05.480 or a permit under AS 16.43 for the year imme-
18 diately preceding the date of application and any other two of
19 the past five years, and who actively participated in the fishery
20 during those periods, for the purchase of entry permits;

21 (B) an individual for the repair, restoration, or up-
22 grading of existing vessels and gear, for the purchase of entry
23 permits and gear, and for the construction and purchase of ves-
24 sels, if the individual [AN INDIVIDUAL WHO] has been a state
25 resident for a continuous period of two years immediately pre-
26 ceding the date of application for a loan under AS 16.10.300 -
27 16.10.370, and either [WHO]

28 (i) because of lack of training or lack of em-
29 ployment opportunities in the area of residence does not
have occupational opportunities available other than

1 commercial fishing; or

2 (ii) is economically dependent on commercial
3 fishing for a livelihood and for whom commercial fishing has
4 been a traditional way of life [FOR THE INDIVIDUAL] in
5 Alaska [, FOR THE REPAIR, RESTORATION OR UPGRADING OF EXIST-
6 ING VESSELS AND GEAR, FOR THE PURCHASE OF ENTRY PERMITS AND
7 GEAR, AND FOR THE CONSTRUCTION AND PURCHASE OF VESSELS;

8 (C) CORPORATIONS, PARTNERSHIPS, OR JOINT VENTURES, 100
9 PERCENT OF WHICH ARE OWNED BY INDIVIDUAL COMMERCIAL FISHERMEN WHO
10 HAVE BEEN STATE RESIDENTS FOR A CONTINUOUS PERIOD OF TWO YEARS
11 IMMEDIATELY PRECEDING THE DATE OF APPLICATION FOR A LOAN UNDER
12 AS 16.10.310(a)(1)(B) AND HAVE HAD A CREWMEMBER OR COMMERCIAL
13 FISHING LICENSE UNDER AS 16.05.480 OR A PERMIT UNDER AS 16.43 FOR
14 THE YEAR IMMEDIATELY PRECEDING THE DATE OF APPLICATION AND ANY
15 OTHER TWO OF THE PAST FIVE YEARS, AND WHO ACTIVELY PARTICIPATED
16 IN THE FISHERY DURING THAT PERIOD, FOR THE REPAIR, RESTORATION OR
17 UPGRADING OF EXISTING VESSELS AND GEAR, FOR THE PURCHASE OF GEAR,
18 AND FOR THE CONSTRUCTION AND PURCHASE OF VESSELS];

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

21 (3) adopt regulations necessary to carry out its functions;

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

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

28 (6) enter into agreements with other agencies or organiza-
29 tions to create an outreach program to make loans under AS 16.10.300 -

1 16.10.370 in rural areas of the state;

2 (7) allow an assumption of a loan if

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

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

10 (8) prequalify loan applicants for a limited entry permit
11 loan and charge a fee not to exceed \$200 for prequalification.

12 * Sec. 2. AS 16.10.310 is amended by adding a new subsection to read:

13 (c) In determining whether an individual commercial fisherman is
14 reasonably likely to be able to repay a loan made under AS 16.10.300 -
15 16.10.370, the commissioner shall consider the individual commercial
16 fisherman's income from commercial fishing and from all other sources.

17 * Sec. 3. AS 16.10.315 is amended to read:

18 Sec. 16.10.315. ALLOCATION OF LOANS. The department shall
19 allocate at least 10 percent of the money that is appropriated for a
20 state fiscal year to make loans under AS 16.10.310 for loans of
21 \$35,000 or less made under AS 16.10.310(a)(1)(B) [AND (C)]. An allo-
22 cation made under this section terminates on April 15 of the state
23 fiscal year for which the allocation is made.

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

25 (a) Except as permitted in (h) of this section, a [A] loan
26 under AS 16.10.300 - 16.10.370 [16.10.310 - 16.10.370]

27 (1) may not exceed a term of 15 years, except for exten-
28 sions under AS 16.10.310(a)(4);

29 (2) may not bear interest exceeding 10-1/2 percent;

1 (3) must [SHALL] be secured by a first priority lien and
2 appropriate security agreement; and

3 (4) may not exceed 90 percent of the appraised value of the
4 collateral used to secure the loan[, EXCEPT THAT A LOAN GRANTED UNDER
5 AS 16.10.333 FOR THE PURCHASE OF AN ALASKA LIMITED ENTRY PERMIT MAY
6 NOT EXCEED AN AMOUNT DETERMINED IN ACCORDANCE WITH (f) OR (h) OF THIS
7 SECTION].

8 * Sec. 5. AS 16.10.320(d) is amended to read:

9 (d) The total of balances outstanding on loans [LOANS] made to a
10 borrower under AS 16.10.310(a)(1)(A) may not exceed [A TOTAL OF]
11 \$300,000. The total of balances outstanding on loans [LOANS] made to
12 a borrower under AS 16.10.310(a)(1)(B) [OR (C)] may not exceed [A
13 TOTAL OF] \$100,000. [A LOAN TO AN ASSOCIATE OF THE BORROWER IS CON-
14 sidered to be a loan to the borrower. FOR THE PURPOSES OF THIS SEC-
15 tion, "ASSOCIATE OF THE BORROWER" MEANS

16 (1) A CORPORATION OR OTHER ORGANIZATION OF WHICH THE BOR-
17 ROWER IS AN OFFICER, DIRECTOR OR PARTNER, OR IS, DIRECTLY OR INDI-
18 RECTLY, THE BENEFICIAL OWNER OF 10 PERCENT OR MORE ON ANY CLASS OF
19 EQUITY SECURITIES;

20 (2) A PERSON WHO IS, DIRECTLY OR INDIRECTLY, THE BENEFICIAL
21 OWNER OF 10 PERCENT OR MORE OF ANY CLASS OF EQUITY SECURITIES OF THE
22 BORROWER;

23 (3) A TRUST OR OTHER ESTATE IN WHICH THE BORROWER HAS A
24 SUBSTANTIAL BENEFICIAL INTEREST OR AS TO WHICH THE BORROWER SERVES AS
25 TRUSTEE OR IN A SIMILAR FIDUCIARY CAPACITY.]

26 * Sec. 6. AS 16.10.320(e) is amended to read:

27 (e) Two or more individual commercial fishermen who each satisfy
28 the requirements specified in AS 16.10.310(a)(1)(B) may jointly,
29 whether operating as a corporation, partnership, joint venture, or

1 otherwise, obtain a commercial fishing loan for the repair, restora-
2 tion, or upgrading of an existing vessel and gear, for the purchase of
3 gear, and for the construction [OF A FISHING VESSEL] or the purchase
4 of a [AN EXISTING] fishing vessel. Loans granted under this subsec-
5 tion

6 [(1)] may not exceed the amount specified in (d) of this
7 section multiplied by the number of qualified commercial fishermen
8 applying for the loan [;

9 (2) MAY NOT EXCEED A TERM OF 15 YEARS;

10 (3) SHALL BE SECURED BY A FIRST PRIORITY LIEN AND APPRO-
11 PRIATE SECURITY AGREEMENT;

12 (4) MAY NOT BEAR INTEREST EXCEEDING 10-1/2 PERCENT;

13 AND

14 (5) MAY NOT EXCEED 90 PERCENT OF THE APPRAISED VALUE OF
15 THE COLLATERAL USED TO SECURE THE LOAN].

16 * Sec. 7. AS 16.10.320(i) is amended to read:

17 (i) If a loan is made to a borrower under AS 16.10.310(a)(1)(A),
18 a subsequent loan may not be made to the borrower [OR AN ASSOCIATE OF
19 THE BORROWER] under AS 16.10.310(a)(1)(B) [OR (C)]. If a loan is made
20 to a borrower under AS 16.10.310(a)(1)(B) [OR (C)], a subsequent loan
21 may be made to the borrower [OR AN ASSOCIATE OF THE BORROWER] under
22 AS 16.10.310(a)(1)(A) if the total of the balances outstanding on
23 loans received by the borrower [OR THE ASSOCIATE] under AS 16.10.310
24 does not exceed \$300,000.

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

26 (a) Loans under AS 16.10.310(a) [AS 16.10.320(a)] may be made to
27 an individual commercial fisherman for the purchase of a limited entry
28 permit upon certification by the commission that the fisherman is a
29 person who qualifies as a transferee for the permit under AS 16.43 and

1 the regulations adopted by the commission.

2 * Sec. 9. AS 16.10.335 is amended to read:

3 Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor
4 defaults upon a note for which a limited entry permit has been pledged
5 as security under AS 16.10.333 or [UNDER AS] 16.10.338, the commis-
6 sioner shall provide the debtor, by both [REGISTERED OR] certified and
7 first class mail sent to the debtor's last known address on file with
8 the commissioner, with a notice of default that [WHICH] includes

9 (1) a description of the security given for the note in-
10 cluding the number assigned to the pledged permit by the commission;

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

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

15 (4) a statement that the debtor may, within 15 days after
16 [OF] the postmark date of the notice, request a hearing to submit
17 evidence showing the debtor has not defaulted;

18 (5) a statement that the note may be reinstated if brought
19 current within 60 days after [FROM] the postmark date of the notice;

20 (6) a statement that the note may be paid in full less
21 unearned interest within 120 days after [FROM] the postmark date of
22 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:
26 "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE
27 DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT
28 AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."
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(b) In each case of a limited entry permit being pledged as

1 security under AS 16.10.333 or 16.10.338, the debtor shall maintain on
2 file with the department an address where notice of default is to be
3 sent, if necessary, and where that notice will be timely received by
4 the debtor.

5 (c) Upon presentation of evidence of mailing in accordance with
6 (a) of this section, the receipt of the notice of default by the
7 debtor will be presumed for all purposes. This presumption is rebut-
8 table by presentation of evidence sufficient to demonstrate lack of
9 receipt of notice through no fault of the debtor. Upon presentation
10 of evidence sufficient to prove lack of receipt of notice through no
11 fault of the debtor, the notice is a nullity.

12 (d) Upon good cause shown, the commissioner may waive any of the
13 time limits in (a) of this section, if the department receives from
14 the debtor or the debtor's representative a request for the waiver
15 before the expiration of the time limit for which the waiver is
16 sought.

17 (e) Except as otherwise provided in (c) and (d) of this section,
18 upon [UPON] the debtor's failure to satisfy the note within the time
19 specified in (a)(6) of this section, the debtor's interest in the
20 permit is terminated by operation of law without further notice. Any
21 entry permit cards issued to the debtor under the permit must [SHALL]
22 be cancelled immediately upon receipt by the commission of a certifi-
23 cate of termination containing a copy of the notice required by (a) of
24 this section issued by the commissioner.

25 * Sec. 10. AS 16.10.339 is amended to read:

26 Sec. 16.10.339. REGULATIONS. The [COMMISSION, WITH THE APPROVAL
27 OF THE] department [,] shall adopt regulations to implement AS 16.10.-
28 333 - 16.10.337.

29 * Sec. 11. AS 16.10 is amended by adding a new section to read:

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Sec. 16.10.355. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORECLOSURE. The department shall dispose of property acquired through default or foreclosure of a loan made under AS 16.10.300 - 16.10.370 or former AS 16.10.650 - 16.10.720. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years, but may not be by lease.

* Sec. 12. AS 16.10 is amended by adding a new section to read:

Sec. 16.10.507. SPECIAL ACCOUNT ESTABLISHED. (a) There is established as a special account within the fisheries enhancement revolving loan fund the foreclosure expense account. This account is established as a reserve from fund equity.

(b) The commissioner may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans made under AS 16.10.520 or to defray expenses incurred during foreclosure proceedings after a default by an obligor.

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

Sec. 16.10.555. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORECLOSURE. The Department of Commerce and Economic Development shall dispose of property acquired through default or foreclosure of a loan made under AS 16.10.500 - 16.10.620. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years.

* Sec. 14. AS 26.15 is amended by adding a new section to read:

Sec. 26.15.085. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORECLOSURE. The Department of Commerce and Economic Development shall dispose of property acquired through default or foreclosure of a loan made under this chapter. Disposal shall be made in a manner that

1 serves the best interests of the state, and may include the amortiza-
2 tion of payments over a period of years.

3 * Sec. 15. AS 26.15 is amended by adding a new section to read:

4 Sec. 26.15.095. SPECIAL ACCOUNT ESTABLISHED. (a) There is
5 established as a special account within the Alaska World War II veter-
6 ans' revolving fund the foreclosure expense account. This account is
7 established as a reserve from fund equity.

8 (b) The commissioner of commerce and economic development may
9 expend money credited to the foreclosure expense account when neces-
10 sary to protect the state's security interest in collateral on loans
11 made under AS 26.15.040 or to defray expenses incurred during fore-
12 closure proceedings after a default by an obligor.

13 * Sec. 16. AS 27.09 is amended by adding a new section to read:

14 Sec. 27.09.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the mining loan fund the fore-
16 closure expense account. This account is established as a reserve
17 from fund equity.

18 (b) The commissioner of commerce and economic development may
19 expend money credited to the foreclosure expense account when neces-
20 sary to protect the state's security interest in collateral on loans
21 made under AS 27.09.010 or to defray expenses incurred during fore-
22 closure proceedings after a default by an obligor.

23 * Sec. 17. AS 27.09 is amended by adding a new section to read:

24 Sec. 27.09.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
25 FORECLOSURE. The department shall dispose of property acquired
26 through default or foreclosure of a loan made under this chapter.
27 Disposal shall be made in a manner that serves the best interests of
28 the state, and may include the amortization of payments over a period
29 of years.

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2 * Sec. 18. AS 41.35.180 is amended to read:

3 Sec. 41.35.180. DUTIES OF COMMITTEE. The committee shall

4 (1) develop criteria for the evaluation of state monuments
5 and historic sites and all real and personal property which may be
6 considered to be of historic, prehistoric or archeological signifi-
7 cance as would justify their acquisition and ownership by the state;

8 (2) cooperate with the department in formulating and admin-
9 istering a statewide historic sites survey under 16 U.S.C. 470-470n
10 (P.L. 89-665, National Historic Preservation Act of 1966);

11 (3) review those surveys and historic preservation plans
12 that may be required, and approve properties for nomination to the
13 National Register as provided for in 16 U.S.C. 470-470n (P.L. 89-665,
14 National Historic Preservation Act of 1966);

15 (4) provide necessary assistance to the governor and the
16 legislature for achieving balanced and coordinated state policies and
17 programs for the preservation of the state's historic, prehistoric and
18 archeological resources;

19 (5) consult with local historical district commissions
20 regarding the establishment of historical districts under AS 29.48.108
21 and 29.48.110 and the approval of project alterations under AS 45.98.-
22 040; recommend, if appropriate, the formulation of additional criteria
23 for the designation of historical districts under AS 29.48.110(b);
24 approve plans for and evaluate the suitability of specific structures
25 for purposes of loan eligibility and continuance under the historical
26 property [DISTRICT] revolving loan fund (AS 45.98); and consult with
27 the Department of Commerce and Economic Development relative to the
28 adoption of regulations for historical property [DISTRICT] loans under
29 AS 45.98.

* Sec. 19. AS 44.33 is amended by adding a new section to read:

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2 Sec. 44.33.242. SPECIAL ACCOUNT ESTABLISHED. (a) There is
3 established as a special account within the child care facility re-
4 volving loan fund the foreclosure expense account. This account is
5 established as a reserve from fund equity.

6 (b) The commissioner of commerce and economic development may
7 expend money credited to the foreclosure expense account when neces-
8 sary to protect the state's security interest in collateral on loans
9 made under AS 44.33.245 or to defray expenses incurred during fore-
10 closure proceedings after a default by an obligor.

11 * Sec. 20. AS 44.33 is amended by adding a new section to read:

12 Sec. 44.33.272. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
13 FORECLOSURE. The department shall dispose of property acquired
14 through default or foreclosure of a loan made under AS 44.33.240 -
15 44.33.275. Disposal shall be made in a manner that serves the best
16 interests of the state, and may include the amortization of payments
17 over a period of years.

18 * Sec. 21. AS 44.81.210(a) is amended by adding a new paragraph to
19 read:

20 (23) make a loan to a person, regardless of residency, if
21 the board of directors of the bank determines that the loan is neces-
22 sary to preserve the value of property held by the bank as security
23 for a loan that was made under (a)(1) of this section and that is in
24 default.

25 * Sec. 22. AS 45.87 is amended by adding a new section to read:

26 Sec. 45.87.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
27 established as a special account within the bulk fuel revolving loan
28 fund the foreclosure expense account. This account is established as
29 a reserve from fund equity.

 (b) The commissioner of commerce and economic development may

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expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans made under this chapter or to defray expenses incurred during foreclosure proceedings after a default by an obligor.

* Sec. 23. AS 45.87 is amended by adding new sections to read:

Sec. 45.87.040. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORECLOSURE. The department shall dispose of property acquired through default or foreclosure of a loan made under this chapter. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years.

Sec. 45.87.060. REGULATIONS. The department shall adopt regulations to implement this chapter.

* Sec. 24. AS 45.88 is amended by adding a new section to read:

Sec. 45.88.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is established, as a special account within the revolving loan fund established under AS 45.88.010, the foreclosure expense account. This account is established as a reserve from fund equity.

(b) The commissioner of commerce and economic development may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans made under AS 45.88.020 or to defray expenses incurred during foreclosure proceedings after a default by an obligor.

* Sec. 25. AS 45.88 is amended by adding a new section to read:

Sec. 45.88.050. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORECLOSURE. The Department of Commerce and Economic Development shall dispose of property acquired through default or foreclosure of a loan made under this chapter. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortiza-

tion of payments over a period of years.

* Sec. 26. AS 45.89 is amended by adding a new section to read:

Sec. 45.89.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is established as a special account within the residential energy conservation fund the foreclosure expense account. This account is established as a reserve from fund equity.

(b) The commissioner may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans made under AS 45.89.030 or to defray expenses incurred during foreclosure proceedings after a default by an obligor.

* Sec. 27. AS 45.89 is amended by adding new sections to read:

Sec. 45.89.050. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORECLOSURE. The department shall dispose of property acquired through default or foreclosure of a loan made under this chapter. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years.

Sec. 45.89.070. REGULATIONS. The department shall adopt regulations to implement this chapter.

* Sec. 28. AS 45.90 is amended by adding a new section to read:

Sec. 45.90.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is established as a special account within the tourism revolving fund the foreclosure expense account. This account is established as a reserve from fund equity.

(b) The commissioner of commerce and economic development may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans made under AS 45.90.020 or to defray expenses incurred during fore-

1 closure proceedings after a default by an obligor.

2 * Sec. 29. AS 45.90 is amended by adding a new section to read:

3 Sec. 45.90.050. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
4 FORECLOSURE. The Department of Commerce and Economic Development
5 shall dispose of property acquired through default or foreclosure of a
6 loan made under this chapter. Disposal shall be made in a manner that
7 serves the best interests of the state, and may include the amortiza-
8 tion of payments over a period of years.

9 * Sec. 30. AS 45.94.020 is amended to read:

10 Sec. 45.94.020. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM.
11 The department may use money in the fund to guarantee a loan to a
12 forest products business for the purpose of financing the purchase of
13 equipment and facilities that will increase employment in a forest
14 products business [35 PERCENT OR MORE OF THE STOCK OR ASSETS OF A
15 FOREST PRODUCTS BUSINESS BY, ON BEHALF OF, OR FOR THE BENEFIT OF THE
16 EMPLOYEES OF THAT BUSINESS], as provided in AS 45.94.050.

17 * Sec. 31. AS 45.94.050(a) is amended to read:

18 (a) The department may guarantee a loan under this chapter if
19 (1) the term of the loan does not exceed 10 years;
20 (2) the loan is commercially reasonable and secured by the
21 real or personal property, inventory or accounts receivable of the
22 forest products business, or by other collateral acceptable to the
23 department;

24 (3) the loan is originated with and serviced by a state or
25 federally chartered financial institution; [AND]

26 (4) the loan is made to a [THE EMPLOYEES OF THE] forest
27 products business and

28 (A) a majority interest of the business is held by

29 Alaska residents;

1
2 (B) the business maintains offices and operating
3 facilities exclusively in the state unless the business is en-
4 gaged in the export of forest products;

5 (C) a majority of the employees of the business are
6 residents of the state; and

7 (D) the business is organized for profit;

8 (5) the loan will increase or maintain production and
9 employment in the forest products business; and

10 (6) the portion of the loan not guaranteed by the state is
11 held by the originating financial institution or another financial
12 institution approved by the commissioner [, TO AN EMPLOYEE STOCK
13 OWNERSHIP TRUST, OR TO ONE OR MORE CORPORATIONS OR OTHER BUSINESS
14 ASSOCIATIONS OR ENTITIES IN WHICH THE CONTROLLING INTEREST IS HELD BY
15 STATE RESIDENTS WHO ARE EMPLOYEES OF THE FOREST PRODUCTS BUSINESS].

16 * Sec. 32. AS 45.94.050(b) is amended to read:

17 (b) The department may provide a guarantee from the fund for up
18 to 80 [50] percent of a loan, but may not guarantee [LESS THAN
19 \$5,000,000 OR] more than \$6,000,000 [\$30,000,000] per borrower. The
20 department may not guarantee the payment of annual interest on the
21 guaranteed portion of a loan.

22 * Sec. 33. AS 45.94.050 is amended by adding a new subsection to read:

23 (d) The department shall charge a user fee not to exceed one
24 percent for a loan guarantee under this chapter.

25 * Sec. 34. AS 45.94.060 is amended to read:

26 Sec. 45.94.060. DEFINITIONS. In this chapter

27 (1) "commissioner" means the commissioner of revenue;

28 (2) "department" means the Department of Revenue;

29 (3) "forest products business" means a sole proprietorship,
partnership, corporation or other business organization formed under

1
2 the laws of the state for the purpose of harvesting or processing
3 timber or other forest resources;

4 (4) "fund" means the forest products business loan guaran-
5 tee fund.

6 * Sec. 35. AS 45.95 is amended by adding a new section to read:

7 Sec. 45.95.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
8 FORECLOSURE. The Department of Commerce and Economic Development
9 shall dispose of property acquired through default or foreclosure of a
10 loan made under this chapter. Disposal shall be made in a manner that
11 serves the best interests of the state, and may include the amortiza-
12 tion of payments over a period of years.

13 * Sec. 36. AS 45.95 is amended by adding a new section to read:

14 Sec. 45.95.065. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the small business revolving
16 loan fund the foreclosure expense account. This account is estab-
17 lished as a reserve from fund equity.

18 (b) The commissioner may expend money credited to the foreclo-
19 sure expense account when necessary to protect the state's security
20 interest in collateral on loans made under AS 45.95.020 or to defray
21 expenses incurred during foreclosure proceedings after a default by an
22 obligor.

23 * Sec. 37. AS 45.98.010 is amended to read:

24 Sec. 45.98.010. CREATION OF HISTORICAL PROPERTY [DISTRICT]
25 REVOLVING LOAN FUND. There is created in the Department of Commerce
26 and Economic Development a historical property [DISTRICT] revolving
27 loan fund.

28 * Sec. 38. AS 45.98 is amended by adding a new section to read:

29 Sec. 45.98.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
established as a special account within the historical property re-

1
2 involving loan fund the foreclosure expense account. This account is
3 established as a reserve from fund equity.

4 (b) The commissioner of commerce and economic development may
5 expend money credited to the foreclosure expense account when
6 necessary to protect the state's security interest in collateral on
7 loans made under this chapter, or to defray expenses incurred during
8 foreclosure proceedings after a default by an obligor.

9 * Sec. 39. AS 45.98.020 is amended to read:

10 Sec. 45.98.020. HISTORICAL PROPERTY [DISTRICT] LOANS. Upon
11 endorsement and plan approval by a local historical landmark or dis-
12 trict commission established under AS 29.48.108 and the recommendation
13 of a majority of the members of the Historic Sites Advisory Committee,
14 the Department of Commerce and Economic Development may make loans to
15 a person, firm, business or municipality subject to applicable laws
16 for the restoration, improvement, rehabilitation, or maintenance of ⁽¹⁾
17 historic [A] structure, building, site, or object that [WHICH] is
18 ~~is~~ within the boundaries of a historical district estab-
19 lished under AS 29.48.110;

20 ⁽²⁾ identified as important in state or national history as
21 provided for in AS 29.48.110(b); and

22 ⁽³⁾ another building or structure within a historical
23 district, and suitable for superficial modification so that it can
24 conform to the period or motif of the surrounding buildings or struc-
25 tures that are the reason for the area's designation as a historical
26 district.

27 * Sec. 40. AS 45.98.020 is amended by adding a new subsection to read:

28 (b) The department may make a loan under this section for a
29 project that is not within the boundaries of a historical district
with the approval of a majority of the members of the Historic Sites

1
2 Advisory Commission.

3 * Sec. 41. AS 45.98.040 is amended to read:

4 Sec. 45.98.040. LIMITATIONS ON LOANS. Loans made under this
5 chapter are subject to the following limitations:

6 (1) state participation in all loans in the aggregate, for
7 any one historical district qualifying under this chapter may not
8 exceed \$1,500,000;

9 (2) state participation in a loan for the restoration,
10 improvement, rehabilitation or maintenance of any one building or
11 structure qualifying under this chapter may not exceed \$250,000;

12 (3) the loans shall be secured by acceptable collateral and
13 the total of all loans may not exceed 85 percent of the appraised
14 value of the collateral offered as security;

15 (4) the rate of interest may not exceed seven and one-half
16 percent a year on the unpaid balance of the state's share of the loan;

17 (5) a participating financial institution shall administer
18 and service the loan for a reasonable fee not exceeding one-quarter of
19 one percent;

20 (6) the state has a lien on the property accepted as col-
21 lateral to the extent of its portion of the loan [; WHEN THE LIEN OR
22 NOTICE OF THE LIEN IS PROPERLY RECORDED IT IS SUPERIOR TO ALL OTHER
23 LIENS EXCEPT THOSE FOR TAXES AND SPECIAL ASSESSMENTS; A LIEN OF THE
24 PARTICIPATING FINANCIAL INSTITUTION, TO THE EXTENT OF ITS PORTION OF
25 THE LOAN AFTER IT IS PROPERLY RECORDED, IS SUPERIOR TO ALL OTHER LIENS
26 EXCEPT LIENS FOR TAXES, SPECIAL ASSESSMENTS, AND THE LIEN OF THE
27 STATE].

28 * Sec. 42. AS 45.98 is amended by adding a new section to read:

29 Sec. 45.98.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
FORECLOSURE. The Department of Commerce and Economic Development

1 shall dispose of property acquired through default or foreclosure of a
 2 loan made under this chapter. Disposal shall be made in a manner that
 3 serves the best interests of the state, and may include the amortiza-
 4 tion of payments over a period of years.
 5

6 * Sec. 43. AS 45.98.070 is amended to read:

7 Sec. 45.98.070. SHORT TITLE. This chapter may be cited as the
 8 Historical Property [DISTRICT] Loan Act.

9 * Sec. 44. AS 16.10.310(b), 16.10.320(f), and 16.10.333(f) are re-
 10 pealed.

11 * Sec. 45. This Act takes effect July 1, 1985.
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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 78(Fin)
 Title: Miscellaneous amendments
to state loan programs
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev
 Program Category Affected: _____
Development
 BRU, Program or Subprogram(s) Affected: _____
Investments

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | 156.7 | 156.7 | 156.7 | 156.7 | 156.7 |
| 200 TRAVEL | | 7.9 | 7.9 | 7.9 | 7.9 | 7.9 |
| 300 CONTRACTUAL | | 14.0 | 12.0 | 12.0 | 12.0 | 12.0 |
| 400 SUPPLIES | | 1.2 | 1.2 | 1.2 | 1.2 | 1.2 |
| 500 EQUIPMENT | | 18.0 | - | - | - | - |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 197.8 | 177.8 | 177.8 | 177.8 | 177.8 |

| | | | | | | |
|----------------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|----------------|--|--|--|--|--|--|

| | | | | | | |
|----------------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|----------------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|-------|-------|-------|-------|-------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | 197.8 | 177.8 | 177.8 | 177.8 | 177.8 |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|-----|-----|-----|-----|-----|
| FULL-TIME | | 4.0 | 4.0 | 4.0 | 4.0 | 4.0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: Attach a separate page if necessary

Prepared By: Jan Faiks, Co-chairman Phone: 465-4523
 Division: Senate Finance Committee Date: 4/26/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

*ONLY change from SS#6
is Funding under "OTHER"*

7/1/84

SS#33

INVESTMENTS

FISCAL NOTE ANALYSIS

Personal Services:

Processing of an additional 600 applications for assumptions and approval of 400 of those applications per year will create a marked increase in the workload of the division's Anchorage and Juneau regional offices. Two additional loan examiners and two loan closers would be required to handle the increased load and would be spread between the two regional offices. One time expenses would be incurred for equipment.

Consideration of these applications would also require significantly more meetings of the department's loan committees. This fiscal note assumes that this additional burden would be absorbed.

PERSONNEL COSTS

Two Loan Examiners II, Range 17A; one each in Anchorage and Juneau:

| | | |
|-------------------------|----------|----------|
| Salary | \$34,740 | |
| Benefits | \$10,486 | |
| TOTAL Personal Services | | \$45,226 |
| Travel | | \$ 3,950 |
| Contractual | | \$ 3,000 |
| Commodities | | \$ 300 |
| Equipment | | \$ 4,750 |
| Total per employee | | \$57,226 |

Subtotal for two Loan Examiners II \$114,452

Two Loan Closers II, Range 12A; one each in Anchorage and Juneau:

| | | |
|-------------------------|----------|----------|
| Salary | \$24,864 | |
| Benefits | \$ 8,281 | |
| TOTAL Personal Services | | \$33,145 |
| Travel | | \$ -0- |
| Contractual | | \$ 3,000 |
| Commodities | | \$ 300 |
| Equipment | | \$ 4,250 |
| Total per employee | | \$40,695 |

Subtotal for two Loan Closers II \$ 81,390

Estimates for other line items assume that the new employees required for this new loan program will require support at levels similar to that actually being incurred by the division on other loan programs.

Travel: To inspect collateral, interview applicants, and inform
(for Loan public on program.
Examiners)

Contractual: Space Rental: \$3,000
\$2.50 sq./ft. x 100 sq./ft. x 12 months RSA to Department of
Administration
One time \$2,000 modification and reprinting of the existing
loan application packets.

Commodities: General supplies.

| | | |
|-------------------|-------------|-----------------|
| <u>Equipment:</u> | Calculator | \$ 365 |
| (for Loan | Typewriter | \$ 1,369 |
| Closers) | Workstation | \$ 2,516 |
| | | <u>\$ 4,250</u> |

| | | |
|-------------------|-------------------|-----------------|
| <u>Equipment:</u> | Calculator | \$ 365 |
| (for Loan | Microfiche Reader | \$ 300 |
| Examiners) | Workstations | \$ 4,085 |
| | | <u>\$ 4,750</u> |

TOTAL FY '86 PERSONNEL AND ASSOCIATED COSTS

\$197,842

0867Wb111984d

| 1. | POSITION TITLE LOAN EXAMINER II | | | | RANGE/STEP 17A | DEPT. UNIT GGU | PAGE/LINE | GOV. | APPROV. | DISAPP. | | | | | | |
|------------------|------------------------------------|--------------------|-----------|------------|---|--------------------|-------------------|------|---------|---------|--|--|--|--|--|--|
| 2. | TYPE OF POSITION PFT | STAFF MONTHS 12 | RP NUMBER | PCN NUMBER | BRU PRIORITY | LOCATION Juneau | ELECTION DISTRICT | LEG. | | | | | | | | |
| 3. | CONTINUATION LEVEL | | | | JUSTIFICATION | | | | | | | | | | | |
| 4. | TYPE OF EXPENDITURE | | | | Processing of an additional 600 applications for assumptions and approval of 400 of those applications per year will create a marked increase in the workload of the division's Anchorage and Juneau regional offices. Two additional loan examiners and two loan closers would be required to handle the increased load and would be spread between the two regional offices. On time expenses would be incurred for equipment. | | | | | | | | | | | |
| | PERSONAL SERVICES | | ADDITION | | | | | | | | | | | | | |
| | 1 | 2 | 3 | | | | | | | | | | | | | |
| 5. | Salary | 34,740 | | | <p>Consideration of these applications would also require significantly more meetings of the department's loan committees. This fiscal note assumes that this additional burden would be absorbed.</p> <p>Estimates for the 200-500 lines items assume that the new employee required for this new loan program will require support at levels similar to that actually being incurred by the division on other loan programs.</p> <p><u>Travel:</u> To inspect collateral, interview applicants, and inform public on program.</p> <p><u>Contractual:</u> Space Rental: \$3,000 \$2.50 sq./ft. x 100 sq./ft. x 12 months RSA to Department of Administration.</p> <p><u>Commodities:</u> General supplies.</p> <p><u>Equipment:</u> Calculator \$ 365 Microfiche Reader \$ 300 Workstation \$4,085 \$4,750</p> | | | | | | | | | | | |
| 6. | Benefits | 5,624 | | | | | | | | | | | | | | |
| 7. | Supplemental Benefits | 2,130 | | | | | | | | | | | | | | |
| 8. | Fixed Benefits | 2,732 | | | | | | | | | | | | | | |
| 9. | TOTAL PERSONAL SERVICES | 01 | 45,226 | | | | | | | | | | | | | |
| 10. | Travel | 02 | 3,950 | | | | | | | | | | | | | |
| 11. | Contractual | 03 | 3,000 | | | | | | | | | | | | | |
| 12. | Commodities | 04 | 300 | | | | | | | | | | | | | |
| 13. | Equipment | 05 | 4,750 | | | | | | | | | | | | | |
| 14. | Other | | | | | | | | | | | | | | | |
| 15. | TOTAL COST | | 57,226 | | | | | | | | | | | | | |
| 16. | RECEIPT CODE | FUNDING SOURCE | | | | | | | | | | | | | | |
| 17. | | Federal Receipts | 1002 | | | | | | | | | | | | | |
| 18. | | C.F. Hatch | 1003 | | | | | | | | | | | | | |
| 19. | | General Funds | 1004 | 57,226 | | | | | | | | | | | | |
| 20. | | I-A Receipts | 1005 | | | | | | | | | | | | | |
| 21. | | Program Receipts | 1028 | | | | | | | | | | | | | |
| 21. | | Other | | | | | | | | | | | | | | |
| FOR BSM USE ONLY | | | | | | | | | | | | | | | | |
| KEY NUMBER _____ | | | | | | | | | | | | | | | | |

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
PROGRAM Economic Development
BRU Investments
COMPONENT Administration

Page 1 of 4
Revised Date _____

FY 86

| | | | | | | | | | | |
|------------------|------------------------------------|-----------------------|-----------|------------|--|-----------------------|-------------------|------|---------|---------|
| 1. | POSITION TITLE LOAN EXAMINER II | | | | RANGE/STEP 17A | BARG. UNIT GGU | PAGE/LINE | GOV. | APPROV. | DISAPP. |
| 2. | TYPE OF POSITION PFT | STAFF MONTHS 12 | RP NUMBER | PCN NUMBER | BRU PRIORITY | LOCATION Anchorage | ELECTION DISTRICT | LEG. | | |
| 3. | CONTINUATION LEVEL | | | | JUSTIFICATION | | | | | |
| 4. | TYPE OF EXPENDITURE | | | | Processing of an additional 600 applications for assumptions and approval of 400 of those applications per year will create a marked increase in the workload of the division's Anchorage and Juneau regional offices. Two additional loan examiners and two loan closers would be required to handle the increased load and would be spread between the two regional offices. On time expenses would be incurred for equipment. | | | | | |
| | 1 | | 2 | | Amount | | | | | |
| | PERSONAL SERVICES | | | | | | | | | |
| 5. | Salary | 34,740 | | | | | | | | |
| 6. | Benefits | 5,624 | | | | | | | | |
| 7. | Supplemental Benefits | 2,130 | | | | | | | | |
| 8. | Fixed Benefits | 2,732 | | | | | | | | |
| 9. | TOTAL PERSONAL SERVICES | 01 | | 45,226 | | | | | | |
| 10. | Travel | 02 | | 3,950 | | | | | | |
| 11. | Contractual | 03 | | 3,000 | | | | | | |
| 12. | Commodities | 04 | | 300 | | | | | | |
| 13. | Equipment | 05 | | 4,750 | | | | | | |
| 14. | Other | | | | | | | | | |
| 15. | TOTAL COST | | | 57,226 | | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | | |
| 16. | | Federal Receipts 1002 | | | | | | | | |
| 17. | | G.F. Hatch 1003 | | | | | | | | |
| 18. | | General Funds 1004 | | 57,226 | | | | | | |
| 19. | | I-A Receipts 1005 | | | | | | | | |
| 20. | | Program Receipts 1028 | | | | | | | | |
| 21. | | Other | | | | | | | | |
| FOR BSM USE ONLY | | | | | | | | | | |
| KEY NUMBER | | | | | | | | | | |

Processing of an additional 600 applications for assumptions and approval of 400 of those applications per year will create a marked increase in the workload of the division's Anchorage and Juneau regional offices. Two additional loan examiners and two loan closers would be required to handle the increased load and would be spread between the two regional offices. On time expenses would be incurred for equipment.

Consideration of these applications would also require significantly more meetings of the department's loan committees. This fiscal note assumes that this additional burden would be absorbed.

Estimates for the 200-500 lines items assume that the new employee required for this new loan program will require support at levels similar to that actually being incurred by the division on other loan programs.

Travel: To inspect collateral, interview applicants, and inform public on program.

Contractual: Space Rental: \$3,000
\$2.50 sq./ft. x 100 sq./ft. x 12 months RSA to Department of Administration.

Commodities: General supplies.

Equipment:

| | |
|-------------------|---------|
| Calculator | \$ 365 |
| Microfiche Reader | \$ 300 |
| Workstation | \$4,085 |
| | \$4,750 |

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development

PROGRAM Economic Development

BRU Investments

COMPONENT Administration

FY 86

Page 2 of 4

Revised Date

| | | | | | | | | | | |
|------------------|----------------------------------|-----------------------|-----------|------------|--|--------------------|-------------------|------|---------|---------|
| 1. | POSITION TITLE LOAN CLOSER II | | | | RANGE/STEP 12A | BARG. UNIT GGU | PAGE/LINE | GOV. | APPROV. | DISADP. |
| 2. | TYPE OF POSITION PFT | STAFF MONTHS 12 | RP NUMBER | PCN NUMBER | BRU PRIORITY | LOCATION Juneau | ELECTION DISTRICT | LEG. | | |
| 3. | CONTINUATION LEVEL | | | | JUSTIFICATION | | | | | |
| 4. | TYPE OF EXPENDITURE | | | | Processing of an additional 600 applications for assumptions and approval of 400 of those applications per year will create a marked increase in the workload of the division's Anchorage and Juneau regional offices. Two additional loan examiners and two loan closers would be required to handle the increased load and would be spread between the two regional offices. On time expenses would be incurred for equipment. | | | | | |
| | PERSONAL SERVICES | | ADDITION | | | | | | | |
| | 1 | 2 | 3 | | | | | | | |
| 5. | Salary | 24,864 | | | | | | | | |
| 6. | Benefits | 4,025 | | | | | | | | |
| 7. | Supplemental Benefits | 1,524 | | | | | | | | |
| 8. | Fixed Benefits | 2,732 | | | | | | | | |
| 9. | TOTAL PERSONAL SERVICES | 01 | 33,145 | | | | | | | |
| 10. | Travel | 02 | -0- | | | | | | | |
| 11. | Contractual | 03 | 3,000 | | Consideration of these applications would also require significantly more meetings of the department's loan committees. This fiscal note assumes that this additional burden would be absorbed. | | | | | |
| 12. | Commodities | 04 | 300 | | Estimates for the 200-500 lines items assume that the new employee required for this new loan program will require support at levels similar to that actually being incurred by the division on other loan programs. | | | | | |
| 13. | Equipment | 05 | 4,250 | | Contractual: Space Rental: \$3,000 \$2.50 sq./ft. x 100 sq./ft. x 12 months RSA to Department of Administration. | | | | | |
| 14. | Other | | | | Commodities: General supplies. | | | | | |
| 15. | TOTAL COST | | 40,695 | | Equipment: Calculator \$ 365 Typewriter \$1,369 Workstation \$2,515 \$4,250 | | | | | |
| 16. | RECEIPT CODE | FUNDING SOURCE | | | | | | | | |
| 17. | | Federal Receipts 1002 | | | | | | | | |
| 18. | | C.F. Match 1003 | | | | | | | | |
| 19. | | General Funds 1004 | | 40,695 | | | | | | |
| 20. | | I-A Receipts 1005 | | | | | | | | |
| 21. | | Program Receipts 1028 | | | | | | | | |
| | | Other | | | | | | | | |
| FOR BSM USE ONLY | | | | | | | | | | |
| KEY NUMBER | | | | | | | | | | |

**REQUEST FOR
NEW POSITION**

AGENCY Commerce & Economic Development
PROGRAM Economic Development
BRU Investments
COMPONENT Administration

FY 86

Page 3 of 4
Revised Date _____

| | | | | | | | | | | | |
|------------------|----------------------------------|-----------------------|-----------|------------|--|--------------------|-------------------|------|---------|---------|--|
| 1. | POSITION TITLE LOAN CLOSER II | | | | RANGE/STEP 12A | DEPT. UNIT GGU | PAGE/LINE | COV. | APPROV. | DISAPP. | |
| 2. | TYPE OF POSITION PFT | STAFF MONTHS 12 | RP NUMBER | PCH NUMBER | BRU PRIORITY | LOCATION Juneau | ELECTION DISTRICT | LEG. | | | |
| 3. | CONTINUATION LEVEL | | | | JUSTIFICATION | | | | | | |
| 4. | ADDITION | | | | | | | | | | |
| 5. | TYPE OF EXPENDITURE | | | | Processing of an additional 600 applications for assumptions and approval of 400 of those applications per year will create a marked increase in the workload of the division's Anchorage and Juneau regional offices. Two additional loan examiners and two loan closers would be required to handle the increased load and would be spread between the two regional offices. On time expenses would be incurred for equipment. | | | | | | |
| | PERSONAL SERVICES | | | | | | | | | | |
| | 1 | 2 | 3 | | | | | | | | |
| 5. | Salary | 24,864 | | | | | | | | | |
| 6. | Benefits | 4,025 | | | | | | | | | |
| 7. | Supplemental Benefits | 1,524 | | | | | | | | | |
| 8. | Fixed Benefits | 2,732 | | | | | | | | | |
| 9. | TOTAL PERSONAL SERVICES | 01 | 33,145 | | | | | | | | |
| 10. | Travel | 02 | -0- | | | | | | | | |
| 11. | Contractual | 03 | 3,000 | | Consideration of these applications would also require significantly more meetings of the department's loan committees. This fiscal note assumes that this additional burden would be absorbed. | | | | | | |
| 12. | Commodities | 04 | 300 | | Estimates for the 200-500 lines items assume that the new employee required for this new loan program will require support at levels similar to that actually being incurred by the division on other loan programs. | | | | | | |
| 13. | Equipment | 05 | 4,250 | | Contractual: Space Rental: \$3,000 \$2.50 sq./ft. x 100 sq./ft. x 12 months RSA to Department of Administration. | | | | | | |
| 14. | Other | | | | Commodities: General supplies. | | | | | | |
| 15. | TOTAL COST | | 40,695 | | Equipment: Calculator \$ 365 Typewriter \$1,369 Workstation \$2,515 \$4,250 | | | | | | |
| 16. | RECEIPT CODE | FUNDING SOURCE | | | | | | | | | |
| 17. | | Federal Receipts 1002 | | | | | | | | | |
| 18. | | G.F. Match 1003 | | | | | | | | | |
| 19. | | General Funds 1004 | | 40,695 | | | | | | | |
| 20. | | I-A Receipts 1005 | | | | | | | | | |
| 21. | | Program Receipts 1028 | | | | | | | | | |
| | | Other | | | | | | | | | |
| FOR BSM USE ONLY | | | | | | | | | | | |
| KEY NUMBER | | | | | | | | | | | |

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
PROGRAM Economic Development
BRU Investments
COMPONENT Administration

Page 3 of 4
Revised Date _____

FY 86

| | | | | | | | | | | |
|--------------------------------------|----------------------------------|-----------------------|-----------|------------|--|-----------------------|-------------------|------|---------|---------|
| 1. | POSITION TITLE LOAN CLOSER II | | | | RANGE/STEP 12A | DARG. UNIT GGU | PAGE/LINE | GOV. | APPROV. | DISAPP. |
| 2. | TYPE OF POSITION PFT | STAFF MONTHS 12 | RP NUMBER | PCN NUMBER | BRU PRIORITY | LOCATION Anchorage | ELECTION DISTRICT | LEG. | | |
| 3. | CONTINUATION LEVEL | | | | JUSTIFICATION | | | | | |
| 4. | TYPE OF EXPENDITURE | | | | Processing of an additional 600 applications for assumptions and approval of 400 of those applications per year will create a marked increase in the workload of the division's Anchorage and Juneau regional offices. Two additional loan examiners and two loan closers would be required to handle the increased load and would be spread between the two regional offices. On time expenses would be incurred for equipment. | | | | | |
| | PERSONAL SERVICES | | | | Consideration of these applications would also require significantly more meetings of the department's loan committees. This fiscal note assumes that this additional burden would be absorbed. | | | | | |
| 5. | Salary | 24,864 | | | Estimates for the 200-500 lines items assume that the new employee required for this new loan program will require support at levels similar to that actually being incurred by the division on other loan programs. | | | | | |
| 6. | Benefits | 4,025 | | | Contractual: Space Rental: \$3,000 \$2.50 sq./ft. x 100 sq./ft. x 12 months RSA to Department of Administration. | | | | | |
| 7. | Supplemental Benefits | 1,524 | | | Commodities: General supplies. | | | | | |
| 8. | Fixed Benefits | 2,732 | | | Equipment: Calculator \$ 365 Typewriter \$1,369 Workstation \$2,515 \$4,250 | | | | | |
| 9. | TOTAL PERSONAL SERVICES | 01 | 33,145 | | | | | | | |
| 10. | Travel | 02 | -0- | | | | | | | |
| 11. | Contractual | 03 | 3,000 | | | | | | | |
| 12. | Commodities | 04 | 300 | | | | | | | |
| 13. | Equipment | 05 | 4,250 | | | | | | | |
| 14. | Other | | | | | | | | | |
| 15. | TOTAL COST | | 40,695 | | | | | | | |
| 16. | RECEIPT CODE | FUNDING SOURCE | | | | | | | | |
| 17. | | Federal Receipts 1002 | | | | | | | | |
| 18. | | G.F. Match 1003 | | | | | | | | |
| 19. | | General Funds 1004 | | 40,695 | | | | | | |
| 20. | | I-A Receipts 1005 | | | | | | | | |
| 21. | | Program Receipts 1028 | | | | | | | | |
| | | Other | | | | | | | | |
| FOR BSM USE ONLY KEY NUMBER _____ | | | | | | | | | | |

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development

PROGRAM Economic Development

BRU Investments

COMPONENT Administration

Page 4 of 4

Revised Date _____

FY 86



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

SENATE Letter of Intent

CSSB 78 (L&C)

It is the intent of the Legislature that when implementing the Commercial Fishing Loan Act, the Department of Commerce and Economic Development shall:

(1) utilize maximum flexibility in dealing with loan assumption requests with the understanding that the credit worthiness of the applicant shall be of paramount importance in the decision-making process.

(2) relinquish the original borrower's obligation under the loan agreement whenever the applicant for the assumption has demonstrated credit worthiness to the satisfaction of the Department.

(3) allow individuals to pre-qualify for a loan. This pre-qualification status would apply only to loans authorized for the purchase of limited entry permits.

Adopted by the Senate April 29, 1985.

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

FISCAL DETAIL

Bill/Resolution No.: CSSB 78(Fin) Agency Affected: Commerce & Economic Dev
 Title: Miscellaneous amendments to state loan programs Program Category Affected: Development
 Sponsor: Rules/Governor BRU, Program or Subprogram(s) Affected: _____
 Requestor: _____ Accounting & Collections
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | 8.5 | 8.5 | 8.5 | 8.5 | 8.5 |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | 2.3 | 2.3 | 2.3 | 2.3 | 2.3 |
| 400 SUPPLIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | 10.8 | 10.8 | 10.8 | 10.8 | 10.8 |

| | | | | | | |
|----------------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|----------------|--|--|--|--|--|--|

| | | | | | | |
|----------------|--|-------|-------|-------|-------|-------|
| REVENUE | | 178.0 | 271.0 | 364.0 | 457.0 | 550.0 |
|----------------|--|-------|-------|-------|-------|-------|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|------|------|------|------|------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | 10.8 | 10.8 | 10.8 | 10.8 | 10.8 |
| TOTAL | | 10.8 | 10.8 | 10.8 | 10.8 | 10.8 |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: Attach a separate page if necessary

Prepared By: Jan Faiks, Co-chairman Phone: 465-4523
 Division: Senate Finance Committee Date: 4/26/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

ACCOUNTING & COLLECTIONS

7/1/84

TECHNICAL AMENDMENTS TO DCED LOAN PROGRAMS: FISCAL NOTE

In order for Division of Investments to administer this legislation as it relates to commercial fishing loan assumptions, the Division of Accounting & Collections must be staffed to provide minimally adequate service to Investments. While we originally estimated a need for two additional positions within the Division of Accounting & Collections, we have streamlined our operation within the past six months since the original fiscal note was drafted, and we believe we can service Division of Investments' requirements through overtime effort.

The overtime funding requested will provide for records management (filing) effort as well as accounting effort to process refinanced repossessions and assumptions through the loan accounting system.

| | | |
|-----------------------------|------------------------------|--------------------|
| | 200 hours clerical support | \$3522.00 |
| | 200 hours accounting support | <u>4962.00</u> |
| Line 100 | | <u>\$8484.00</u> |
| Contractual Services | | |
| | Long Distance/Postage | 300.00 |
| | Payment Coupon Printing | 1000.00 |
| | DP Chargeback | <u>1000.00</u> |
| Line 300 | | <u>\$2300.00</u> |
| | TOTAL | <u>\$10,784.00</u> |

REVENUE ANALYSIS

1. Assumes an estimated 250 applicants and 200 approvals of assumptions per year, with an average assumed balance of \$67,500:
 - a. Nonrefundable application fee \$50 x 250 = \$12,500/year
 - b. Assumption Fee (one-time) of 1/2% of the assumed balance
 $\$67,500 \times .005 \times 200 = \$67,500/\text{year}$
2. Assumes an estimated 25 prequalification applicants per year:
 - a. Nonrefundable application fee \$200 x 25 = \$5000/year
3. Assumes 90% recovery of losses on commercial fishing loans due to the ability to finance and reamortize repossessed vessels and other collateral.

| | <u>FY 86</u> | <u>FY 87</u> | <u>FY 88</u> | <u>FY 89</u> | <u>FY 90</u> |
|--------------------------|--------------|--------------|--------------|--------------|--------------|
| Assumptions | | | | | |
| Application Fees | 12.5 | 12.5 | 12.5 | 12.5 | 12.5 |
| Assumption Fees | 67.5 | 67.5 | 67.5 | 67.5 | 67.5 |
| Prequalification Fees | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 |
| Additional Loss Recovery | <u>93.0</u> | <u>186.0</u> | <u>279.0</u> | <u>372.0</u> | <u>465.0</u> |
| | <u>178.0</u> | <u>271.0</u> | <u>364.0</u> | <u>457.0</u> | <u>550.0</u> |

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Sh R
70

January 22, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends or supplements various state loan programs. The bill performs a number of different functions.

In sec. 1, the bill deletes AS 16.10.310(a)(1)(C), which provides that commercial fishing loans can be made to fisherman-owned corporations, partnerships, or joint ventures for vessels and gear. However, under both the current AS 16.10.320(e) and as that subsection is amended in sec. 3 of the bill, loans may be made to commercial fishermen who join together in a joint operation; these loans can be in the amount of the standard loan limits for an individual multiplied by the number of fishermen applying. Thus the individuals operating as corporations, partnerships and joint ventures will all be treated in the same manner as individual fishermen.

The bill also deletes AS 16.10.310(b) (sec. 1 of the bill) and amends AS 16.10.339 (sec. 6 of the bill), relating to the adoption of regulations for the commercial fishing loan program. Under this bill, the Department of Commerce and Economic Development will be given the authority to adopt regulations necessary to implement its own loan programs. Under existing statutes, the department is required to consult with the Department of Fish and Game for all commercial fishing loan regulations, and the Commercial Fisheries Entry Commission must adopt any regulations which affect loans secured by limited entry permits. These particular amendments recognize that these programs are loan programs, and the expertise required for implementation of the programs lies with the Department of Commerce and Economic Development, which must be given the authority to control its own functions.

In sec. 1, the bill also provides that the Department of Commerce and Economic Development may take a more flexible and creative approach to protecting the state's security interests and to financing and disposing of repossessed collateral. It will permit commercial fishing loans to be assumed if the applicant meets the two-year residency requirement and assumption of the loan is determined to be consistent with the purposes of the commercial fishing loan program. In addition, for all of the department's loan programs, the bill provides, in secs. 7 -- 16 and 19, that the department may offer alternative financing, including amortized payments, whenever it disposes of property acquired through default proceedings. Under existing law, the department is frequently required to offer repossessed collateral for sale only for cash, which results in the state taking a large loss. If alternative financing could be offered, a much higher sales price often could be obtained. The bill amends 11 state loan programs (commercial fishing, fisheries enhancement, veterans, mining, child care facilities, bulk fuel, alternative energy, residential energy conservation, tourism, small businesses, and historical districts) to permit this flexible disposal of repossessed collateral if the disposal method selected is in the best interests of the state.

The last amendment made by sec. 1 is to relocate to a new subsec. (c) in AS 16.10.310 language that is now in AS 16.10.333(f) (deleted by sec. 4 of the bill), dealing with consideration of an individual's ability to repay a loan. The current provision is applicable only to loans made for purchase of a limited entry permit. As relocated, that language will apply to all commercial fishing loans made under AS 16.10.300 -- 16.10.370.

Section 3 of this bill amends AS 16.10.320(a)(1) to clarify that the department may extend the term of a commercial fishing loan beyond 15 years if the extension is necessary due to poor fishing seasons or adverse market conditions for fishing products.

AS 16.10.320(d) is also clarified in sec. 3. Under existing language, it is unclear whether an individual borrower who has repaid a commercial fishing loan may be granted a new loan. This bill amends that subsection to clarify that new or additional loans may be made to a fisherman, as long as the total outstanding balance of all commercial fishing loans to that individual does not exceed the statutory limit.

Section 5 of the bill will permit the Department of Commerce and Economic Development to take a more flexible approach in dealing with persons who are technically in default on their commercial fishing loans in specific cases where the forfeiture of an individual's limited entry permit is neither desirable nor advantageous to the state. If a commercial fisherman is able to show that he or she never received notice of default under the loan, that person would be able to present evidence to the department that he or she failed to receive the notice and the department would then dismiss the default proceedings. Also, if an individual fisherman contacts the department to state that he or she is unable, for financial or other reasons, to make payment in accordance with the default statute, but does not wish to sacrifice his permit and truly wants to cooperate with the department, the department would be able to negotiate with the individual to attempt to work out some alternative satisfactory to both the fisherman and the state.

The amendment to AS 16.10.335(a) requires the notice of the default to be sent to the debtor by both certified and first class mail, rather than by just registered or certified mail. The new language in AS 16.10.335(b) requires each fisherman to keep a current address on file with the department.

New AS 16.10.335(c) provides that if the department follows the procedures of (a) of that section, the department and, after that, the courts will presume that the debtor received the default notice, and it will be the debtor's responsibility to prove otherwise. Absent evidence that the debtor did not receive the notice, the department would still be able to continue with its default proceedings. However, if such evidence is presented, the default proceedings could be terminated.

New AS 16.10.335(d) gives the department the right to waive the time limits provided in AS 16.10.335(a) (15 days to request a hearing, 60 days to bring the note current, and 120 days to pay the note in full), if a request for a waiver is made by the debtor to the department before the expiration of the relevant time limit. Thus, this bill will allow fishermen who have defaulted on their loans to avoid forfeiture of their permits if exceptional circumstances warrant their retention of the permit.

The bill also makes technical changes to the historical district loan program to clarify its scope. Section 18 of

the bill.

For each loan program administered by the Department of Commerce and Economic Development, the bill establishes a special account, entitled the foreclosure expense account (secs. 8 -- 17 of the bill). Money in this account may be used to pay expenses incurred in protecting the state's security interest in collateral for loans made under the particular loan program. The language for these sections is taken from AS 16.10.342, which already provides for a foreclosure expense account for the commercial fishing loan program.

In addition, the bill fills an apparent statutory omission regarding the bulk fuel revolving fund and the residential energy conservation loan fund programs, by granting statutory authority to the Department of Commerce and Economic Development to adopt regulations necessary for these programs (secs. 12 and 14 of the bill, respectively).

This bill makes a number of significant improvements to the state loan programs, particularly the state commercial fishing loan program. I urge your support of and prompt action on this measure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 1, 1985

SUBJECT: Sectional analysis of CSSB 78 (Finance)

TO: Representative John L. Sund
Chairman,
House Special Committee on State Loans

FROM: Keith B. Levy *KBL*
Legislative Counsel

You have requested a sectional analysis of CSSB 78 (Finance). The bill amends a number of state loan programs administered by the Department of Commerce and Economic Development and the Commercial Fishing and Agriculture Bank.

Section 1 amends the commercial fishing loan program (AS 16.10.310(a)) to allow loans for the repair and upgrading of vessels and gear and the purchase of entry permits. To qualify for a loan an individual must either not have other occupational opportunities available or must be dependent on commercial fishing for a livelihood as a traditional way of life. This section also allows assumption of a loan if the applicant has been a resident for two years and the assumption would be consistent with the purposes of the loan program. An applicant for assumption may not be disqualified solely because the applicant does not meet the existing eligibility requirements. Finally, section 1 allows DCED to prequalify loan applicants for limited entry permit loans and charge a fee not to exceed \$200 for prequalification.

Section 2 requires DCED to consider a commercial fisherman's income from all sources in determining the fisherman's ability to repay a loan.

Sections 3 and 4 make technical amendments to AS 16.310.315 and AS 16.10.320(a) to conform to other amendments made in the bill.

Section 5 provides that limits on the amount of loans in existing law apply to the total outstanding balance on the loans rather than the total amount of the initial loans. This section also repeals existing provisions under which loans to an associate of the borrower count towards the borrower's loan limits.

Section 6 amends AS 16.10.320(e) to allow two or more commercial fishermen to obtain a loan jointly under the same terms as individual loans.

Sections 7 and 8 make technical amendments to AS 16.10.320(i) and AS 16.10.333(a) to conform to other amendments in the bill.

Section 9 requires a borrower who uses a limited entry permit as security for a loan to maintain an address on file with the department where notice of default may be received by the borrower. If the department mails a notice of default to the borrower, receipt of the notice is presumed, but may be rebutted by the borrower. The department may waive the statutory time limits related to default if the borrower shows good cause and notifies the commissioner before the expiration of the time limit.

Section 10 amends AS 16.10.339 to provide that the department, not the Commercial Fisheries Entry Commission, must adopt regulations to implement the statutory provisions.

Section 11 gives DCED the power to dispose of property acquired through foreclosure of a fishing loan in a manner that serves the best interests of the state. The disposal may include amortization of payments over a period of years, but may not be by lease.

Sections 12 - 19, 21 - 31, and 33 create foreclosure expense accounts within certain loan funds. The accounts are created to protect the state's security interest in collateral on the loans and to pay the expenses of foreclosure on the loans. These sections also give DCED the power to dispose of property acquired through foreclosure of loans in a manner that serves the best interests of the state. These provisions apply to the fisheries enhancement revolving loan fund (secs. 12 and 13), the Alaska World War II veterans' revolving loan fund (secs. 14 and 15), the mining loan fund (secs. 16 and 17), the child care facility

Representative John L. Sund
Page 3
May 1, 1985

revolving loan fund (secs. 18 and 19), the bulk fuel revolving loan fund (secs. 21 and 22), the alternative energy revolving loan fund (secs. 23 and 24), the residential energy conservation fund (secs. 25 and 26), the tourism revolving loan fund (secs. 27 and 28), the small business revolving loan fund (secs. 29 and 30), and the historical district revolving loan fund (secs. 31 and 33).

Section 20 gives CFAB the power to make a loan to a person regardless of residency, if the loan is necessary to protect the value of property held by the bank as security for a loan that is in default.

Section 32 of the bill amends the historical district loan program to provide that to be eligible for a loan, a structure must be within a historical district and either identified as important in state or national history, or suitable for modification to conform to the period or motif of the surrounding buildings. Under existing law, a structure must meet all three of these requirements.

Section 34 repeals AS 16.10.310(b), 16.10.320(f) and 16.10.333(f), related to commercial fishing loans.

Section 35 provides for a July 1, 1985, effective date.

KBL:lmb
L4/083

To go on 195

May 10th

*Sec. 1.

(a) All right, title, and interest in loans of the type described in (b) of this section, and all right, title and interest in all mortgages, notes and other instruments of security made in connection with those loans, are transferred and appropriated to the fund (AS 45.93.010) of the Forest Products Business Loan Guarantee Program; provided however that payment of principal and interest from the said loans to the Forest Products Business Loan Guarantee Fund (AS 45.93.010) shall continue to be paid into the general fund until June 30, 1986, after which time payments into the Forest Products Business Loan Guarantee Fund shall commence. If the amount in unpaid principal of the loans exceeds \$25,000,000 on July 1, 1986, only loans and instruments of security totaling \$25,000,000 in unpaid principal are transferred and appropriated under this section.

(b) This section transfers and appropriates

(1) small business loans acquired or made under AS 45.95; and

(2) tourism loans acquired or made under AS 45.90.

*Sec. 2. The unexpended and unobligated portion of the appropriation made herein shall lapse into the general fund on June 30, 1987.

*Sec. 3. Money obligated hereunder for the purpose of guaranteeing the forest products business loan guarantee

fund shall be reappropriated to the general fund as the principal of the guaranteed loan is paid, in amounts equal to the percentage of the loan guarantee multiplied by the payments on the principal of the loan.

4. The Commissioner of Commerce and Economic Development may not ~~guarantee~~ obligate more funds than are in the forest products business loan guarantee fund.

To go on SB 78

May 10th

*Sec. _____. AS 45.94 is repealed.

*Sec. _____. AS 45 is amended by adding a new chapter to read:

Sec. 45.93.010. ESTABLISHMENT OF FOREST PRODUCTS BUSINESS LOAN GUARANTEE FUND. The forest products business loan guarantee fund is established in the Department of Commerce and Economic Development.

Sec. 45.93.020. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM. The department may use money in the fund to guarantee a loan to a forest products business for the purpose of financing the purchase of depreciable assets and roads that will maintain or increase employment in an existing forest products business, as provided in AS 45.93.050.

Sec. 45.93.030. POWERS AND DUTIES OF THE DEPARTMENT.

(a) The commissioner may

(1) designate agents and delegate powers necessary to implement this chapter;

(2) adopt regulations to implement this chapter;

(3) make and execute contracts and other instruments to implement this chapter;

(4) acquire real or personal property by purchase, transfer, or foreclosure when the acquisition is necessary to protect an interest in the fund.

(b) The commissioner shall require that a loan guaranteed by the fund be secured by adequate collateral, and that the net cash flow from the forest products business provides

adequate coverage for the debt service on the loan. The applicant shall provide an economic and financial feasibility analysis prepared by a firm acceptable to the department.

Sec. 45.93.040. INVESTMENT OF THE FUND. Money in the fund that is not being used for loan guarantees under this chapter shall be invested as provided for the investment of state treasury surplus under AS 37.10.070. Income from investment and interest on loans in the fund shall be transferred to the general fund.

Sec. 45.93.050

(a) The department may guarantee a loan under this chapter if

(1) the term of the loan does not exceed 10 years;

(2) the loan is commercially reasonable and secured by the real or personal property, inventory or accounts receivable of the forest products business, or by other collateral acceptable to the department;

(3) the loan is originated with and serviced by a state or federally chartered financial institution;

(4) the loan is made to a forest products business and

(A) a majority interest of the business is held by Alaska residents;

(B) the business maintains offices and operating facilities exclusively in the state unless the business is engaged in the export of forest products; and

(C) a majority of the employees of the business are residents of the state.

(5) the loan will increase or maintain production and employment in the forest products business and is for either depreciable assets which will enhance the value of the product sold by the borrower^{or} for a road or roads to be constructed by the borrower in connection with a timber sale.

(6) the portion of the loan not guaranteed by the state is held by the originating financial institution or another financial institution approved by the commissioner.

(b) The department may provide a guarantee from the fund for up to 80 percent of a loan for up to \$6,000,000 per borrower for depreciable assets which will enhance the value of the products sold by the borrower and for up to \$2,000,000 per borrower for road construction. The department shall not guarantee loans to refinance existing debt. At no time shall the department provide guarantees for loans aggregating more than \$31,250,000 of the principal amount. The department may not guarantee the payment of annual interest on the guaranteed portion of a loan.

(c) After a default by a borrower, the maximum liability of the fund for a loan guarantee under this chapter is equal to the amount then in default multiplied by a percentage equal to the guaranteed percentage of the loan. Payments received toward satisfaction of a default shall be allocated between the lender and the fund according to the guaranteed

percentage of the loan until the principal balance has been repaid.

(d) The department shall charge a user fee not to exceed one percent of the principal balance of the loan guarantee at the inception of the loan which is guaranteed under this chapter, *which shall be paid into the general fund.*

Sec. 45.93.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORECLOSURE. The department shall dispose of property acquired through default or foreclosure of a loan made under this chapter. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years.

Sec. 45.93.060. SPECIAL ACCOUNT ESTABLISHED.

(a) There is established as a special account within the forest products business guarantee loan fund the foreclosure expense account. This account is established as a reserve from fund equity.

(b) The commissioner may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans made under AS 45.93.020 or to defray expenses incurred during foreclosure proceedings after a default by an obligor.

Sec. 45.93.070. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of commerce and economic development;

(2) "department" means the Department of Commerce and

Economic Development;

(3) "forest products business" means a sole proprietorship, partnership, corporation or other business organization formed under the laws of the state for the purpose of harvesting or processing timber or other forest resources;

(4) "fund" means the forest products business loan guarantee fund;

(5) "depreciable asset" means a kiln, chipping facility, creosote or pressure plant, planer, equipment for precision sawyering, similiar equipment approved by the commissioner designed to enhance the value of timber prouducts for the Alaska, domestic and export markets, and related facilities.

HCS CSSB 78 (Finance)

FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM

The proposal amends the existing Forest Products Business Loan Gurantee Program which was enacted to allow the employees of the Ketchikan Pulp Corporation to purchase an interest in the pulp mill owned by Louisiana Pacific Corporation. The employees have now decided not to purchase the mill; thus the program is of no further use.

In the meantime, the Governor's Timber Task Force was created with the mission of finding ways to improve the health of the timber industry in Southeast Alaska and to enhance the industry in the Railbelt Area. Only 5-10% of the 110 million board feet annual market for wood products in the Railbelt Area is provided by Alaska wood products. The Task Force estimates that up to 60% of that market could be captured by the Alaska industry if the quality of the products coming from Alaska's sawmills is improved. Pacific Rim purchasers have stated that they will buy more sawn products from Alaska if the quality of the products is improved. In each case the products must be: 1) precision sawn; 2) moisture stabilized; and 3) planed.

- This proposal would allow the guarantee of loans made for the purchase of "depreciable assets" and roads. "Depreciable assets" are defined to limit the loans guaranteed under the program to loans for planers, kilns, chippers, precision sawing equipment, and similiar equipment to improve the quality of the sawn products. The loans cannot be made to refinance debt or to purchase assets that could otherwise be financed (such as fork lifts, trucks and other more conventional equipment). In addition, loggers are helped by allowing guarantees to build roads in connection with a timber sale. In short, the loan gurantees are designed to upgrade the products produced by Alaska's saw mills.

There has been a strong effort made to assure that the loans made are commerically reasonable and unlikely to result in default. Under the program, as amended by this bill, the Department of Commerce and Economic Development would be able to guarantee loans for up to 80%, but not more than \$2 million per borrower for depreciable assets and \$1 million per borrower for road construction. Thus the banks will have a stake in making certain that only good loans are made. The Commissioner gets a second review of the likelihood of repayment when he or she decides whether to provide a guarantee. A 1% fee for the loan guarantee is required.

The following is a section-by-section description of the bill:

SECTION-BY-SECTION

Section 30. This section amends AS 45.94.020 to state that the purpose of the loan guarantee program is to finance depreciable assets and roads. The amendment drops out the provisions in the existing law dealing with the purchase of stock which were specifically for the Ketchikan Pulp Company situation.

Section 31. AS 45.94.030 outlines the powers and duties of the Department of Commerce and Economic Development and the Commissioner. A new subsection (c) has been added to prohibit the Department from making loan guarantees in excess of the unobligated cash in the fund.

AS 45.94.040 is repealed because it is unnecessary in the opinion of the Department of Commerce and Economic Development.

Section 32. This section amends AS 45.94.050(a) to include the requirement in subparagraph (a)(2) that the loan be commercially reasonable. It also requires that a controlling interest in the business be held by Alaska residents. Subparagraph (a)(1) requires that the business maintain its offices and operating facilities exclusively in the State unless it engages in the export of forest products. It also requires that a majority of employees of the business be residents of the State. A new subsection (5) is added requiring that the guarantee be limited to loans for depreciable assets or roads in connection with a timber sale and that the guaranteed loans maintain or increase production and employment in the forest products business in the State. A new subsection (6) requires that the portion of the loan not guaranteed by the State be held by a financial institution which meets the approval of the Commissioner.

Section 33. AS 45.94.050(b) is amended by this section to increase the guarantee from 50% to 80% but to limit that guarantee to \$2 million per borrower for depreciable assets and \$1 million per borrower for roads. The current law sets a \$30 million limit. The Department would not be permitted to guarantee loans to refinance debt or to pay interest on the guaranteed portion of the loan. The Department would in no case be able to make loan guarantees in excess of \$10,000,000. A new subsection (c) was added to state that the Department may not make loan guarantees in excess of funds available

Section 34. This section amends AS 45.94.050(c) to require that the ratio of the guarantee to the outstanding loan principal stay the same over the term of the loan. This means as the principal amount of the loan goes down so does the amount which the State has guaranteed. Any payment

received after default will be split between the State and the bank in proportion to the guaranteed portion of the loan guaranteed by each.

Section 35. This section adds a new subsection (d) to AS 45.94.050 which charges the borrower a fee not to exceed 1% of the principal balance of the loan guarantee at the inception of the loan. The purpose of subsection (d) is to provide the State a portion of the anticipated lower interest rate resulting from the guarantee.

Section 36. This section adds the standard provisions allowing the Department to dispose of property it acquires as a result of default and establishes a special account to protect the State's security in collateral on guaranteed loans.

In addition, "depreciable asset" is defined in the definition section of AS 45.94.060 to include a kiln, chipping facility, creosote or pressure plant, planer, or precision sawing equipment. This is to make certain the loans are used to further the purpose of the program which is to upgrade the quality of sawn products.

Finally, the program is transferred from the Department of Revenue to the Department of Commerce and Economic Development by changing the definitions in subsections (1) and (2) of AS 45.94.060(1) and (2).



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SB 78: Sectional Analysis

Section 1) Makes both technical and policy changes to the present Commercial Fisheries Loan Program. The first substantive change occurs on line 11 of page 2 which repeals subsection pertaining to loans made to "corporations, partnerships, and joint venturers". Section 3 would allow individual fisherman who qualify for loans under 16.10.310 (a) (1) (B) to obtain loans jointly "whether operating as a corporation, partnership, joint venture, or otherwise"

Section also provides statutory authority to permit assumption of loans and repeals language which required consultation between the Dept of F&G and the DCED for all commercial fishing loan regulations.

Also adds language which grants the commissioner authority to consider all sources of a fisherman's income when determining a fisherman's ability to repay a loan. Currently the commissioner has that authority only with respect to loans for entry permits.

Section 2) Deletes references to "corporations, partnerships, or joint ventures (16.10.310 (a) (1) (C))" consistent with that deletion in section 1).

Section 3) Changes the "Limitations on Loans" section and provides for extensions on the term of loans because of a poor fishing season or adverse market conditions.

Language is also added which changes the loan limits from a "total dollar amount" to a borrower to the total "balances outstanding" to a borrower.

Further, deletes language regarding loans to "associates of the borrower" as all loans will be made to individuals.

Section 4) Currently, the department is able to consider fishing and all other sources of income of an applicant who applies for an entry permit loan under 16.10.310 (a) (1) (A). This bill would extend that authority to "consider all sources of income" for Commercial Fishing Loans

Section 5) Changes the requirements of notification when a debtor defaults on a note which has a permit pledged as security for the note. The mailing notice of default is changed from registered and certified mail to certified and first class mail. Changes the "countdown" provisions for notice of default and adds an additional day for each notice.

Requires that when a permit is pledged to secure a loan the borrower must maintain a current mailing address on file with the Department. Further states that upon evidence of mailing, the receipt of the notice of default by the debtor will be "presumed". This presumption is rebuttable by presentation of evidence by the debtor that the notice was not received and proof of lack of receipt nullifies the notice.

Section also grants the commissioner authority to waive any of the time limits if the department receives a request from the borrower or his representative before the expiration of the time limit for which the waiver is sought.

- Section 6) Deletes the provision that the Commercial Fisheries Entry Commission, with the approval of the Department, adopt regulations for the limited entry permit sections of this bill.
- Section 7) Provides statutory authority for the department to dispose of property acquired after default or foreclosure of a Comm Fish Loan.
- Section 8) Establishes a special "foreclosure" expense account within the fisheries enhancement revolving loan fund. The account is established as a reserve from fund equity and this section also allows the department to dispose of property acquired thru default.
- Section 9) Establishes a special foreclosure account for the Alaska WW II veterans revolving loan fund, and allows the department to dispose of property acquired thru default.
- Section 10) Establishes a special foreclosure account for the mining loan fund, and allows the department to dispose of property acquired thru default.
- Section 11) Establishes a special foreclosure account for the childcare facility revolving loan fund, and allows the department to dispose of property acquired thru default.
- Section 12) Establishes a special foreclosure account for the bulk fuel revolving loan fund, and allows the department to dispose of property acquired thru default. Also permits the department to adopt regs to implement this chapter.

- Section 13) Establishes the special foreclosure account for the Alternative Energy Revolving Loan Fund, and allows the department to dispose of property acquired thru default.
- Section 14) Establishes the special foreclosure account for the Residential Energy Conservation Fund, and allows the department to dispose of property acquired thru default. Also allows the department to adopt regs to implement this program.
- Section 15) Establishes a special foreclosure account for the tourism revolving fund, and allows the department to dispose of property acquired thru default.
- Section 16) Establishes a special foreclosure account for the small business revolving loan fund, and allows the department to dispose of property acquired thru default.
- Section 17) Establishes a special foreclosure account for the historical district revolving loan fund.
- Section 18) Makes grammatical changes and defines the scope of the historical district loan program.
- Section 19) Provides the state with authority to dispose of property acquired thru default or foreclosure from the historical district loan program.
- Section 20) July 1, 1985 effective date.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the use of student loans to pay
7 child care expenses."

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

9 * Section 1. AS 14.43.120(a) is amended to read:

10 (a) Proceeds from scholarship loans may only be used for books,
11 tuition and required fees, child care expenses, and for room and
12 board, *however the maximum loan award may not exceed the cost of books,*
13 *tuition and required fees, and room and board.*

14 * Sec. 2. AS 14.43.640(d) is amended to read:

15 (d) Proceeds from a teacher scholarship loan may be used only
16 for undergraduate expenses of books, tuition, required fees, room and
17 board, child care expenses, and the transportation expense for two
18 round trips between the loan recipient's home and school, *however the*
19 *maximum loan award may not exceed the cost of books, tuition and*
20 *required fees, and room and board.*

Original sponsor: Rules/Governor

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IN THE SENATE

BY THE HOUSE SPECIAL
COMMITTEE ON STATE LOANS

HOUSE CS FOR CS FOR SENATE BILL NO. 78 (Loans)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making miscellaneous amendments to state loan programs; and providing for an effective date."

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

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

(a) The department may

(1) make loans to

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

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

(i) because of lack of training or lack of employment opportunities in the area of residence does not have occupational opportunities available other than

1 commercial fishing; or

2 (ii) is economically dependent on commercial
3 fishing for a livelihood and for whom commercial fishing has
4 been a traditional way of life [FOR THE INDIVIDUAL] in
5 Alaska [, FOR THE REPAIR, RESTORATION OR UPGRADING OF EXIST-
6 ING VESSELS AND GEAR, FOR THE PURCHASE OF ENTRY PERMITS AND
7 GEAR, AND FOR THE CONSTRUCTION AND PURCHASE OF VESSELS;

8 (C) CORPORATIONS, PARTNERSHIPS, OR JOINT VENTURES, 100
9 PERCENT OF WHICH ARE OWNED BY INDIVIDUAL COMMERCIAL FISHERMEN WHO
10 HAVE BEEN STATE RESIDENTS FOR A CONTINUOUS PERIOD OF TWO YEARS
11 IMMEDIATELY PRECEDING THE DATE OF APPLICATION FOR A LOAN UNDER
12 AS 16.10.310(a)(1)(B) AND HAVE HAD A CREWMEMBER OR COMMERCIAL
13 FISHING LICENSE UNDER AS 16.05.480 OR A PERMIT UNDER AS 16.43 FOR
14 THE YEAR IMMEDIATELY PRECEDING THE DATE OF APPLICATION AND ANY
15 OTHER TWO OF THE PAST FIVE YEARS, AND WHO ACTIVELY PARTICIPATED
16 IN THE FISHERY DURING THAT PERIOD, FOR THE REPAIR, RESTORATION OR
17 UPGRADING OF EXISTING VESSELS AND GEAR, FOR THE PURCHASE OF GEAR,
18 AND FOR THE CONSTRUCTION AND PURCHASE OF VESSELS];

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

21 (3) adopt regulations necessary to carry out its functions;

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

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

28 (6) enter into agreements with other agencies or organiza-
29 tions to create an outreach program to make loans under AS 16.10.300 -

1 16.10.370 in rural areas of the state;

2 (7) allow an assumption of a loan if

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

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

10 (8) prequalify loan applicants for a limited entry permit
11 loan and charge a fee not to exceed \$200 for prequalification.

12 * Sec. 2. AS 16.10.310 is amended by adding a new subsection to read:

13 (c) In determining whether an individual commercial fisherman is
14 reasonably likely to be able to repay a loan made under AS 16.10.300 -
15 16.10.370, the commissioner shall consider the individual commercial
16 fisherman's income from commercial fishing and from all other sources.

17 * Sec. 3. AS 16.10.315 is amended to read:

18 Sec. 16.10.315. ALLOCATION OF LOANS. The department shall
19 allocate at least 10 percent of the money that is appropriated for a
20 state fiscal year to make loans under AS 16.10.310 for loans of
21 \$35,000 or less made under AS 16.10.310(a)(1)(B) [AND (C)]. An allo-
22 cation made under this section terminates on April 15 of the state
23 fiscal year for which the allocation is made.

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

25 (a) Except as permitted in (h) of this section a (A) loan
26 under AS 16.10.300 - 16.10.370 [16.10.310 - 16.10.370]

27 (1) may not exceed a term of 15 years, except for exten-
28 sions under AS 16.10.310(a)(4);

29 (2) may not bear interest exceeding 10-1/2 percent;

1 (3) must [SHALL] be secured by a first priority lien and
2 appropriate security agreement; and

3 (4) may not exceed 90 percent of the appraised value of the
4 collateral used to secure the loan[, EXCEPT THAT A LOAN GRANTED UNDER
5 AS 16.10.333 FOR THE PURCHASE OF AN ALASKA LIMITED ENTRY PERMIT MAY
6 NOT EXCEED AN AMOUNT DETERMINED IN ACCORDANCE WITH (f) OR (h) OF THIS
7 SECTION].

8 * Sec. 5. AS 16.10.320(d) is amended to read:

9 (d) The total of balances outstanding on loans [LOANS] made to a
10 borrower under AS 16.10.310(a)(1)(A) may not exceed [A TOTAL OF]
11 \$300,000. The total of balances outstanding on loans [LOANS] made to
12 a borrower under AS 16.10.310(a)(1)(B) [OR (C)] may not exceed [A
13 TOTAL OF] \$100,000. [A LOAN TO AN ASSOCIATE OF THE BORROWER IS CON-
14 sidered to be a loan to the borrower. FOR THE PURPOSES OF THIS SEC-
15 tion, "ASSOCIATE OF THE BORROWER" MEANS

16 (1) A CORPORATION OR OTHER ORGANIZATION OF WHICH THE BOR-
17 ROWER IS AN OFFICER, DIRECTOR OR PARTNER, OR IS, DIRECTLY OR INDI-
18 RECTLY, THE BENEFICIAL OWNER OF 10 PERCENT OR MORE ON ANY CLASS OF
19 EQUITY SECURITIES;

20 (2) A PERSON WHO IS, DIRECTLY OR INDIRECTLY, THE BENEFICIAL
21 OWNER OF 10 PERCENT OR MORE OF ANY CLASS OF EQUITY SECURITIES OF THE
22 BORROWER;

23 (3) A TRUST OR OTHER ESTATE IN WHICH THE BORROWER HAS A
24 SUBSTANTIAL BENEFICIAL INTEREST OR AS TO WHICH THE BORROWER SERVES AS
25 TRUSTEE OR IN A SIMILAR FIDUCIARY CAPACITY.]

26 * Sec. 6. AS 16.10.320(e) is amended to read:

27 (e) Two or more individual commercial fishermen who each satisfy
28 the requirements specified in AS 16.10.310(a)(1)(B) may jointly,
29 whether operating as a corporation, partnership, joint venture, or

1 otherwise, obtain a commercial fishing loan for the repair, restora-
2 tion, or upgrading of an existing vessel and gear, for the purchase of
3 gear, and for the construction [OF A FISHING VESSEL] or the purchase
4 of a [AN EXISTING] fishing vessel. Loans granted under this subsec-
5 tion

6 [(1)] may not exceed the amount specified in (d) of this
7 section multiplied by the number of qualified commercial fishermen
8 applying for the loan [;

9 (2) MAY NOT EXCEED A TERM OF 15 YEARS;

10 (3) SHALL BE SECURED BY A FIRST PRIORITY LIEN AND APPRO-
11 PRIATE SECURITY AGREEMENT;

12 (4) MAY NOT BEAR INTEREST EXCEEDING 10-1/2 PERCENT;

13 AND

14 (5) MAY NOT EXCEED 90 PERCENT OF THE APPRAISED VALUE OF
15 THE COLLATERAL USED TO SECURE THE LOAN].

16 * Sec. 7. AS 16.10.320(i) is amended to read:

17 (i) If a loan is made to a borrower under AS 16.10.310(a)(1)(A),
18 a subsequent loan may not be made to the borrower [OR AN ASSOCIATE OF
19 THE BORROWER] under AS 16.10.310(a)(1)(B) [OR (C)]. If a loan is made
20 to a borrower under AS 16.10.310(a)(1)(B) [OR (C)], a subsequent loan
21 may be made to the borrower [OR AN ASSOCIATE OF THE BORROWER] under
22 AS 16.10.310(a)(1)(A) if the total of the balances outstanding on
23 loans received by the borrower [OR THE ASSOCIATE] under AS 16.10.310
24 does not exceed \$300,000.

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

26 (a) Loans under AS 16.10.310(a) [AS 16.10.320] may be made to
27 an individual commercial fisherman for the purchase of a limited entry
28 permit upon certification by the commission that the fisherman is a
29 person who qualifies as a transferee for the permit under AS 16.43 and

1 the regulations adopted by the commission.

2 * Sec. 9. AS 16.10.335 is amended to read:

3 Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor
4 defaults upon a note for which a limited entry permit has been pledged
5 as security under AS 16.10.333 or [UNDER AS] 16.10.338, the commis-
6 sioner shall provide the debtor, by both [REGISTERED OR] certified and
7 first class mail sent to the debtor's last known address on file with
8 the commissioner, with a notice of default that [WHICH] includes

9 (1) a description of the security given for the note in-
10 cluding the number assigned to the pledged permit by the commission;

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

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

15 (4) a statement that the debtor may, within 15 days after
16 [OF] the postmark date of the notice, request a hearing to submit
17 evidence showing the debtor has not defaulted;

18 (5) a statement that the note may be reinstated if brought
19 current within 60 days after [FROM] the postmark date of the notice;

20 (6) a statement that the note may be paid in full less
21 unearned interest within 120 days after [FROM] the postmark date of
22 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:
26 "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS ~~NOTE~~ IN FULL BY THE
27 DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT
28 AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."
29

(b) In each case of a limited entry permit being pledged as

1 security under AS 16.10.333 or 16.10.338, the debtor shall maintain on
2 file with the department an address where notice of default is to be
3 sent, if necessary, and where that notice will be timely received by
4 the debtor.

5 (c) Upon presentation of evidence of mailing in accordance with
6 (a) of this section, the receipt of the notice of default by the
7 debtor will be presumed for all purposes. This presumption is rebut-
8 table by presentation of evidence sufficient to demonstrate lack of
9 receipt of notice through no fault of the debtor. Upon presentation
10 of evidence sufficient to prove lack of receipt of notice through no
11 fault of the debtor, the notice is a nullity.

12 (d) Upon good cause shown, the commissioner may waive any of the
13 time limits in (a) of this section, if the department receives from
14 the debtor or the debtor's representative a request for the waiver
15 before the expiration of the time limit for which the waiver is
16 sought.

17 (e) Except as otherwise provided in (c) and (d) of this section,
18 upon [UPON] the debtor's failure to satisfy the note within the time
19 specified in (a)(6) of this section, the debtor's interest in the
20 permit is terminated by operation of law without further notice. Any
21 entry permit cards issued to the debtor under the permit must [SHALL]
22 be cancelled immediately upon receipt by the commission of a certifi-
23 cate of termination containing a copy of the notice required by (a) of
24 this section issued by the commissioner.

25 * Sec. 10. AS 16.10.339 is amended to read:

26 Sec. 16.10.339. REGULATIONS. The [COMMISSION WITH THE APPROVAL
27 OF THE] department [,] shall adopt regulations to implement AS 16.10.-
28 333 - 16.10.337.

29 * Sec. 11. AS 16.10 is amended by adding a new section to read:

1
2 Sec. 16.10.355. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORE-
3 CLOSURE. The department shall dispose of property acquired through
4 default or foreclosure of a loan made under AS 16.10.300 - 16.10.370
5 or former AS 16.10.650 - 16.10.720. Disposal shall be made in a
6 manner that serves the best interests of the state, and may include
7 the amortization of payments over a period of years, but may not be by
8 lease.

9 * Sec. 12. AS 16.10 is amended by adding a new section to read:

10 Sec. 16.10.507. SPECIAL ACCOUNT ESTABLISHED. (a) There is
11 established as a special account within the fisheries enhancement
12 revolving loan fund the foreclosure expense account. This account is
13 established as a reserve from fund equity.

14 (b) The commissioner may expend money credited to the foreclo-
15 sure expense account when necessary to protect the state's security
16 interest in collateral on loans made under AS 16.10.520 or to defray
17 expenses incurred during foreclosure proceedings after a default by an
18 obligor.

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

20 Sec. 16.10.555. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
21 FORECLOSURE. The Department of Commerce and Economic Development
22 shall dispose of property acquired through default or foreclosure of a
23 loan made under AS 16.10.500 - 16.10.620. Disposal shall be made in a
24 manner that serves the best interests of the state, and may include
25 the amortization of payments over a period of years.

26 * Sec. 14. AS 26.15 is amended by adding a new section to read:

27 Sec. 26.15.085. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
28 FORECLOSURE. The Department of Commerce and Economic Development
29 shall dispose of property acquired through default or foreclosure of a
loan made under this chapter. Disposal shall be made in a manner that

1 serves the best interests of the state, and may include the amortiza-
2 tion of payments over a period of years.

3 * Sec. 15. AS 26.15 is amended by adding a new section to read:

4 Sec. 26.15.095. SPECIAL ACCOUNT ESTABLISHED. (a) There is
5 established as a special account within the Alaska World War II veter-
6 ans' revolving fund the foreclosure expense account. This account is
7 established as a reserve from fund equity.

8 (b) The commissioner of commerce and economic development may
9 expend money credited to the foreclosure expense account when neces-
10 sary to protect the state's security interest in collateral on loans
11 made under AS 26.15.040 or to defray expenses incurred during fore-
12 closure proceedings after a default by an obligor.

13 * Sec. 16. AS 27.09 is amended by adding a new section to read:

14 Sec. 27.09.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the mining loan fund the fore-
16 closure expense account. This account is established as a reserve
17 from fund equity.

18 (b) The commissioner of commerce and economic development may
19 expend money credited to the foreclosure expense account when neces-
20 sary to protect the state's security interest in collateral on loans
21 made under AS 27.09.010 or to defray expenses incurred during fore-
22 closure proceedings after a default by an obligor.

23 * Sec. 17. AS 27.09 is amended by adding a new section to read:

24 Sec. 27.09.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
25 FORECLOSURE. The department shall dispose of property acquired
26 through default or foreclosure of a loan made under this chapter.
27 Disposal shall be made in a manner that serves the best interests of
28 the state, and may include the amortization of payments over a period
29 of years.

1
2 * Sec. 18. AS 44.33 is amended by adding a new section to read:

3 Sec. 44.33.242. SPECIAL ACCOUNT ESTABLISHED. (a) There is
4 established as a special account within the child care facility re-
5 volving loan fund the foreclosure expense account. This account is
6 established as a reserve from fund equity.

7 (b) The commissioner of commerce and economic development may
8 expend money credited to the foreclosure expense account when neces-
9 sary to protect the state's security interest in collateral on loans
10 made under AS 44.33.245 or to defray expenses incurred during fore-
11 closure proceedings after a default by an obligor.

12 * Sec. 19. AS 44.33 is amended by adding a new section to read:

13 Sec. 44.33.272. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
14 FORECLOSURE. The department shall dispose of property acquired
15 through default or foreclosure of a loan made under AS 44.33.240 -
16 44.33.275. Disposal shall be made in a manner that serves the best
17 interests of the state, and may include the amortization of payments
18 over a period of years.

19 * Sec. 20. AS 44.81.210(a) is amended by adding a new paragraph to
20 read:

21 (23) make a loan to a person, regardless of residency, if
22 the board of directors of the bank determines that the loan is neces-
23 sary to preserve the value of property held by the bank as security
24 for a loan that was made under (a)(1) of this section and that is in
25 default.

26 * Sec. 21. AS 45.87 is amended by adding a new section to read:

27 Sec. 45.87.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
28 established as a special account within the bulk fuel revolving loan
29 fund the foreclosure expense account. This account is established as
a reserve from fund equity.

1 (b) The commissioner of commerce and economic development may
2 expend money credited to the foreclosure expense account when neces-
3 sary to protect the state's security interest in collateral on loans
4 made under this chapter or to defray expenses incurred during fore-
5 closure proceedings after a default by an obligor.

6 * Sec. 22. AS 45.87 is amended by adding new sections to read:

7 Sec. 45.87.040. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
8 FORECLOSURE. The department shall dispose of property acquired
9 through default or foreclosure of a loan made under this chapter.
10 Disposal shall be made in a manner that serves the best interests of
11 the state, and may include the amortization of payments over a period
12 of years.

13 Sec. 45.87.060. REGULATIONS. The department shall adopt regu-
14 lations to implement this chapter.

15 * Sec. 23. AS 45.88 is amended by adding a new section to read:

16 Sec. 45.88.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
17 established, as a special account within the revolving loan fund
18 established under AS 45.88.010, the foreclosure expense account. This
19 account is established as a reserve from fund equity.

20 (b) The commissioner of commerce and economic development may
21 expend money credited to the foreclosure expense account when neces-
22 sary to protect the state's security interest in collateral on loans
23 made under AS 45.88.020 or to defray expenses incurred during fore-
24 closure proceedings after a default by an obligor.

25 * Sec. 24. AS 45.88 is amended by adding a new section to read:

26 Sec. 45.88.050. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
27 FORECLOSURE. The Department of Commerce and Economic Development
28 shall dispose of property acquired through default or foreclosure of a
29 loan made under this chapter. Disposal shall be made in a manner that

1 serves the best interests of the state, and may include the amortiza-
2 tion of payments over a period of years.

3 * Sec. 25. AS 45.89 is amended by adding a new section to read:

4 Sec. 45.89.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
5 established as a special account within the residential energy conser-
6 vation fund the foreclosure expense account. This account is estab-
7 lished as a reserve from fund equity.

8 (b) The commissioner may expend money credited to the foreclo-
9 sure expense account when necessary to protect the state's security
10 interest in collateral on loans made under AS 45.89.030 or to defray
11 expenses incurred during foreclosure proceedings after a default by an
12 obligor.

13 * Sec. 26. AS 45.89 is amended by adding new sections to read:

14 Sec. 45.89.050. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
15 FORECLOSURE. The department shall dispose of property acquired
16 through default or foreclosure of a loan made under this chapter.
17 Disposal shall be made in a manner that serves the best interests of
18 the state, and may include the amortization of payments over a period
19 of years.

20 Sec. 45.89.070. REGULATIONS. The department shall adopt regu-
21 lations to implement this chapter.

22 * Sec. 27. AS 45.90 is amended by adding a new section to read:

23 Sec. 45.90.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
24 established as a special account within the tourism revolving fund the
25 foreclosure expense account. This account is established as a reserve
26 from fund equity.

27 (b) The commissioner of commerce and economic development may
28 expend money credited to the foreclosure expense account when neces-
29 sary to protect the state's security interest in collateral on loans

1 partnership, corporation or other business organization formed under
2 the laws of the state for the purpose of harvesting or processing
3 timber or other forest resources;

4 (4) "fund" means the forest products business loan guaran-
5 tee fund.

6 * Sec. 34. AS 45.95 is amended by adding a new section to read:

7 Sec. 45.95.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
8 FORECLOSURE. The Department of Commerce and Economic Development
9 shall dispose of property acquired through default or foreclosure of a
10 loan made under this chapter. Disposal shall be made in a manner that
11 serves the best interests of the state, and may include the amortiza-
12 tion of payments over a period of years.

13 * Sec. 35. AS 45.95 is amended by adding a new section to read:

14 Sec. 45.95.065. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the small business revolving
16 loan fund the foreclosure expense account. This account is estab-
17 lished as a reserve from fund equity.

18 (b) The commissioner may expend money credited to the foreclo-
19 sure expense account when necessary to protect the state's security
20 interest in collateral on loans made under AS 45.95.020 or to defray
21 expenses incurred during foreclosure proceedings after a default by an
22 obligor.

23 * Sec. 36. AS 45.98 is amended by adding a new section to read:

24 Sec. 45.98.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
25 established as a special account within the historical district
26 revolving loan fund the foreclosure expense account. This account is
27 established as a reserve from fund equity.

28 (b) The commissioner of commerce and economic development may
29 expend money credited to the foreclosure expense account when

1 necessary to protect the state's security interest in collateral on
2 loans made under this chapter, or to defray expenses incurred during
3 foreclosure proceedings after a default by an obligor.

4 * Sec. 37. AS 45.98.020 is amended to read:

5 Sec. 45.98.020. HISTORICAL DISTRICT LOANS. Upon endorsement and
6 plan approval by a local historical district commission established
7 under AS 29.48.108 and the recommendation of a majority of the members
8 of the Historic Sites Advisory Committee, the Department of Commerce
9 and Economic Development may make loans to a person, firm, business or
10 municipality subject to applicable laws for the restoration, improve-
11 ment, rehabilitation, or maintenance of

12 (1) a structure which is [(1)] within the boundaries of a
13 historical district established under AS 29.48.110 and [;]

14 [(2)] identified as important in state or national history as
15 provided for in AS 29.48.110(b); or [AND]

16 (2) a [(3) ANOTHER] building or structure within a histor-
17 ical district, that is [AND] suitable for superficial modification so
18 that it can conform to the period or motif of the surrounding build-
19 ings or structures that are the reason for the area's designation as a
20 historical district.

21 * Sec. 38. AS 45.98 is amended by adding a new section to read:

22 Sec. 45.98.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
23 FORECLOSURE. The Department of Commerce and Economic Development
24 shall dispose of property acquired through default or foreclosure of a
25 loan made under this chapter. Disposal shall be made in a manner that
26 serves the best interests of the state, and may include the amortiza-
27 tion of payments over a period of years.

28 * Sec. 39. AS 16.10.310(b), 16.10.320(f), and 16.10.330(f) are re-
29 pealed.

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* Sec. 40. This Act takes effect July 1, 1985.

DRAFT

MEMORANDUM

TO: John Hartle

FROM: Joe Darnell

RE: Forest Products Business Loan Guarantee Program
Amendments Bill

DATE: April 26, 1985

Pursuant to your request, the following is a description of the amendments we have proposed to the Forest Products Business Loan Guarantee Program.

The amendments being proposed essentially take the existing Forest Products Business Loan Guarantee Program which was enacted to provide employees of the Ketchikan Pulp Corporation with a loan guarantee fund to back up part of a loan to purchase an interest in the pulp mill owned by Louisiana Pacific Corporation in Ketchikan. Since passage of that act in 1984, Louisiana Pacific Corporation has decided to not sell the mill to its employees; thus the purpose of the program as enacted by the Legislature is outdated.

The changes made in the existing Forest Products Business Loan Guarantee Program are designed to convert that program from a one-purpose program to a general business loan guarantee program available to all Alaskan forest products businesses. The loans under this program are to be used for financing the purchase of equipment and facilities that will increase or maintain employment in a forest products business. The intent of the program as drafted is to make it available only to Alaska forest products businesses which are businesses organized for profit and which a majority of the employees of the business are residents of Alaska.

The program would be based on the existing \$25 million appropriation made last year from the rainy day account in the general fund to the Forest Products Business Loan Guarantee Fund. Under the program, as amended by this bill, the Department of Revenue may provide a guarantee from the fund for up to 80% of the loan, but it may not guarantee more than \$6 million per borrower. A ~~1/4 of~~ 1% user fee for the loan guarantee is provided for in the bill. We recommend that the fee be increased to 1%.

The following is a section-by-section description of the bill as drafted for introduction by Representative Sund:

Section 1. It amends AS 45.94.020 to restate the purpose of the loan guarantee program as described above. The amendment drops out the provisions in the existing law dealing with the purchase of stock ~~and so forth~~ which were designed to deal specifically with the KPC situation.

AS 45.94.030 and .040 are left unchanged by the bill. Section .030 outlines the powers and duties of the department and the commissioner. Section .040 states income from investment of the fund is to go to the general fund.

Section 2. This section amends AS 45.94.050(a) to include the requirement in paragraph (2) of subsection (a) that the loan be commercially reasonable. It also requires that a controlling interest be held by Alaska residents. The Commissioner of Revenue is given discretion to waive this requirement. Section 2 also requires that the business maintain its offices and operating facilities exclusively in the state unless the business engages in export of forest products in which case offices and facilities overseas would be permitted. It also requires that a majority of employees of the business be residents of the state. This adopts one of the major objectives of the bill which is to develop employment in the forest timber industries in Alaska. The section further requires that the business be organized for profit. This points to the other major goal of the bill which is to provide a means for commercially viable timber operations to expand and flourish in the state. A subsection (5) is added which follows up on a purpose behind the legislation that the loan further the maintaining or increasing of production and employment in forest products businesses in the state. A new subsection (6) requires that the portion of the loan not guaranteed by the state be held by a financial institution which meets the approval of the Commissioner.

Section 3. AS 45.94.050(b) is amended by this section to increase the guarantee from 50% to 80% but to limit that guarantee to \$6 million per borrower from the \$30 million currently provided in the law. As with the existing statute, the Department of Revenue would not be permitted to guarantee the payment of annual interest on the guaranteed portion of the loan. This conforms with other loan programs in the state.

Section 4. This section amends AS 45.94.050 by adding a new subsection (a) to require the charging of a user fee by the Department of Revenue not to exceed 1/4 of 1% for loans guaranteed under this chapter. Section 4 makes a small change in AS 45.94.060 which is the definitions section. The change is to add

to the definition of forest products business that it be organized under the laws of the state. Again, this is to ensure that the business be an Alaska business.

Section 6. This section provides for an effective date immediately in accordance with AS 01.10.070(c). This is the standard effective date provision which provides that the actual effective time for enactment is the day after it is signed by the Governor or the day after the Governor's veto is overridden or on the day after expiration of the period allowed for gubernatorial action by Art. II, §17 of the Alaska Constitution.

jdd:1.5

BRISTOL BAY NATIVE ASSOCIATION

P.O. BOX 189
DILLINGHAM, ALASKA 99576
PHONE (907) 842-3257

May 1, 1985 ..

Representative Adelheid Herrmann
District 26
Alaska State Legislature
Pouch V (H.S. 3100)
Juneau, Alaska 99811

Dear Representative Herrmann:

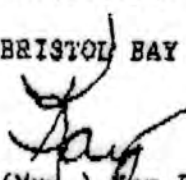
We understand you are going to introduce legislation to limit the amount of collateral required by the Department of Commerce and Economic Development for a commercial fishing loan.

This has been a concern of ours for some time also, that some individuals have been required to pledge their limited entry permits as additional collateral for a vessel loan. We understand that the state investment must be protected in the event of a default, but requiring collateral worth \$218,000.00 (assuming a vessel valued at \$100,000.00 and the latest State Bristol Bay Salmon Drift gillnet evaluation of \$118,000.00) for a \$90,000 vessel loan seems excessive. In many areas of rural Alaska a permit is the only negotiable collateral people own, but it is also the only means by which these people can support their families.

Therefore we support your efforts to set maximums on the amount of collateral the State requires for boat loans.

Sincerely,

BRISTOL BAY NATIVE ASSOCIATION


(Mrs.) May E. Larson
Executive Director

MEMORANDUM

TO: John Hartle
FROM: Joe Darnell
RE: Forest Products Business Loan Guarantee Program Bill
Hearing
DATE: April 26, 1985

The following is a list of possible witnesses for the Thursday afternoon hearing. Please let me know who you would like to see attend (or not attend) and we will contact them for you.

Frank Roppel
✓ Steve Seley
George Woodbury
✓ Ed Head
Bob Loescher
Jerry Larabee
Mike Valentine
Bud Stewart
Joe Henri (Anchorage)
George Krusz (ASCC)
Someone from Kodiak
Someone from Kusko.wim area
✓ Greg Bell (from the Interior)
✓ Jim Bos (from the Interior)
✓ Steve Laroe (from the Interior)

jdd:1.7

AN ACT

Making a special appropriation to the forest products business loan guarantee fund; reappropriating money from the forest products business loan guarantee fund; and providing for an effective date.

Section 1. The sum of \$25,000,000 is appropriated from the reserve for emergency operating expenses account in the general fund (AS 37.05.159) to the forest products business loan guarantee fund (AS 45.94).

Sec. 2. Money from the appropriation made by sec. 1 of this Act that is allocated for the purpose of guaranteeing a forest products business loan is reappropriated to the emergency operating expenses account in the general fund (AS 37.05.159) as the principal of the guaranteed loan is paid, in amounts equal to the percentage of the loan guarantee multiplied by the payments on the principal of the loan.

Sec. 3. The unexpended and unobligated portion of the appropriation made by sec. 1 of this Act lapses into the emergency operating expenses account in the general fund (AS 37.05.159) on the earlier of the following dates:

- (1) one year from the effective date of this Act;
- (2) the date of a proclamation issued by the governor under AS 37.05.159(b)(1) requiring that money in excess of the balance in the emergency operating expenses account be used for operating expenses of state government; the lapse provisions of this paragraph apply only to the extent of the difference between the amount required by the governor's

Chapter 130

1 proclamation and the balance of the emergency operating expenses
2 * Sec. 4. This Act takes effect on the effective date of
3 establishes a forest products business loan guarantee program.
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DRAFT

IN THE HOUSE

BY _____

HOUSE BILL NO. ____

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending a special appropriation to the forest products business loan guarantee fund; and providing for an effective date."

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

*Section 1. Sections 2 and 3, Ch. 130, SLA 1984, are repealed.

*Section 2. This Act takes effect on the effective date of an Act that amends the forest products business loan guarantee program.

IN THE HOUSE

BY _____

HOUSE BILL NO. ____

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the forest products business loan guarantee program; and providing for an effective date."

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

Section 1. AS 45.94 is amended to read:

Sec. 45.94.010. ESTABLISHMENT OF LOAN GUARANTEE PROGRAM. The forest products loan guarantee fund is established in the Department of Revenue.

Sec. 45.94.020. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM. The department may use money in the fund to guarantee a loan to a forest products business for the purpose of financing [THE PURCHASE OF 35 PERCENT OR MORE OF THE STOCK OR ASSETS OF A FOREST PRODUCTS BUSINESS BY, ON BEHALF OF OR FOR THE BENEFIT OF THE EMPLOYEES OF THAT BUSINESS,] the purchase of equipment and facilities which will increase employment in the production of a forest products business, as provided in AS 45.94.050.

Sec. 45.94.030. POWERS AND DUTIES OF THE DEPARTMENT.

(a) The commissioner may

(1) designate agents and delegate powers necessary to implement this chapter;

(2) adopt regulations to implement this chapter;

(3) make and execute contracts and other instruments to implement this chapter;

(4) acquire real or personal property by purchase, transfer, or foreclosure when the acquisition is necessary to protect an interest in the fund.

(d) The commissioner shall require that a loan guaranteed by the fund be made by a financial institution authorized to make such loans, that the loan be secured by adequate collateral, and that [THE] net cash flow from the forest products business provides adequate coverage for the debt service on the loan. The applicant shall provide an economic and financial feasibility analysis prepared by a firm acceptable to the department.

Sec. 45.94.040. INVESTMENT OF THE FUND. Money in the fund that is not being used for loan guarantees under this chapter shall be invested as provided for the investment of state treasury surplus under AS 37.10.070. [INCOME FROM INVESTMENT] Fees earned under AS 37.10.050(d) shall be transferred to the emergency operating expenses account of the general fund (AS 37.05.159).

Sec. 45.94.050. CONDITIONS OF LOAN GUARANTEES. (a) The department may guarantee a loan under this chapter if

(1) the term of the loan does not exceed 10 years;

(2) the loan is a commercially reasonable loan, secured by the real or personal property, inventory or accounts receivable of the forest products business, or by other collateral acceptable to the department;

(3) the loan is originated with and serviced by a state or federally chartered financial institution; [AND]

(4) the loan is made to [THE EMPLOYEES OF THE] a forest products business[, TO AN EMPLOYEE STOCK OWNERSHIP TRUST, OR TO ONE OR MORE CORPORATIONS OR OTHER BUSINESS ASSOCIATIONS OR ENTITIES IN WHICH THE CONTROLLING INTEREST IS HELD BY STATE RESIDENTS WHO ARE EMPLOYEES OF THE FOREST PRODUCTS BUSINESS.]; and which meets the following standards:

(A) a controlling interest is held by Alaska residents throughout the term of the loan, unless such requirement shall be waived by the Commissioner;

(B) maintain offices and operating facilities exclusively in this State and transacts business in this State, unless the business is engaged in the export of forest products;

(C) a majority of its employees are residents of Alaska; and

(D) the business is organized for profit.

(5) the loan will increase or maintain the production and employment of the forest products business; and

(6) The portion of the loan not guaranteed by the State shall be held by the originating financial institution throughout

the term of the loan or held by another financial institution approved by the Commissioner.

(b) The department may provide a guarantee from the fund of not more than 80 [FOR UP TO 50] percent of a loan, but may not guarantee [LESS THAN \$5,000,000 OR] more than \$6,000,000 [\$30,000,000] per borrower. The department [MAY] shall not guarantee the payment of annual interest on the guaranteed portion of a loan.

(c) [AFTER A] Upon default by a borrower, the maximum liability of the fund for a loan guarantee under this chapter is equal to the amount then in default multiplied by a percentage equal to the guaranteed percentage of the loan. Payments received toward satisfaction of a default shall be allocated between the lender and the fund according to the guaranteed percentage of the loan until the principal balance has been repaid.

(d) The department shall charge a commercially reasonable user fee for the loan which shall not exceed one-quarter of one percent and the proceeds from which shall be transferred to the emergency operating expenses account of the general fund (AS 37.05.159).

Sec. 45.94.060. DEFINITIONS. In this chapter

- (1) "commissioner" means the commissioner of revenue;
- (2) "department" means the Department of Revenue;

(3) "forest products business" means a sole proprietorship, partnership, corporation or other business organization [FORMED] incorporated under Alaska law for the purpose of harvesting or processing timber or other forest resources;

(4) "fund" means the forest products business loan guarantee fund.

Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

WORK ORDER REQUEST FORM

N14 - 0965

KEYWORDS: loan funds/loans
forestry/forests
funds

ASSIGNED TO Levy

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT Forest products business loan guarantees

REQUESTED FOR Rep. Sund BY John Hartle EXT. 4919

* DELIVER TO Rep. Sund TAKEN BY Barnes

INSTRUCTIONS, EXPLANATIONS Draft bill amending the forest products business loan guarantee program.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTER

APPROVED: BGC Director, Legal Services

REVIEWED _____

IN 03/25/85 DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT

FINAL



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

April 25, 1983

MEMORANDUM

TO: Representative Rick Uehling

FROM: Jack Kreinheder *JK*
Research Staff

RE: Set Net Fisheries and Shore Fisheries Leases
Research Request 83-113

Bill Lovell of your staff asked us to provide information on set net fisheries and the shore fisheries leasing program administered by the Department of Natural Resources. This information was to include:

- the number of permit holders in each set net fishery;
- an explanation of the shore fish leasing program, including problems which have occurred with shore fish leases, and proposed changes to the regulations governing the program; and
- average sale prices for set net sites and leases.

Number of Permits

In 1982, there were a total of 4,178 limited entry permits issued for all set net fisheries in Alaska. This figure amounts to about 40 percent of the permits issued for all limited fisheries, including salmon and herring. Table 1 on the following page shows the distribution of set net permits throughout the state and the number and percentage of permits held by residents of Alaska.

The largest set net fisheries in terms of commercial landings are the Bristol Bay and Cook Inlet fisheries. These areas also have the largest number of shore fisheries leases. The only areas which have been opened by the Department of Natural Resources for shore fisheries leases are Bristol Bay, Cook Inlet and Kodiak. The last five fisheries in Table 1 are collectively known as the Arctic-Yukon-Kuskokwim fisheries. These fisheries generally combine commercial and subsistence harvests, and no shore fisheries leases have been issued there.

TABLE 1
SALMON SET GILLNET PERMITS ISSUED IN 1982

| <u>Fishery</u> | <u>Total Number of Permits</u> | <u>Number of Permits Held by Alaska Residents</u> | <u>Percentage of Permits Held by Alaska Residents</u> |
|-------------------------|------------------------------------|---|---|
| Yakutat | 164 | 145 | 88% |
| Prince William Sound | 30 | 27 | 90% |
| Cook Inlet | 744 | 693 | 93% |
| Kodiak | 186 | 139 | 75% |
| Alaska Peninsula | 109 | 97 | 89% |
| Bristol Bay | <u>916</u> | <u>708</u> | 77% |
| Subtotal | 2,149 | 1,809 | 84% |
| Upper Yukon | 72 | 71 | 99% |
| Kuskokwim | 831 | 829 | 99% |
| Kotzebue | 219 | 216 | 99% |
| Lower Yukon | 707 | 704 | 99% |
| Norton Sound | <u>200</u> | <u>199</u> | 99% |
| Subtotal | <u>2,029</u> | <u>2,019</u> | 99% |
| TOTAL | <u>4,178</u> | <u>3,828</u> | 92% |

House Research Agency 4/22/83
Source: Commercial Fisheries Entry Commission

The Shore Fisheries Leasing Program

Shore fish leasing was established by regulation in 1964 (a copy of the regulations is attached). Minor revisions to the regulations were made in 1978. The program is administered by the Division of Land and Water Management in the Department of Natural Resources. In August 1982, the issuance of new leases was suspended pending revision of the program regulations.

Summary of Program¹

A shore fisheries lease is a lease of tidelands or submerged lands from the State for commercial fishing purposes, including clam digging and set netting for salmon and herring. The lease conveys only a "limited possessory right" in the site being leased. This means that the lease holder can only prevent other people from entering the lease site when he or she is fishing and when other people would interfere with the fishing operation. The main purpose of the lease is to establish the right to fish a particular site.

Shore fisheries leases are not required in order to engage in set net fishing, and most set net fishermen do not have these leases. About 600 leases have been issued, with another 300 applications on file. This compares to the 2,149 permits which have been issued for the main commercial set net fisheries.

When a fisherman applies for a lease, the division staff check land status, determines the tract boundaries, and issues instructions for a survey. Neighboring fishermen and the public are notified of the lease application. If no objections are received, the division issues the lease. If objections or competing claims to the same site occur, the director of the division bases his decision to award the lease on several factors, including:

- the length of time the applicant has been engaged in set netting;
- the proximity of past fishing sites to the land to be leased; and
- the fisherman's present ability to make effective use of the location (must be physically able to fish);

¹ Most of the information in this section was obtained from Tom Hawkins, Director of the Division of Land and Water Management. (Telephone 276-2653)

Under the present program, leases have a term of 10 years. In order to retain the lease, the lessee must pay an annual fee of \$60, install and maintain a site marker, fish the site at least every other year, and comply with the terms of the lease and Fish and Game regulations.

Problems Associated with Shore Fisheries Leasing

One of the biggest problems with the current shore fisheries leasing program is the backlog of lease applications. At the time applications were suspended in August 1982, there was a backlog of 353 lease applications. Because leases are not required, most lease applications are made because a site conflict has arisen. Therefore, most applications are protested and require extensive research to resolve. The division's budget included only one staff member to process these applications, and this staffer was able to complete only 50-60 leases per year. Thus, the 300 pending applications represent a six year wait for a shore fisheries lease, under the current budget level.

The shorelines on some beaches erode very quickly during storms and change from year to year. As a result, the area that is described in the lease may be submerged and unfishable because it is too far from the current beach. Also, it is very difficult to locate a lease site and resolve boundary disputes, because so little of the coast has been comprehensively surveyed. Although surveys are required for the leases, there are few reference points for surveyors to tie into.

There is much confusion among fishermen and others about the rights of a lease and the enforcement of its provisions. Some people are under the mistaken impression that the shore fishery lease gives them full possession of their site and that they can restrict access to or across the site. Some lessees also assume that they can legally set their nets anywhere on their site, as the lease provisions do not indicate otherwise. However, under ADF&G regulations, a lessee is fishing illegally if his or her nets are set closer than the minimum distance (600 feet in Cook Inlet) to a fishermen already fishing on adjacent unleased land.

Resolution of boundary disputes and "site jumping" is difficult. Officially, the State Troopers and Fish and Wildlife Protection Officers will not interfere in a dispute except with a court order. In practice, their responses vary from a "hands off" policy to direct mediation.

The problems cited above have been most severe for Bristol Bay, because shore fisheries leases have only recently become common there. In Cook Inlet, most of the current leases were approved by the late 1970s.

Proposed Changes to the Leasing Program

In response to the increasing backlog of lease applications and the other leasing problems cited above, the division decided to revise and streamline the shore fisheries leasing program. Applications and the issuance of new leases were suspended as of August 1982, while new regulations for the program were developed. Because of controversy over the new regulations and the change in administrations, the regulations are still in the draft stage and have not been officially proposed or adopted.

The most important changes which would be made by the draft regulations, if adopted, are the following:

- The term of the leases would be reduced from ten years to one year;
- The lessee would be required to personally fish the site for a certain number of fishing periods each year, rather than every other year as under the current program;
- The application and approval process would be simplified. Site surveys would no longer be required, and the applicant would be responsible for providing notice of his application to others. Leases would be issued if no objection is received within 120 days after the site is staked. The process for resolving competing site claims would remain the same as under the current regulations.
- An additional provision would be added specifying that no commercial fisheries activities on unleased lands may interfere with commercial fishing on a shore fishery lease site.

The division has circulated about 2,500 copies of the draft regulations to fishermen, managers and others for comment. There have been a number of comments, but in general, most fishermen who already have leases favor the existing leasing program, while those who would like to obtain a lease tend to prefer the new approach in the draft regulations. Some lease applicants who have already paid for a survey of their fishing sites are displeased that the survey requirement would be dropped under the new regulations.

Value of Set Net Sites

The value of set net sites ranges from nearly zero for the most marginal fishing sites to over \$115,000 for the best fishing areas. It was not

Representative Uehling
April 25, 1983
Page 6

possible to determine any fishery-wide average within the time available for this request. Also, the value of sites can fluctuate considerably depending on the strength of the fishery from year to year, just as permit values do. I spoke with two Cook Inlet set netters and an ADF&G biologist for the area to get a general idea of the range of site values in the Inlet.

As you are probably aware, the east shore of Cook Inlet is the most lucrative fishing location, particularly in the Kenai-Clam Gulch area. One fisherman I spoke with has been offered \$440,000 for three set net sites near Kenai, not including gear. Three entry permits were included in this price; the permits are currently valued at about \$15,000 each. Three sites near Clam Gulch were recently sold as a package for nearly \$400,000, again including permits, but no gear.

On the other end of the scale, another fishermen who was contacted paid about \$7,500 each for three sites on the west side of Cook Inlet. The valuation method used by fishermen in selling or buying sites differs, but often the average gross earnings over the last five years are used as the major factor.

I hope this information is useful. If you have any questions or would like additional research, please let us know.

JK

Attachments

**CHAPTER 64.
SHORE FISHERIES LEASING**

| Section | |
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11 AAC 64.010. SHORT TITLE. This chapter applies to leasing tide and submerged lands of the state for the purpose of shore fisheries development. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.020. PARTICIPATION IN SHORE FISHERY. No person is required to lease tide and submerged lands to participate in a shore fishery. However,

(1) upon written or verbal notification by a lessee holding a valid shore fishery lease issued under this chapter, a set gill netter shall remove any net or nets from the site or tract of the lessee if the lessee personally begins to commercially fish the lease site; and

(2) no set gill net may be set at less than the minimum distance established by Department of Fish and Game commercial finfish regulations set out in 5 AAC 03 - 5 AAC 39, from a net currently in use by a lessee holding a valid shore fishery lease issued under this chapter. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

11 AAC 64.030. OWNERSHIP. Repealed 3/30/85.

11 AAC 64.040. ADVISORY COMMITTEES. The director will, in his or her discretion, accept recommendations from recognized associations or groups whose members are engaged in the practice of set gill net fishing, or establish an advisory group to recommend resolutions involving application conflicts or protests. (Eff.

4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.050. TIDE AND SUBMERGED LAND AVAILABLE FOR LEASING. The director will, in his or her discretion, classify for leasing, under 11 AAC 55, all unappropriated tide and submerged land where set gill net fishing is allowed by the Alaska Department of Fish and Game. After the director designates an area as open to leasing, the director will publicly invite lease applications for all or specific portions of the open areas. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.060. PERMANENT IMPROVEMENTS DISALLOWED. No lessee may erect a permanent installation, building, structure, fixture, or facility upon a lease tract or site. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.061. STAKING AND FILING PERIOD. An applicant may stake a set gill net site or tract, and may file an application for a shore fishery lease, annually from May 1 to September 1. The director will extend, close, suspend, or otherwise modify the period for staking and filing an application if the director determines in writing that it is in the best interests of the state to do so. (Eff. 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.070. SIZE OF LEASE TRACTS.

(a) If an applicant has more than one set gill net site, and the area between individual sites is not claimed by another person for set gill net purposes, the applicant may include all such set gill net sites in one lease tract if

(1) the maximum number of set gill net sites included in one tract does not exceed that number allowed by 11 AAC 64.080;

(2) the maximum distance between set gill net sites does not exceed twice the minimum distance, minus one foot, allowed between nets by Department of Fish and Game commercial

finfish regulations, set out in 5 AAC 03 – 5 AAC 39, for the local area, unless otherwise determined by the director:

(3) the maximum distance of the tract side line from the nearest set gill net site within the tract does not exceed one-half the distance allowed between set gill net sites by Department of Fish and Game Commercial Finfish regulations set out in 5 AAC 03 – 5 AAC 39; and

(4) the maximum distance between the seaward end line of a tract and the landward end line of an offshore tract is not greater than one-half the distance from the seaward end of the nearest set gill net as determined by Department of Fish and Game Commercial Finfish regulations set out in 5 AAC 03 – 5 AAC 39.

(b) In establishing the size and proper location of a tract, the director will, in his or her discretion, require the applicant to survey the tract. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.080. MAXIMUM NUMBER OF NET SITES AND LEASE TRACTS. Except as provided otherwise in this section, the maximum number of sites allowed one applicant is that number established under Department of Fish and Game commercial finfish regulations set out in 5 AAC 03 – 5 AAC 39, except for Cook Inlet, where the maximum is three sites. The sites may be contained in one, two, or three tracts. In an area where, under established custom, the applicant has or currently uses the same set gill net and other gear for high and low water sites, the director will, in his or her discretion, lease additional set gill net sites, if the applicant submits proper justification. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.090. STAKING OF SITES AND TRACTS. Before submitting an application under 11 AAC 64.260, an applicant must stake each tract by placing the stake at the net anchor point. The location stake must be at least three feet above ground level and must support a sign showing the applicant's name, mailing address, limited entry permit number, and date of staking. For a low water tract, the location stake

may be co-located with the high water stake. The sign on the low water stake must contain the information contained on the high water sign and must be labeled across the top as a low water site with the distance and bearing to the shoreward end of the net or net anchor point noted on the sign. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.100. DISTANCE BETWEEN NET SITES. Repealed 3/30/85.

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.110. PUBLIC RIGHT-OF-WAY. Repealed 8/19/77.

11 AAC 64.120. MULTIPLE LAND USE. Repealed 8/19/77.

11 AAC 64.130. RESTRICTIONS AND RESERVATIONS. Repealed 8/19/77.

11 AAC 64.140. DAMAGES. Repealed 8/19/77.

11 AAC 64.150. MATERIALS. Repealed 8/19/77.

11 AAC 64.160. HERRING SPAWN COVENANT. Repealed 8/19/77.

11 AAC 64.170. WASTE AND INJURY TO LAND. Repealed 8/19/77.

11 AAC 64.180. REASONABLE UTILIZATION. (a) Except as otherwise provided by (b) of this section, reasonable utilization of a site or tract means personally fishing each site of each leased tract for at least four legal fishing periods during the commercial fishing season.

(b) The lessee may refrain from fishing upon any one or all leased tracts for one year, but not for two consecutive years. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.190. FORFEITURE OF PART OR ALL OF LEASE TRACT. Repealed 3/30/85.

11 AAC 64.200. CLOSED AREA. The director will not issue a lease in an area closed to com-

mercial fishing by the Department of Fish and Game. The closure of an area by the Department of Fish and Game will not result in the termination of a lease for failure of reasonable utilization. The closure of an area will not extend the term of an issued lease. The lessee may, however, request an extension of a current valid lease as provided for under 11 AAC 64.391, if the area is reopened to commercial fishing. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

11 AAC 64.210. CLOSURE OF AREA AFTER LEASE IS ISSUED. Repealed 3/30/85.

11 AAC 64.220. HARDSHIP CLAUSE; WAIVER OF RENTAL. The director will, in his or her discretion, waive the annual rental in the case of substantial injury, illness, call to military service, or legal closure of the fishery. An application for a waiver must be postmarked at least 30 days before the date the annual rental is due. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.230. QUALIFICATIONS OF APPLICANT. An applicant for a lease is qualified if the applicant

(1) is a citizen of the United States and is at least 18 years of age; and

(2) holds a valid limited entry permit or interim-use salmon set net permit for the area within which a lease is requested. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.240. TRUSTEESHIP FOR MINORS. The director will, in his or her discretion, issue a lease in trust for the benefit of a minor who is 10 years of age or older if the minor is otherwise qualified to lease under 11 AAC 64.230. The trust automatically terminates upon the date of the minor's 18th birthday. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.250. APPOINTMENT OF TRUSTEE. A person who is qualified under the laws of Alaska to act as a trustee may apply for approval to act as a trustee for a shore fishery lease on behalf of a minor. The director will issue the lease in the name of an approved trustee, subject to other provisions of this chapter. The trustee does not acquire any rights in the leased area by virtue of this trusteeship. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.260. APPLICATION. (a) An applicant shall file a shore fishery lease application with the department within 30 days after staking a shore fishery lease site. The filing date is determined by the postmark date of the application.

(b) A nonrefundable filing fee, as established by the department's approved fee schedule, must accompany each application.

(c) A shore fishery lease application must contain the following information:

(1) the applicant's name, mailing address, and birthdate;

(2) if the applicant is a minor, the name and mailing address of the trustee;

(3) the applicant's limited entry permit or interim-use salmon set net permit number;

(4) the date the site was staked;

(5) the number of seasons the applicant has commercially fished the site;

(6) the number of years the applicant has participated in a shore fishery;

(7) a description of the lease tract sufficient to locate the tract and sites on the ground and including the township, range, and protracted section in which the site is located, as well as the site's distance and bearing from the shoreward end of the net or net anchor point to a known fixed point, such as a permanent building, monument, or fixed natural feature;

(8) a U.S.G.S. map of not more than 1:63,360 scale showing the location of the site;

(9) a statement that the applicant intends to personally fish the site;

(10) a statement that the applicant has complied with the staking requirements of 11 AAC 64.090 and that the applicant is within legal net distances as established by Department of Fish and Game Commercial Finfish regulations set out in 5 AAC 04 - 5 AAC 39; and

(11) the names and addresses of adjacent right, left, shoreward and seaward set net neighbors; if any.

(d) Upon acceptance of a shore fishery lease application, the division will send the applicant further instructions for completing a shore fishery diagram.

(e) Within 90 days after receipt of the instructions, the applicant shall provide the division with a completed and signed shore fishery diagram.

(f) If an applicant is unable to comply with any of the instructions for completing the shore fishery diagram, the applicant shall submit a notarized affidavit attesting to the reason or the cause for failing to comply. The affidavit will be made part of the lease document.

(g) Failure to provide the information required by this section constitutes grounds for denying the shore fishery lease application. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.270. MOST QUALIFIED APPLICANT. Repealed 8/19/77.

11 AAC 64.280. PROOF OF QUALIFICATION. In addition to the information submitted with the application, the director may request such additional proof of qualification as is deemed necessary to help effect an equitable assignment of the disputed area. Failure to comply with any request for proof of qualification or additional information shall be

reason for the disqualification of an applicant. (Eff. 4/18/64, Reg. 16)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.290. DETERMINATION BY LOT. Repealed 8/19/77.

11 AAC 64.300. TERM OF LEASE. Repealed 8/19/77.

11 AAC 64.301. TERM OF LEASE. Upon the successful completion of all requirements of this chapter, and the resolution of any protest filed, the director will issue a lease for a period not to exceed 10 years. In determining the term of a lease, the director will consider the stability of the beach within the area, as well as any other applicable considerations or factors. (Eff. 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.310. NOTICE AND POSTING. Repealed 8/19/77.

11 AAC 64.320. DEPOSITS. Repealed 8/19/77.

11 AAC 64.330. RIGHTS PRIOR TO LEASING. The filing of an application for a lease shall not in any way vest any right in the applicant to a lease. (Eff. 4/18/64, Reg. 16)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.340. CONDITIONAL USE. Repealed 3/30/85.

11 AAC 64.350. ISSUANCE OF LEASE. Repealed 3/30/85.

11 AAC 64.360. PROPER LOCATION BY THE LESSEE. Repealed 3/30/85.

11 AAC 64.370. ANNUAL RENTAL. Annual rental shall be an approved proportionate share of the cost of administration of the total of the shore fishery development leasing costs, as determined by the director and concurred in by the commissioner. Annual rental shall be paid in advance of April 15, unless otherwise approved by the director, and shall be prorated from the 15th day of the month in which issued to the

15th day of April of the following year. All leases shall stipulate that the annual rental shall be subject to adjustment by the director at five year intervals and such adjustment is to be based on the administration costs involved, and shall in no way reflect the value of the leasehold. (Eff. 4/18/64, Reg. 16)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.380. RECEIPT OF ANNUAL RENTAL. The first year's rental shall be receipted on the lease; thereafter the director shall immediately issue receipts for all rents paid. (Eff. 4/18/64, Reg. 16)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.390. RENEWAL OF LEASE. Repealed 8/19/77.

11 AAC 64.391. EXTENSION OF LEASE. 90 days before the expiration of a valid lease, the lessee may request an extension of the lease. The director will, in his or her discretion, extend the lease for a period of up to 10 years if no changes in site or tract location have occurred, the beach has remained stable, the lease is in good standing with the department, the lessee remains qualified under 11 AAC 64.230, and no protest of the extension is received. A nonrefundable filing fee, as established by the department's approved fee schedule, must accompany a request for an extension. (Eff. 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.400. PREFERENCE TO LEASE. Repealed 8/19/77.

11 AAC 64.410. LEASE TERMINATION. (a) The department will, in its discretion, terminate a lease if

- (1) the lessee fails to pay the annual rental;
- (2) the director determines that the site is not being used for the purpose for which the lease was issued;
- (3) the lessee misrepresented facts or made an error with respect to a material fact in the shore fishery lease application;

(4) the lessee fails to properly locate his tract and sites or fails to properly situate in the tract when commercially fishing;

(5) the lessee fails to maintain a valid limited entry permit or interim-use salmon set net permit; or

(6) utilization of the tract or sites is not in accordance with 11 AAC 64.180;

(b) The director will notify a lessee in writing of the department's intention to terminate a lease under this section. The director will send the notice of termination to the last address provided to the department by the lessee. The notice is considered delivered when deposited in the mail.

(c) A lease termination is effective 30 days after the date of the notice, unless stayed by the commissioner in conjunction with an appeal filed by the lessee under 11 AAC 64.460. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.420. NOTICE OF DEFAULT. Repealed 3/30/85.

11 AAC 64.430. ASSIGNMENT. A lessee may assign a lease to another if

(1) the lease rental payments are current;

(2) the assignee is qualified under 11 AAC 64.230 or 11 AAC 64.240 and holds a valid limited entry permit or interim-use salmon set net permit for the fishery;

(3) the assignee does not currently lease the maximum allowed sites for the fishery;

(4) approval of an assignment will not result in the assignee holding leases for more than the maximum allowable number of sites;

(5) the lessee and assignee complete the required assignment of lease form; and

(6) the director approves the assignment. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.440. SUCCESSION TO APPLICANT'S INTEREST. A person who is legally assigned all rights to another person's lease application succeeds to all rights and privileges of the original lease applicant under this chapter if the assignee submits

(1) a notarized statement setting out the name of the lease applicant, the lease applicant's address of record, the location of the site or sites, the date of lease application acquisition, and the name and address of each of the adjacent site holders, if any; and

(2) a notarized statement by the lease applicant stating the length of time the lease applicant has personally operated the site or sites, and stating that the lease applicant has relinquished to the assignee all rights to and interest in the site or sites. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.450. PROTEST. (a) A person may protest an application for or the location of a shore fishery lease site by mailing a statement of protest to the applicant and to the director. The protest may be filed from the time a site has been staked until the last date for filing a protest, as determined and published in writing by the department. The postmark date of the statement of protest constitutes the date of protest. If a protest is filed, the director will not issue a lease until resolution of the protest.

(b) A statement of protest must be in writing, must be signed by the protester, and must contain

(1) the protester's name and mailing address;

(2) the protester's limited entry permit number or interim-use salmon set net permit, if any;

(3) the applicant's name and address as shown on the staking sign;

(4) a brief statement of reasons why the protester believes that the lease site location is invalid or that the protester is more qualified to fish at the lease site; affidavits may be included to support the reasons set out in the statement; and

(5) a brief statement of the relief requested, which may be either denial of the lease site location, or a determination that the protester is more qualified to fish from the lease site and more entitled to lease the site than is the applicant.

(c) The applicant shall prepare a brief written response rebutting the protester's statement. The applicant shall mail the response to the protester and to the director within 30 days after receiving the statement of protest. Affidavits may be included to support the facts set out in the response.

(d) The director will base a decision resolving a protest on the criteria contained in AS 38.05.082 and on the protest, response, supporting affidavits, and hearing, if one is conducted. The decision constitutes the final departmental action unless it is appealed. (Eff. 4/18/64, Reg. 16: am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.460. APPEAL. An action, order, or decision made by the director may be appealed to the commissioner. The appeal must

(1) be made in writing;

(2) be filed within 30 calendar days after notice of the director's action;

(3) specify the action or actions to be reviewed by the commissioner; and

(4) specify the grounds urged for the reversal or modification of the decision. (Eff. 4/18/84, Reg. 16: am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.470. FINALITY OF DECISION. The commissioner will, within 45 calendar days after receipt of the appeal, render a final decision. This final decision is not a bar to any other remedy available to the appellant. (Eff. 4/18/64, Reg. 16: am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.480. COMMISSIONER'S REJECTION. Repealed 3/30/85.

11 AAC 64.490. DISPUTES OF BOUNDARY LINE LOCATION. In a dispute concerning one or more leased tract locations, the protesting party may request that the director establish or reestablish, by survey, the boundary lines of the tract or tracts in question. The director will, in his or her discretion, require that a survey be performed to determine the location of the boundary lines in dispute. The party or parties at fault shall pay the cost of the entire survey. The department will, in its discretion, terminate the lease of the party or parties at fault if they do not pay the survey costs. (Eff. 4/18/64, Reg. 16: am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.500. GENERAL PLAT REQUIREMENTS. Repealed 3/27/80.

11 AAC 64.510. PAPER PLAT PROCEDURE AND REQUIREMENTS. Repealed 3/27/80.

11 AAC 64.520. SURVEY REQUIREMENTS. Repealed 3/27/80.

11 AAC 64.530. PRELIMINARY PLAT REQUIREMENTS. Repealed 3/27/80.

11 AAC 64.540. SURVEY PROCEDURE. Repealed 3/27/80.

11 AAC 64.550. PROCEDURE ON FINAL PLAT. Repealed 3/27/80.

11 AAC 64.560. FINAL PLAT REQUIREMENTS. Repealed 3/27/80.

11 AAC 64.565. TRANSITION. Pending applications submitted under this chapter before March 30, 1985 will be adjudicated under the provisions of this chapter which are in effect after that date. The applicant will be notified of any additional requirements. (Eff. 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

11 AAC 64.570. DEFINITIONS. In these regulations, the following terms shall have the meaning indicated unless the context clearly requires a different meaning:

- (1) repealed 3/30/85;
- (2) "adjacent" means touching or lying in close proximity, as opposed to "contiguous" which requires a common boundary;
- (3) "boundary lines" means lines having a course and distance that enclose one tract;
- (4) repealed 3/30/85;
- (5) repealed 3/30/85;
- (6) "commercial fishing" means the taking, fishing for, or possession of fish, with the intent of disposing of them for profit, or by sale, barter, or in commercial channels;
- (7) "commercial fishing season" means the locally recognized commercial fishing season opened by field announcement by the Alaska Board of Fish and Game;
- (8) "commissioner" means the Commissioner of the Department of Natural Resources, State of Alaska;
- (9) "department" means the Department of Natural Resources, State of Alaska;
- (10) "director" means the Director of the Division of Lands;
- (11) "division" means the Division of Lands within the Department of Natural Resources;
- (12) "endline" means that boundary line of any lease tract that is parallel or nearly so with the shoreline;
- (13) repealed 3/30/85;
- (14) repealed 3/30/85;
- (15) "lease" means a surface lease for shore fisheries development issued or held pursuant to these regulations;
- (16) repealed 3/30/85;
- (17) repealed 3/30/85;
- (18) repealed 3/30/85;

(19) "monument" means a natural, physical, artificial, or record monument, as customarily used to appropriately define or mark an area;

(20) "neighbor" means an adjacent commercial fisherman who is to be designated as right or left side, or seaward or shoreward neighbor;

(21) "offshore" means those submerged lands lying seaward from the line of mean low tide;

(22) repealed 3/30/85;

(23) repealed 3/30/85;

(24) repealed 3/30/85;

(25) repealed 3/30/85;

(26) repealed 3/30/85;

(27) repealed 3/30/85;

(28) "site" means set net site, individual set net location, set net fishing site, and set gill net site;

(29) repealed 3/30/85;

(30) "tidelands" are those lands that are periodically covered by tidal waters between the elevation of mean high and mean low tides;

(31) "tract" means a parcel of tidelands leased under this chapter and may include one, two, or three set gill net sites;

(32) repealed 3/30/85;

(33) repealed 3/30/85;

(34) repealed 3/30/85;

(35) "party at fault" means the lessee or lessees who, following a dispute over tract or site boundaries or locations, is determined by the director to be in error;

(36) "permanent" means not capable of being readily dismantled or removed from a site or tract within the 24 hours after notification, without destroying the object dismantled or

removed or damaging the site or tract, and does not include set net anchors;

(37) "shore fishery diagram" means a graphic depiction of an applicant's or lessee's site which indicates the relationship of the site to local landmarks and adjacent or neighboring sites. (Eff. 4/18/64, Reg. 16; am 3/30/85, Reg. 93)

Authority: AS 38.05.020
AS 38.05.082

**CHAPTER 65.
PERSONAL USE CABIN PERMITS**

Section

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11 AAC 65.010. APPLICABILITY. This chapter applies to the issuance of personal use cabin permits for unauthorized cabins placed on state land before August 1, 1984. Cabins built on state land after August 1, 1984 will not be authorized. A permit under this chapter does not convey an interest in state land or establish a preference right for the lease or purchase of state land. It is the express intent of this chapter to phase out the use of unauthorized cabins on state land, and where appropriate, convert them to public use. (Eff. 12/16/84, Reg. 92)

Authority: AS 38.04.035 AS 38.05.020
AS 38.04.900 AS 41.21.020

11 AAC 65.020. APPLICATIONS. (a) An application for a permit to use an existing cabin on state land must

(1) be received by the department during a 60-day application period established by the department and announced by public notice; the application period will be open for one time only by geographic location;

(2) be made on a form provided by the department;

(3) be complete and correct to the best of the applicant's knowledge;

(4) contain a description of the cabin and site;

(5) contain a description of the proposed use of the cabin and site;

(6) be signed and dated by the applicant or, in the case of a group of applicants, by the applicant's authorized agent.

(b) An application made under this section must include the following:

(1) a \$25 application fee;

(2) identification of the cabin site on a United States Geological Survey map at 1:63,360 scale (1" to 1 mile) or its equivalent;

(3) a photograph (print) of the cabin taken within the past year;

(4) documentation demonstrating historic use and occupancy;

(5) documentation of any prior investments in the cabin; and

(6) any other information required by the director. (Eff. 12/16/84, Reg. 92)

Authority: AS 38.04.035 AS 38.05.020
AS 38.04.900 AS 41.21.020

11 AAC 65.030. APPLICATION FEE. The application fee required by 11 AAC 65.020 is not refundable. However, if the department determines that an application made under this chapter should have been made under a different chapter, the application fee may be applied to an application made under another chapter. (Eff. 12/16/84, Reg. 62)

Authority: AS 38.04.035 AS 38.05.020
AS 38.04.900 AS 41.21.020

11 AAC 65.040. RENEWALS. (a) Application for renewal of a permit must be made in writing at least 90 days, but not more than 180 days, before the expiration of the permit.

(b) A permit will be renewed if the continued use complies with 11 AAC 65.050 - 11 AAC 65.900.

(c) A permit issued and renewed under this chapter is valid only during the lifetime of the original holder of that permit. (Eff. 12/16/84, Reg. 92)

Authority: AS 38.04.035 AS 38.05.020
AS 38.04.900 AS 41.21.020

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§ 38.05.070

PUBLIC LANDS

§ 38.05.070

Section

- 85. Term of lease
- 87. Forest Service permittees' leasing preference
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Section

- land leased by nonprofit organizations
- 98. Senior citizens exemption
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- 103. Rights of holder of security interest
- 105. Periodic rent adjustments

Cross references. — For reservation to which contracts for sale, lease or grant of state land and deeds to state land, properties or interest to state land are subject, see AS 38.05.125.

Sec. 38.05.070. Generally. (a) Land, including tide, submerged or shoreland, to which the state holds title or to which it may become entitled, may be leased, except for the extraction of natural resources, in the manner provided in AS 38.05.070 — 38.05.105.

(b) The director, with the approval of the commissioner, shall determine the land to be leased and the limitations, conditions and terms of the lease. The director shall preserve reasonable and traditional access to state land and water. If the appraised value of the transaction is \$5,000 a year or less the director may negotiate a lease for a period not to exceed 10 years, and on the limitations, conditions and terms that the director considers are in the best interests of the state. A lease negotiated under this subsection is not eligible for a preference under AS 38.05.102.

(c) A lease may be issued for a period up to 55 years, if the commissioner determines it to be in the best interests of the state. The commissioner shall consider the useful life of any improvements proposed and approved under AS 38.05.075 in determining the term of the lease. If the commissioner determines that the land or a part of it which is the subject of a grazing lease is not being used for the purpose issued the lease may be declared void. (§ 1 art V ch 169 SLA 1959; am § 21 ch 113 SLA 1981; am §§ 27, 28 ch 152 SLA 1984)

Effect of amendments. — The 1981 amendment added the third sentence of subsection (b).

The 1984 amendment, in subsection (b), inserted the second sentence and, in the third sentence, substituted "\$5,000" for "\$250," "10" for "5," and "that the director" for "which he" and deleted "without advertisement" following "lease"; and, in subsection (c), substituted "the commissioner determines it to be in the best interests of the state" for "it appears to be in the best interests of the state and if the commissioner approves" in the first sentence, inserted the second sentence, and deleted the former last sentence, which read "However, a nonrenewable lease for school lands may be issued for a period not to exceed 99 years."

NOTES TO DECISIONS

Adjudicatory provisions of the Alaska Administrative Procedure Act (AS 44.62) do not apply to the termination of grazing lease^s by the state division of lands. *McCarrey v. Commissioner of Natural Resources*, Sup. Ct. Op. No. 1088 (File No. 2075), 526 P.2d 1353 (1974).

There is no indication in subsection (c), or other provisions which apply to state grazing leases, that requires application of the procedures of the Administrative Procedure Act (AS 44.62). *McCarrey v. Commissioner of Natural Resources*, Sup. Ct. Op. No. 1088 (File No. 2075), 526 P.2d 1353 (1974).

But state must afford notice and hearing before termination. — While the adjudicatory provisions of the Administrative Procedure Act (AS 44.62) are not applicable, due process considerations lead to the conclusion that it is incumbent upon the state to afford notice and a hearing to ensure due process before a state grazing

lease may be terminated for noncompliance. *McCarrey v. Commissioner of Natural Resources*, Sup. Ct. Op. No. 1088 (File No. 2075), 526 P. 2d 1353 (1974).

Terminating state grazing leases without affording the lessee notice and hearing would undermine both the policy evinced by Alaska Const., art. VIII, and the explicit due process guarantee provided by Alaska Const., art. I, § 7. *McCarrey v. Commissioner of Natural Resources*, Sup. Ct. Op. No. 1088 (File No. 2075), 526 P.2d 1353 (1974).

Procedure required by due process prior to termination of grazing lease. — See *McCarrey v. Commissioner of Natural Resources*, Sup. Ct. Op. No. 1088 (File No. 2075), 526 P.2d 1353 (1974).

Quoted in *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Collateral references. — 63 Am. Jur. 2d, Public Lands, §§ 108 to 116; 72 Am. Jur. 2d, States, Territories and Dependencies, §§ 66-70.

73A C.J.S., Public Lands, § 197; 81A C.J.S., States, § 150.

Sec. 38.05.075. Leasing procedures. (a) Except as provided in AS 38.05.087 and this section, leasing shall be made at public auction to the highest qualified bidder as determined by the commissioner. An aggrieved bidder may appeal to the commissioner within five days for a review of the determination. The leasing shall be conducted by the commissioner and the successful bidder shall deposit at the auction the first year's rental or that portion of it that the commissioner requires in accordance with the bid. The commissioner shall require qualified bidders to deposit a sum equal to any survey or appraisal costs reasonably incurred by another qualified bidder acting in accordance with the regulations of the commissioner. If a bidder making a deposit of survey or appraisal costs is determined by the commissioner to be the highest qualified bidder under this subsection, the deposit shall be paid to the unsuccessful bidder who incurred those costs. Any survey or appraisal costs reasonably incurred by a qualified bidder under the regulations of the commissioner or deposited under this subsection must be credited under the first and then subsequent years' rentals. All costs for survey and appraisal shall be approved in advance in writing by the commissioner. The commissioner shall immediately issue a receipt containing a description of the land or interest leased, the price bid, terms

of the lease, and the amount of any credit for survey and appraisal costs to the successful qualified bidder. If the receipt is not accepted in writing by the bidder under this subsection, the commissioner may offer the land for lease again under this subsection. A lease, on a form approved by the attorney general, shall be signed by the successful bidder and by the commissioner within 30 days after the auction.

(b) When a valid existing federal grazing lease is cancelled to allow state selection of the area under lease, the lessee of the land has the preference right to lease the land without competitive bidding for a term equal to that originally granted in the cancelled federal lease and upon terms as favorable to the lessee as those contained in the cancelled federal lease.

(c) The owner or lessee of land that fronts on tide or submerged land of the state is entitled to acquire a lease for the tide and submerged land without competitive bidding if the director determines that

(1) the lease of the tide or submerged land is necessary to facilitate water transportation of goods, services, or resources to or from the owned or leased upland or for another water-dependent purpose;

(2) the proposed use of the tide or submerged land is compatible with the classification of the land and with any applicable land use plan adopted under AS 38.04.065; and

(3) issuance of the lease to the tide or submerged land will not interfere with prior existing rights to the leased land.

(d) If the commissioner issues a lease under (c) of this section, the right of access to the tide and submerged land shall be nonexclusive in the lessee unless the commissioner grants the lessee the exclusive right to use the tide and submerged land.

(e) The commissioner may require prequalification of bidders for a lease to be issued under AS 38.05.070. If the commissioner determines to require prequalification, the procedures established by this section and the notice including pre-qualification requirements required to be given under AS 38.05.945 shall be completed within 75 days of the receipt of the first lease application unless the commissioner grants additional time for the completion of the procedures. Within the 75-day period or the additional time granted by the commissioner, the commissioner shall complete

(1) classification under AS 38.05.300;

(2) the procedures required by AS 38.05.035(e);

(3) any other action required by law for the disposal of the lease to a bidder except survey, appraisal, and the auction.

(f) The commissioner may issue a lease without competitive bidding at the approved, appraised market value of the land determined under AS 38.05.840 if, after completion of the procedures required by (e) of this section, the commissioner determines that there is only one qualified bidder. The commissioner may establish terms and conditions for entry to the land pending survey and appraisal of the land. The

commissioner shall issue the lease as soon as is practicable following the survey and appraisal of the land subject to the provisions of AS 38.05.035(e).

(g) Notice of an auction required under this section shall be made by certified mail to all prequalified bidders.

(h) A person aggrieved by a decision of the commissioner under this section may appeal to the commissioner within five days of the prequalification decision. The decision of the commissioner under this subsection or under AS 38.05.035(e) may be appealed to the superior court. (§ 2 art V ch 169 SLA 1959; am § 10 ch 61 SLA 1960; am § 3 ch 74 SLA 1961; am § 2 ch 26 SLA 1963; am § 1 ch 84 SLA 1965; am § 1 ch 106 SLA 1966; am §§ 29, 30 ch 152 SLA 1984)

Effect of amendments. — The 1984 amendment added subsections (b)-(h) and, in subsection (a), deleted the former third sentence, relating to when a valid existing federal grazing lease was cancelled, inserted the fourth through seventh sentences, and rewrote the remaining language.

NOTES TO DECISIONS

Importance of land resources recognized by constitution. — Alaska Const., art. VIII, reflects the framers' recognition of the importance of Alaska's land resources and of the concomitant necessity for observance of legal safeguards in the disposal or leasing of state lands. *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Adherence to legal procedures concerning leasing of state lands. — This section, which accords an aggrieved bidder the right of an administrative appeal, is evidence of the legislature's awareness of the necessity that adherence to legal procedures concerning the leasing of state lands must be insured. *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Determinations subject to judicial review. — Determinations of the director of the division of lands and the commissioner of natural resources made under this section of the Alaska Land Act, and regulations promulgated thereunder, are subject to judicial review. This conclusion is reached in light of the text of Alaska Const., art. VIII, § 10, which prohibits leasing of state owned lands unless made pursuant to public notice and other limi-

tations imposed by law. *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

The judicial review portions of the Administrative Procedure Act govern leasing procedures conducted by the division of lands under the Alaska Land Act. *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Aggrieved bidder has standing to obtain judicial review. — It is consonant with the intent of constitution and with legislative intent that an aggrieved bidder, under this section, have standing to obtain judicial review of alleged violations of his protected interest, as well as to vindicate the public interest in the lawful leasing of Alaska's lands. *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Extent of review available. — The provisions of this section pertaining to an aggrieved bidder's right of appeal do not manifest a clear intent that an administrative appeal was intended to be the full extent of review available to an aggrieved bidder. *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Sec. 38.05.076. Leases for pipeline purposes. [Repealed, § 31 ch 3 FSSLA 1973.]

Sec. 38.05.077. Classification and disposal of remote parcels. [Repealed, § 7 ch 103 SLA 1983. For current law see AS 38.09.]

Sec. 38.05.078. Purchase of land in a remote parcel. [Repealed, § 7 ch 103 SLA 1983. For current law see AS 38.09.]

Sec. 38.05.079. Remote cabin permit. (a) After September 1, 1980, the commissioner may issue a permit for the use of remote state land in a municipality for a cabin site if the land was classified for that purpose under former AS 38.05.047(a)(5)(B). After September 1, 1981, the commissioner may issue a permit for the use of remote state land outside a municipality for a cabin site if the land is classified for that purpose under the procedures required by AS 38.05.300 and 38.05.945.

(b) The fee for a remote cabin permit is \$100 a year. The commissioner shall establish regulations which specify the application procedures for and the terms and conditions of a remote cabin permit. A permit must be for a term of not less than 25 years, and may be assigned by the original permittee during the term of the permit.

(c) A remote cabin permit may be terminated by the commissioner before the expiration of the term of the permit if a permittee fails to use the land under permit in the manner required by the terms of the permit. After termination of a remote cabin permit, improvements or personal property on the land subject to the permit shall be managed in the same manner as required by AS 38.05.090.

(d) If land subject to a remote cabin permit is offered for sale or long-term lease, the commissioner shall first offer to sell or lease the land to the permittee or the assigns of the permittee. The land shall be sold for its fair market value. (§ 32 ch 85 SLA 1979; am § 98 ch 6 SLA 1984)

Effect of amendments. — The 1984 internal reference changes throughout amendment made a series of technical and subsection (a).

Sec. 38.05.080. Rejection of bids. Before the director signs the lease, the commissioner may reject all bids for leases when the best interest of the state justifies this action. (§ 2 art V ch 169 SLA 1959; am § 10 ch 61 SLA 1960; am § 3 ch 74 SLA 1961)

NOTES TO DECISIONS

Quoted in *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Sec. 38.05.082. Leases for shore fisheries development. (a) The director, with the approval of the commissioner, may lease tide and submerged land for fisheries development. Fisheries development

includes the utilization of shore gill nets or set nets for the taking of fish. Every lease issued under this section shall reserve to the public a right-of-way for access to navigable waters and other tide and submerged land.

(b) The director may classify land as subject to leases for fisheries development, and publicly invite applications for lease of the selected areas. Each application shall be accompanied by an affidavit to the effect that the applicant presently intends to personally utilize the leased area for fishing purposes the following season. If two or more applications are received for the same shore area, the director shall award the lease to the most qualified applicant. In determining the qualifications of applicants, the director shall consider the length of time during which the applicant has been engaged in set netting, the proximity of the past fishing sites of the applicant to the land to be leased, the present ability of the applicant to utilize the location to its maximum potential, and other factors relevant to the equitable assignment of the disputed area. If the director cannot determine a preference between conflicting applicants for the same lease site on the basis of qualifications, the director shall select between the applicants by lot. An aggrieved applicant may appeal to the commissioner within five days for a review of the director's determination.

(c) A lease for set net fishing may be issued for any period not exceeding 10 years. If the commissioner determines that the land is not being utilized for the purpose for which the lease is issued, the lease may be declared void. The director shall establish a reasonable rental for the lease, equal to the administrative costs involved in processing the leasehold applications.

(d) Subleasing and renewals of leases are governed by AS 38.05.095 and 38.05.102.

(e) The lease of submerged land conveys no interest in the water above the land or in the fish in the water. (§ 2 ch 93 SLA 1963; am § 99 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment changed the internal reference in subsection (d).

Opinions of attorney general. — This section, which authorizes shore fishery leases, does not create an exclusive right of fishery and therefore is not

unconstitutional under § 15, art. VIII, of the state constitution. 1983 Op. Att'y Gen. No. 03.

This section can be amended to limit the issuance of state tidelands leases for fisheries development to residents of Alaska. 1983 Op. Att'y Gen. No. 03.

Sec. 38.05.085. Term of lease. (a) The lease shall provide that

(1) for the initial 25-year period of the lease, the lessee shall pay the state a fixed base annual rent to be agreed upon by the parties in compliance with the provisions of this chapter;

(2) the fixed base annual rent to be paid by the lessee shall be readjusted when the initial 25-year period of the lease has expired and, thereafter, every 10 years; and

(3) the readjusted annual rent may not exceed 10 per cent of the value of the property as determined in (b) of this section or 50 per cent more than the amount paid each year during the initial period or the preceding 10-year period, whichever is lower.

(b) When it becomes necessary to determine the fair market value of property as required by (a) of this section, the director shall have the property appraised by a qualified appraiser. If the lessee disagrees with the appraisal obtained by the director, the lessee may appoint a qualified appraiser to make an appraisal of the property in question. If the two appraisers agree upon the fair market value, the determination is binding on the parties. In the event the two appraisers are unable to agree, they shall appoint a third qualified appraiser who shall then make an appraisal of the property in question. When the third appraisal is completed, the two of the three appraisals which are nearest each other in their determination of the fair market value shall be averaged and the resultant sum shall be the fair market value of the property in question and absolutely binding on the parties. All costs incurred in making the appraisals provided for in this subsection shall be borne by the state and the lessee equally.

(c) The lessee shall make advance payments of the annual rent or portion of it as the director, with the approval of the commissioner, may require.

(d) A preference right lessee of grazing or forest land may follow the payment schedule established in the cancelled federal lease or grazing permit if the lessee so desires.

(e) Notice of all actions by the department affecting the rights of a lease or lessee shall be given to the lessee.

(f) A violation of a provision of this chapter or of a term or provision of a lease subjects the lessee to appropriate legal action, including, but not limited to, a forfeiture of the lease.

(g) In this section,

(1) "annual rent" means the amount of rent paid annually determined by multiplying the fair market value by the rental rate computed at the time of the initial 25-year period of the lease or of each subsequent 10-year period of the lease;

(2) "qualified appraiser" means a senior member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, a person meeting the requirements for certification as an appraiser II by the division of personnel, Department of Administration, or a person qualified according to regulations adopted by the commissioner under the Administrative Procedure Act (AS 44.62);

(3) "rental rate" means the rate, expressed as a percentage of fair market value, which a comparable class of privately owned property would bring in the open market with the same conditions of lease as offered by the state. (§ 3 art V ch 169 SLA 1959; § 11 ch 61 SLA 1960; § 4 ch 74 SLA 1961; am § 9 ch 138 SLA 1977; am §§ 8, 9 ch 182 SLA 1978)

Revisor's notes. — This section was reorganized in 1984 to place the defined terms in alphabetical order.

NOTES TO DECISIONS

Quoted in *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Sec. 38.05.087. Forest Service permittees' leasing preference.

(a) Before offering to the public any land for lease which is subject to a valid existing United States Forest Service permit in effect in a state-selected area on the day before the area was tentatively approved for patent to the state, the director shall offer the land for leasing to the permittee at not less than its fair appraised market value before offering it to the general public.

(b) When not in conflict with this section, the provisions of AS 38.05.070 — 38.05.105 apply to leases under this section. (§ 1 ch 26 SLA 1963; am § 3 ch 26 SLA 1979)

Sec. 38.05.090. Removal or reversion of improvements upon termination of leases. (a) Improvements owned by a lessee on state land shall, within 60 days after the termination of the lease, be removed by the lessee if removal will not cause injury or damage to the land. The director may extend the time for removing improvements in cases where hardship is proven. The retiring lessee or permittee may, with the consent of the director, sell improvements to the succeeding lessee or permittee.

(b) If improvements or chattels, or both, having an appraised value exceeding \$10,000 as determined by the director are not removed within the time allowed, the improvements or chattels or both shall, upon notice to the lessee, be sold at public sale under the direction of the director. The proceeds of sale inure to the lessee who placed the improvements or chattels on the land after paying to the state all rents due and expenses incurred in making the sale. If there are no other bidders at the sale, the director may bid in the name of the state. The bid money shall be taken from the fund to which the land belongs and the fund shall receive all money or other value subsequently derived from the sale or leasing of the improvements or chattels. The state acquires all the rights that any other purchaser could acquire by reason of the purchase.

(c) If improvements or chattels, or both, having an appraised value of \$10,000 or less, as determined by the director, are not removed within the time allowed, they revert to the state and absolute title vests in the state. The preference right lessees of grazing or forest land may follow the provisions for removal of improvements upon termination of the lease as authorized in the cancelled federal lease or permit.

(d) Improvements of the lessee which have become fixtures of the land shall be purchased by the subsequent purchaser or lessee of the land if the improvements were authorized in the former lease or by permit from the director. Upon the termination of a lease, and at additional times which may be necessary, the value of the authorized fixtures remaining on the land shall be set by agreement between the former lessee and the director or, if agreement cannot be reached, by an independent appraisal made at cost to the former lessee.

(e) A notice or offer by the state to sell or lease formerly leased land shall state

(1) the value of the authorized fixtures remaining on the land;

(2) that the purchaser or lessee will be required, as a condition of the sale or lease, to purchase the fixtures from the former lessee for an amount equal to the value specified. (§ 4 art V ch 169 SLA 1959; § 12 ch 61 SLA 1960; § 5 ch 74 SLA 1961; am § 1 ch 140 SLA 1966)

NOTES TO DECISIONS

Cited in *Swindel v. Kelly*, Sup. Ct. Op. No. 812 (File Nos. 1416, 1418), 499 P.2d 291 (1972).

Collateral references. — 63 Am. Jur. 2d, Public Lands, § 28.
73A C.J.S., Public Lands, § 25.

Sec. 38.05.095. Subleases. (a) Except as provided in (b) of this section, a lessee may sublease or assign the leased land or a portion of it if, after application to the director, the director issues a permit. The director may issue a permit upon a finding that it is in the best interests of the state to do so.

(b) A nonprofit organization that is exempted from paying rent on state land under AS 38.05.810 may not sublease or assign the land or a portion of it on which it has a lease. (§ 5 art V ch 169 SLA 1959; am § 10 ch 182 SLA 1978; am § 29 ch 113 SLA 1981)

Effect of amendments. — The 1981 amendment changed the statutory reference in subsection (b)."

Sec. 38.05.097. Exemption from rental payments on land leased by nonprofit organizations. (a) A nonprofit organization using state land leased by it under AS 38.05.070 — 38.05.105 and 38.05.810 for a youth encampment or similar recreational purpose is exempt from lease rental payments on that land. The nonprofit organization shall meet all other terms and conditions of the lease specified under AS 38.05.070 — 38.05.105 and 38.05.810.

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(b) In this section, "nonprofit organization" means nonprofit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes or for the promotion of social welfare and which have received an exemption from the payment of federal income tax.

(c) A nonprofit organization which satisfies the requirements of this section that is using land under a lease in effect before July 1, 1978 may convert its lease to a new lease with terms exempting it from the payment of rent by submitting a written request to the director. (§ 11 ch 182 SLA 1978; am § 30 ch 113 SLA 1981)

Effect of amendments. — The 1981 amendment added "and 38.05.315" (now 38.05.810) preceding "for a youth encampment" in the first sentence of subsection (a).

Sec. 38.05.098. Senior citizens exemption. (a) The real property occupied as a permanent place of abode by a resident 65 years of age or over and leased by that resident from the state in accordance with AS 38.05.070 — 38.05.105 is exempt from the payment of annual lease rent. Only one exemption may be granted for the same property, and, if two or more persons are eligible for an exemption for the same property the parties shall decide between or among themselves which shall receive the benefit of the exemption. An exemption may not be granted for a portion of the leased real property which is used for a purpose other than as the permanent place of abode of the leaseholder.

(b) An exemption may not be granted under this section unless a written application for the exemption on a form provided for by the commissioner is submitted. The leaseholder must submit the application not later than 60 days before the anniversary date of the lease, and shall file a separate application for each lease year for which the exemption is sought. If an application is submitted within the required time and is approved by the commissioner, the commissioner shall allow a rental exemption for the lease year commencing on the anniversary date. The commissioner may at any time require proof of the right to an exemption claimed under this section. (§ 32 ch 85 SLA 1979)

Revisor's notes. — In rewriting subsection (b) to remove personal pronouns, the phrase "in the form he considers necessary" was deleted from the last sentence. AS 38.05.020 gives the commissioner authority to prescribe the form and extent of proof required under this section.

Sec. 38.05.100. Renewal of lease. [Repealed, § 15 ch 257 SLA 1976.]

Sec. 38.05.102. Lessee preference. If land within a leasehold created under AS 38.05.070 — 38.05.105 is offered for sale or long-term lease at the termination of the existing leasehold, the director may, upon a finding that it is in the best interest of the state, allow the

holder in good standing of that leasehold to purchase or lease the land for its appraised fair market value at the time of the sale or long-term lease. (§ 2 ch 36 SLA 1976; am § 7 ch 257 SLA 1976; am § 31 ch 113 SLA 1981; am § 100 ch 6 SLA 1984)

Revisor's notes. — AS 38.05.102 was added by both sec. 2, ch. 36, SLA 1976, and sec. 7, ch. 257, SLA 1976. Since ch. 257 had a later effective date, and contained inconsistent provisions, it was treated as an amendment to the section enacted by ch. 36.

Effect of amendments. — The 1981 amendment substituted "its appraised fair market value at the time of the sale or

long-term lease" for "the amount of the high bid received at public auction" near the end of the section.

The 1984 amendment made technical and internal reference changes in the section.

Editor's notes. — AS 38.05.100, referred to at the beginning of the section, was repealed by § 15, ch. 257, SLA 1976.

Sec. 38.05.103. Rights of holder of security interest. (a) If there is a breach or default of a term of a lease or of the provisions of this chapter relating to a lease, the division shall provide written notice of the breach or default by personal service or by registered or certified mail to the lessee and to any holder of record having a security interest in the leased property. The notice shall also make demand upon the lessee to cure or remedy the breach or default within 60 days from the date of receipt of the notice and demand. If a lessee fails to cure or remedy the breach or default within 60 days, or within the additional time which the division may allow for good cause, the state may, subject to (b) of this section, exercise any right which it may have at law or as set out in the lease.

(b) If a lessee fails to cure or remedy a breach or default within the time allowed in (a) of this section, a holder of a security interest who has received notice under (a) of this section may cure or remedy the breach or default if the breach or default can be cured by the payment of money or, if this cannot be done, by performing or undertaking in writing to perform the terms, covenants, restrictions and conditions of the lease capable of performance by the holder. The holder shall act within 60 days from the date of receipt of notice under (a) of this section, or within an additional period as the director may allow for good cause. (§ 10 ch 138 SLA 1977)

Sec. 38.05.105. Periodic rent adjustments. (a) Each lease shall stipulate that at the conclusion of the initial 25-year period of the lease and at intervals of 10 years thereafter the annual rent payment is subject to adjustment. Charges or adjustments shall be based primarily on an adjusted fair market value. However, if the director determines that single-family residential development is the best use of the land, the reappraisal period may be lengthened or the readjustment waived in accordance with regulations adopted by the department. Before a waiver of rent adjustment is issued, the land shall have a current reappraisal. A waiver is valid only if single-family residential

development actually occurs. The regulations adopted under this section shall ensure that the state receives a fair return from the land.

(b) The provisions of AS 38.05.085(b) are applicable to reappraisals of leases required by this section, except that, in determining an adjusted market value,

(1) subject to the provisions of (c) of this section, changes in property value due to governmental actions, including zoning reclassifications, shall be included; and

(2) changes in property value due to private improvements made to the property or other privately owned or leased property since originally entering into the lease shall be excluded.

(c) Changes or adjustments of annual rent on land under lease and used for single-family residential purposes in an area zoned for commercial or other nonresidential uses shall be based on an adjusted fair market value determined by reference to the actual use of the property and not by reference to the other uses permissible under the zoning ordinance. (§ 7 art V ch 169 SLA 1959; am § 1 ch 44 SLA 1964; am § 8 ch 257 SLA 1976; am § 1 ch 267 SLA 1976; am § 11 ch 138 SLA 1977; am §§ 12, 13 ch 182 SLA 1978)

Revisor's notes. — AS 38.05.105(a) inconsistent, and ch. 257 is superseded by was amended by both § 8, ch. 257, SLA ch. 267, only the later enactment has been 1976, and § 1, ch. 267, SLA 1976. Since given effect here. the two amendments appear to be

NOTES TO DECISIONS

Applied in *Wessells v. State, Dep't of Hwys.*, Sup. Ct. Op. No. 1402 (File No. 2834), 562 P.2d 1042 (1977).

Quoted in *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

Sec. 38.05.107. Compensation relating to easements or rights-of-way across state leases. [Repealed, § 1 ch 203 SLA 1975.]

Article 4. Disposal of Timber and Materials.

Section

- 110. Sale of timber and materials
- 115. Limitations and conditions of sale
- 118. Negotiated timber sales in areas of high unemployment
- 120. Disposal procedure

Sec. 38.05.110. Sale of timber and materials. The commissioner shall provide for cruises of timber and appraisals of other materials in or upon state land and shall assess the supply of and current markets for timber on and other materials in privately owned land in close proximity to state land to determine

- (1) the timber and other materials that should be offered for sale, and
- (2) the terms of sale of the timber or other materials. (§ 1 art VI ch 169 SLA 1959; am § 31 ch 152 SLA 1984)

Effect of amendments. — The 1984 amendment in the introductory language, substituted "commissioner" for "director" and "state land and shall assess the supply of and current markets for timber on and other materials in privately owned land in close proximity to state land to determine" for "lands and transmit this data to the commissioner, together with his recommendations with respect to" and substituted "that" for "which" in paragraph (1).

NOTES TO DECISIONS

Cited in Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), 665 P.2d 544 (1983).

Collateral references. — 63 Am. Jur. 2d, Public Lands, §§ 18, 19.
73A C.J.S., Public Lands, §§ 13 to 16.

Sec. 38.05.115. Limitations and conditions of sale. (a) The commissioner shall determine the timber and other materials to be sold, and the limitations, conditions and terms of sale. The limitations, conditions and terms shall include the utilization, development and maintenance of the sustained yield principle, subject to preference among other beneficial uses. The commissioner may negotiate sales of timber or materials without advertisement and on the limitations, conditions, and terms that are considered to be in the best interests of the state. However, not more than 500 M.B.M. or equivalent other measure of timber or more than 25,000 cubic yards of materials may be sold by nonadvertised, negotiated sale to the same purchaser within a one-year period.

(b) Negotiated sales not exceeding 50 M.B.M. or the equivalent other measure of timber or 2,500 cubic yards of materials are exempt from the provisions of AS 34.15.150.

(c) The limitations of this section are not applicable to timber which becomes state property under the provisions of AS 45.50.210 — 45.50.235. (§ 2 art VI ch 169 SLA 1959; am § 1 ch 66 SLA 1969; am § 9 ch 257 SLA 1976; am §§ 2, 3 ch 73 SLA 1978; am § 32 ch 152 SLA 1984)

Effect of amendments. — The 1984 amendment, in subsection (a), deleted "upon recommendation of the director" following "commissioner" in the first sentence and "subject to the approval of the commissioner" at the end of the third sentence and substituted "commissioner" for "director" and "that are considered to be" for "which he considers are," also in the third sentence.

14-0965
Levy
3/29/85✓

1
2 IN THE HOUSE

BY SUND

3 HOUSE BILL NO.

4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to the forest products business loan
8 guarantee program; and providing for an effective
9 date."

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

11 * Section 1. AS 45.94.020 is amended to read:

12 Sec. 45.94.020. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM.

13 The department may use money in the fund to guarantee a loan to a
14 forest products business for the purpose of financing the purchase of
15 equipment and facilities that will increase employment in a forest
16 products business [35 PERCENT OR MORE OF THE STOCK OR ASSETS OF A
17 FOREST PRODUCTS BUSINESS BY, ON BEHALF OF, OR FOR THE BENEFIT OF THE
18 EMPLOYEES OF THAT BUSINESS], as provided in AS 45.94.050.

19 * Sec. 2. AS 45.94.050(a) is amended to read:

20 (a) The department may guarantee a loan under this chapter if

21 (1) the term of the loan does not exceed 10 years;

22 (2) the loan is commercially reasonable and secured by the
23 real or personal property, inventory or accounts receivable of the
24 forest products business, or by other collateral acceptable to the
25 department;

26 (3) the loan is originated with and serviced by a state or
27 federally chartered financial institution; [AND]

28 (4) the loan is made to a [THE EMPLOYEES OF THE] forest
29 products business and ~~1. [unclear]~~

(A) a controlling interest of the business is held by

(Majority)

1 Alaska ~~residents unless the commissioner waives this requirement;~~

2 (B) the business maintains offices and operating
3 facilities exclusively in the state unless the business is en-
4 gaged in the export of forest products;

5 (C) a majority of the employees of the business are
6 residents of the state; and

7 (D) the business is organized for profit;

8 (5) the loan will increase or maintain production and
9 employment in the forest products business; and

10 (6) the portion of the loan not guaranteed by the state is
11 held by the originating financial institution or another financial
12 institution approved by the commissioner [, TO AN EMPLOYEE STOCK
13 OWNERSHIP TRUST, OR TO ONE OR MORE CORPORATIONS OR OTHER BUSINESS
14 ASSOCIATIONS OR ENTITIES IN WHICH THE CONTROLLING INTEREST IS HELD BY
15 STATE RESIDENTS WHO ARE EMPLOYEES OF THE FOREST PRODUCTS BUSINESS].

16 * Sec. 3. AS 45.94.050(b) is amended to read:

17 (b) The department may provide a guarantee from the fund for up
18 to 80 [50] percent of a loan, but may not guarantee [LESS THAN
19 \$5,000,000 OR] more than \$6,000,000 [\$30,000,000] per borrower. The
20 department may not guarantee the payment of annual interest on the
21 guaranteed portion of a loan.

22 * Sec. 4. AS 45.94.050 is amended by adding a new subsection to read:

23 (d) The department shall charge a user fee not to exceed ~~one-~~
24 ~~quarter of~~ } one percent for a loan guarantee under this chapter.

25 * Sec. 5. AS 45.94.060 is amended to read:

26 Sec. 45.94.060. DEFINITIONS. In this chapter

- 27 (1) "commissioner" means the commissioner of revenue;
28 (2) "department" means the Department of Revenue;
29 (3) "forest products business" means a sole proprietorship,

1 partnership, corporation or other business organization formed under
2 the laws of the state for the purpose of harvesting or processing
3 timber or other forest resources;

4 (4) "fund" means the forest products business loan guaran-
5 tee fund.

6 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).
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Offered: 4/26/85
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 78 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous amendments to state loan
7 programs; and 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) is amended to read:

10 (a) The department may

11 (1) make loans to

12 (A) individual commercial fishermen who have been
13 state residents for a continuous period of two years immediately
14 preceding the date of application for a loan under AS 16.10.300 -
15 16.10.370 and have had a crewmember or commercial fishing license
16 under AS 16.05.480 or a permit under AS 16.43 for the year imme-
17 diately preceding the date of application and any other two of
18 the past five years, and who actively participated in the fishery
19 during those periods, for the purchase of entry permits;

20 (B) an individual for the repair, restoration, or up-
21 grading of existing vessels and gear, for the purchase of entry
22 permits and gear, and for the construction and purchase of ves-
23 sels, if the individual [AN INDIVIDUAL WHO] has been a state
24 resident for a continuous period of two years immediately pre-
25 ceding the date of application for a loan under AS 16.10.300 -
26 16.10.370, and either [WHO]

27 (i) because of lack of training or lack of em-
28 ployment opportunities in the area of residence does not
29 have occupational opportunities available other than

1 commercial fishing; or

2 (ii) is economically dependent on commercial
3 fishing for a livelihood and for whom commercial fishing has
4 been a traditional way of life [FOR THE INDIVIDUAL] in
5 Alaska [, FOR THE REPAIR, RESTORATION OR UPGRADING OF EXIST-
6 ING VESSELS AND GEAR, FOR THE PURCHASE OF ENTRY PERMITS AND
7 GEAR, AND FOR THE CONSTRUCTION AND PURCHASE OF VESSELS;

8 (C) CORPORATIONS, PARTNERSHIPS, OR JOINT VENTURES, 100
9 PERCENT OF WHICH ARE OWNED BY INDIVIDUAL COMMERCIAL FISHERMEN WHO
10 HAVE BEEN STATE RESIDENTS FOR A CONTINUOUS PERIOD OF TWO YEARS
11 IMMEDIATELY PRECEDING THE DATE OF APPLICATION FOR A LOAN UNDER
12 AS 16.10.310(a)(1)(B) AND HAVE HAD A CREWMEMBER OR COMMERCIAL
13 FISHING LICENSE UNDER AS 16.05.480 OR A PERMIT UNDER AS 16.43 FOR
14 THE YEAR IMMEDIATELY PRECEDING THE DATE OF APPLICATION AND ANY
15 OTHER TWO OF THE PAST FIVE YEARS, AND WHO ACTIVELY PARTICIPATED
16 IN THE FISHERY DURING THAT PERIOD, FOR THE REPAIR, RESTORATION OR
17 UPGRADING OF EXISTING VESSELS AND GEAR, FOR THE PURCHASE OF GEAR,
18 AND FOR THE CONSTRUCTION AND PURCHASE OF VESSELS];

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

21 (3) adopt regulations necessary to carry out its functions;

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

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

28 (6) enter into agreements with other agencies or organiza-
29 tions to create an outreach program to make loans under AS 16.10.300 -

1 16.10.370 in rural areas of the state;

2 (7) allow an assumption of a loan if

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

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

10 (8) prequalify loan applicants for a limited entry permit
11 loan and charge a fee not to exceed \$200 for prequalification.

12 * Sec. 2. AS 16.10.310 is amended by adding a new subsection to read:

13 (c) In determining whether an individual commercial fisherman is
14 reasonably likely to be able to repay a loan made under AS 16.10.300 -
15 16.10.370, the commissioner shall consider the individual commercial
16 fisherman's income from commercial fishing and from all other sources.

17 * Sec. 3. AS 16.10.315 is amended to read:

18 Sec. 16.10.315. ALLOCATION OF LOANS. The department shall
19 allocate at least 10 percent of the money that is appropriated for a
20 state fiscal year to make loans under AS 16.10.310 for loans of
21 \$35,000 or less made under AS 16.10.310(a)(1)(B) [AND (C)]. An allo-
22 cation made under this section terminates on April 15 of the state
23 fiscal year for which the allocation is made.

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

25 (a) Except as permitted in (b) of this section, a [A] loan
26 under AS 16.10.300 - 16.10.370 [16.10.310 - 16.10.370]

27 (1) may not exceed a term of 15 years, except for exten-
28 sions under AS 16.10.310(a)(4);

29 (2) may not bear interest exceeding 10-1/2 percent;

1 (3) must [SHALL] be secured by a first priority lien and
2 appropriate security agreement; and

3 (4) may not exceed 90 percent of the appraised value of the
4 collateral used to secure the loan[, EXCEPT THAT A LOAN GRANTED UNDER
5 AS 16.10.333 FOR THE PURCHASE OF AN ALASKA LIMITED ENTRY PERMIT MAY
6 NOT EXCEED AN AMOUNT DETERMINED IN ACCORDANCE WITH (f) OR (h) OF THIS
7 SECTION].

8 * Sec. 5. AS 16.10.320(d) is amended to read:

9 (d) The total of balances outstanding on loans [LOANS] made to a
10 borrower under AS 16.10.310(a)(1)(A) may not exceed [A TOTAL OF]
11 \$300,000. The total of balances outstanding on loans [LOANS] made to
12 a borrower under AS 16.10.310(a)(1)(B) [OR (C)] may not exceed [A
13 TOTAL OF] \$100,000. [A LOAN TO AN ASSOCIATE OF THE BORROWER IS CON-
14 sidered to be a loan to the borrower. FOR THE PURPOSES OF THIS SEC-
15 tion, "ASSOCIATE OF THE BORROWER" MEANS

16 (1) A CORPORATION OR OTHER ORGANIZATION OF WHICH THE BOR-
17 ROWER IS AN OFFICER, DIRECTOR OR PARTNER, OR IS, DIRECTLY OR INDI-
18 RECTLY, THE BENEFICIAL OWNER OF 10 PERCENT OR MORE ON ANY CLASS OF
19 EQUITY SECURITIES;

20 (2) A PERSON WHO IS, DIRECTLY OR INDIRECTLY, THE BENEFICIAL
21 OWNER OF 10 PERCENT OR MORE OF ANY CLASS OF EQUITY SECURITIES OF THE
22 BORROWER;

23 (3) A TRUST OR OTHER ESTATE IN WHICH THE BORROWER HAS A
24 SUBSTANTIAL BENEFICIAL INTEREST OR AS TO WHICH THE BORROWER SERVES AS
25 TRUSTEE OR IN A SIMILAR FIDUCIARY CAPACITY.]

26 * Sec. 6. AS 16.10.320(e) is amended to read:

27 (e) Two or more individual commercial fishermen who each satisfy
28 the requirements specified in AS 16.10.310(a)(1)(B) may jointly,
29 whether operating as a corporation, partnership, joint venture, or

1 otherwise, obtain a commercial fishing loan for the repair, restora-
2 tion, or upgrading of an existing vessel and gear, for the purchase of
3 gear, and for the construction [OF A FISHING VESSEL] or the purchase
4 of a [AN EXISTING] fishing vessel. Loans granted under this subsec-
5 tion

6 [(1)] may not exceed the amount specified in (d) of this
7 section multiplied by the number of qualified commercial fishermen
8 applying for the loan (;

9 (2) MAY NOT EXCEED A TERM OF 15 YEARS;

10 (3) SHALL BE SECURED BY A FIRST PRIORITY LIEN AND APPRO-
11 PRIATE SECURITY AGREEMENT;

12 (4) MAY NOT BEAR INTEREST EXCEEDING 10-1/2 PERCENT;

13 AND

14 (5) MAY NOT EXCEED 90 PERCENT OF THE APPRAISED VALUE OF
15 THE COLLATERAL USED TO SECURE THE LOAN).

16 * Sec. 7. AS 16.10.320(1) is amended to read:

17 (1) If a loan is made to a borrower under AS 16.10.310(a)(1)(A),
18 a subsequent loan may not be made to the borrower [OR AN ASSOCIATE OF
19 THE BORROWER] under AS 16.10.310(a)(1)(B) [OR (C)]. If a loan is made
20 to a borrower under AS 16.10.310(a)(1)(B) [OR (C)], a subsequent loan
21 may be made to the borrower [OR AN ASSOCIATE OF THE BORROWER] under
22 AS 16.10.310(a)(1)(A) if the total of the balances outstanding on
23 loans received by the borrower [OR THE ASSOCIATE] under AS 16.10.310
24 does not exceed \$300,000.

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

26 (a) Loans under AS 16.10.310(a) [AS 16.10.320(a)] may be made to
27 an individual commercial fisherman for the purchase of a limited entry
28 permit upon certification by the commission that the fisherman is a
29 person who qualifies as a transferee for the permit under AS 16.43 and

1 the regulations adopted by the commission.

2 * Sec. 9. AS 16.10.335 is amended to read:

3 Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor
4 defaults upon a note for which a limited entry permit has been pledged
5 as security under AS 16.10.333 or [UNDER AS] 16.10.338, the commis-
6 sioner shall provide the debtor, by both [REGISTERED OR] certified and
7 first class mail sent to the debtor's last known address on file with
8 the commissioner, with a notice of default that [WHICH] includes

9 (1) a description of the security given for the note in-
10 cluding the number assigned to the pledged permit by the commission;

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

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

15 (4) a statement that the debtor may, within 15 days after
16 [OF] the postmark date of the notice, request a hearing to submit
17 evidence showing the debtor has not defaulted;

18 (5) a statement that the note may be reinstated if brought
19 current within 60 days after [FROM] the postmark date of the notice;

20 (6) a statement that the note may be paid in full less
21 unearned interest within 120 days after [FROM] the postmark date of
22 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:
26 "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE
27 DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT
28 AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

29 (b) In each case of a limited entry permit being pledged as

1 security under AS 16.10.333 or 16.10.338, the debtor shall maintain on
2 file with the department an address where notice of default is to be
3 sent, if necessary, and where that notice will be timely received by
4 the debtor.

5 (c) Upon presentation of evidence of mailing in accordance with
6 (a) of this section, the receipt of the notice of default by the
7 debtor will be presumed for all purposes. This presumption is rebut-
8 table by presentation of evidence sufficient to demonstrate lack of
9 receipt of notice through no fault of the debtor. Upon presentation
10 of evidence sufficient to prove lack of receipt of notice through no
11 fault of the debtor, the notice is a nullity.

12 (d) Upon good cause shown, the commissioner may waive any of the
13 time limits in (a) of this section, if the department receives from
14 the debtor or the debtor's representative a request for the waiver
15 before the expiration of the time limit for which the waiver is
16 sought.

17 (e) Except as otherwise provided in (c) and (d) of this section,
18 upon [UPON] the debtor's failure to satisfy the note within the time
19 specified in (a)(6) of this section, the debtor's interest in the
20 permit is terminated by operation of law without further notice. Any
21 entry permit cards issued to the debtor under the permit must [SHALL]
22 be cancelled immediately upon receipt by the commission of a certifi-
23 cate of termination containing a copy of the notice required by (a) of
24 this section issued by the commissioner.

25 * Sec. 10. AS 16.10.339 is amended to read:

26 Sec. 16.10.339. REGULATIONS. The [COMMISSION, WITH THE APPROVAL
27 OF THE] department[,] shall adopt regulations to implement AS 16.10.-
28 333 - 16.10.337.

29 * Sec. 11. AS 16.10 is amended by adding a new section to read:

1 Sec. 16.10.355. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORE-
2 CLOSURE. The department shall dispose of property acquired through
3 default or foreclosure of a loan made under AS 16.10.300 - 16.10.370
4 or former AS 16.10.650 - 16.10.720. Disposal shall be made in a
5 manner that serves the best interests of the state, and may include
6 the amortization of payments over a period of years, but may not be by
7 lease.

8 * Sec. 12. AS 16.10 is amended by adding a new section to read:

9 Sec. 16.10.507. SPECIAL ACCOUNT ESTABLISHED. (a) There is
10 established as a special account within the fisheries enhancement
11 revolving loan fund the foreclosure expense account. This account is
12 established as a reserve from fund equity.

13 (b) The commissioner may expend money credited to the foreclo-
14 sure expense account when necessary to protect the state's security
15 interest in collateral on loans made under AS 16.10.520 or to defray
16 expenses incurred during foreclosure proceedings after a default by an
17 obligor.

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

19 Sec. 16.10.555. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
20 FORECLOSURE. The Department of Commerce and Economic Development
21 shall dispose of property acquired through default or foreclosure of a
22 loan made under AS 16.10.500 - 16.10.620. Disposal shall be made in a
23 manner that serves the best interests of the state, and may include
24 the amortization of payments over a period of years.

25 * Sec. 14. AS 26.15 is amended by adding a new section to read:

26 Sec. 26.15.085. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
27 FORECLOSURE. The Department of Commerce and Economic Development
28 shall dispose of property acquired through default or foreclosure of a
29 loan made under this chapter. Disposal shall be made in a manner that

1 serves the best interests of the state, and may include the amortiza-
2 tion of payments over a period of years.

3 * Sec. 15. AS 26.15 is amended by adding a new section to read:

4 Sec. 26.15.095. SPECIAL ACCOUNT ESTABLISHED. (a) There is
5 established as a special account within the Alaska World War II veter-
6 ans' revolving fund the foreclosure expense account. This account is
7 established as a reserve from fund equity.

8 (b) The commissioner of commerce and economic development may
9 expend money credited to the foreclosure expense account when neces-
10 sary to protect the state's security interest in collateral on loans
11 made under AS 26.15.040 or to defray expenses incurred during fore-
12 closure proceedings after a default by an obligor.

13 * Sec. 16. AS 27.09 is amended by adding a new section to read:

14 Sec. 27.09.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
15 established as a special account within the mining loan fund the fore-
16 closure expense account. This account is established as a reserve
17 from fund equity.

18 (b) The commissioner of commerce and economic development may
19 expend money credited to the foreclosure expense account when neces-
20 sary to protect the state's security interest in collateral on loans
21 made under AS 27.09.010 or to defray expenses incurred during fore-
22 closure proceedings after a default by an obligor.

23 * Sec. 17. AS 27.09 is amended by adding a new section to read:

24 Sec. 27.09.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
25 FORECLOSURE. The department shall dispose of property acquired
26 through default or foreclosure of a loan made under this chapter.
27 Disposal shall be made in a manner that serves the best interests of
28 the state, and may include the amortization of payments over a period
29 of years.

1 * Sec. 18. AS 44.33 is amended by adding a new section to read:

2 Sec. 44.33.242. SPECIAL ACCOUNT ESTABLISHED. (a) There is
3 established as a special account within the child care facility re-
4 volving loan fund the foreclosure expense account. This account is
5 established as a reserve from fund equity.

6 (b) The commissioner of commerce and economic development may
7 expend money credited to the foreclosure expense account when neces-
8 sary to protect the state's security interest in collateral on loans
9 made under AS 44.33.245 or to defray expenses incurred during fore-
10 closure proceedings after a default by an obligor.

11 * Sec. 19. AS 44.33 is amended by adding a new section to read:

12 Sec. 44.33.272. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
13 FORECLOSURE. The department shall dispose of property acquired
14 through default or foreclosure of a loan made under AS 44.33.240 -
15 44.33.275. Disposal shall be made in a manner that serves the best
16 interests of the state, and may include the amortization of payments
17 over a period of years.

18 * Sec. 20. AS 44.81.210(a) is amended by adding a new paragraph to
19 read:

20 (23) make a loan to a person, regardless of residency, if
21 the board of directors of the bank determines that the loan is
22 necessary to preserve the value of property held by the bank as
23 security for a loan that was made under (a)(1) of this section and
24 that is in default.

25 * Sec. 21. AS 45.87 is amended by adding a new section to read:

26 Sec. 45.87.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
27 established as a special account within the bulk fuel revolving loan
28 fund the foreclosure expense account. This account is established as
29 a reserve from fund equity.

1 (b) The commissioner of commerce and economic development may
2 expend money credited to the foreclosure expense account when neces-
3 sary to protect the state's security interest in collateral on loans
4 made under this chapter or to defray expenses incurred during fore-
5 closure proceedings after a default by an obligor.

6 * Sec. 22. AS 45.37 is amended by adding new sections to read:

7 Sec. 45.37.040. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
8 FORECLOSURE. The department shall dispose of property acquired
9 through default or foreclosure of a loan made under this chapter.
10 Disposal shall be made in a manner that serves the best interests of
11 the state, and may include the amortization of payments over a period
12 of years.

13 Sec. 45.37.060. REGULATIONS. The department shall adopt regu-
14 lations to implement this chapter.

15 * Sec. 23. AS 45.38 is amended by adding a new section to read:

16 Sec. 45.38.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
17 established, as a special account within the revolving loan fund
18 established under AS 45.38.010, the foreclosure expense account. This
19 account is established as a reserve from fund equity.

20 (b) The commissioner of commerce and economic development may
21 expend money credited to the foreclosure expense account when neces-
22 sary to protect the state's security interest in collateral on loans
23 made under AS 45.38.020 or to defray expenses incurred during fore-
24 closure proceedings after a default by an obligor.

25 * Sec. 24. AS 45.38 is amended by adding a new section to read:

26 Sec. 45.38.050. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
27 FORECLOSURE. The Department of Commerce and Economic Development
28 shall dispose of property acquired through default or foreclosure of a
29 loan made under this chapter. Disposal shall be made in a manner that

1 serves the best interests of the state, and may include the amortiza-
2 tion of payments over a period of years.

3 * Sec. 25. AS 45.89 is amended by adding a new section to read:

4 Sec. 45.89.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
5 established as a special account within the residential energy conser-
6 vation fund the foreclosure expense account. This account is estab-
7 lished as a reserve from fund equity.

8 (b) The commissioner may expend money credited to the foreclo-
9 sure expense account when necessary to protect the state's security
10 interest in collateral on loans made under AS 45.89.030 or to defray
11 expenses incurred during foreclosure proceedings after a default by an
12 obligor.

13 * Sec. 26. AS 45.89 is amended by adding new sections to read:

14 Sec. 45.89.050. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
15 FORECLOSURE. The department shall dispose of property acquired
16 through default or foreclosure of a loan made under this chapter.
17 Disposal shall be made in a manner that serves the best interests of
18 the state, and may include the amortization of payments over a period
19 of years.

20 Sec. 45.89.070. REGULATIONS. The department shall adopt regu-
21 lations to implement this chapter.

22 * Sec. 27. AS 45.90 is amended by adding a new section to read:

23 Sec. 45.90.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
24 established as a special account within the tourism revolving fund the
25 foreclosure expense account. This account is established as a reserve
26 from fund equity.

27 (b) The commissioner of commerce and economic development may
28 expend money credited to the foreclosure expense account when neces-
29 sary to protect the state's security interest in collateral on loans

1 made under AS 45.90.020 or to defray expenses incurred during fore-
2 closure proceedings after a default by an obligor.

3 * Sec. 28. AS 45.90 is amended by adding a new section to read:

4 Sec. 45.90.050. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
5 FORECLOSURE. The Department of Commerce and Economic Development
6 shall dispose of property acquired through default or foreclosure of a
7 loan made under this chapter. Disposal shall be made in a manner that
8 serves the best interests of the state, and may include the amortiza-
9 tion of payments over a period of years.

10 * Sec. 29. AS 45.95 is amended by adding a new section to read:

11 Sec. 45.95.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
12 FORECLOSURE. The Department of Commerce and Economic Development
13 shall dispose of property acquired through default or foreclosure of a
14 loan made under this chapter. Disposal shall be made in a manner that
15 serves the best interests of the state, and may include the amortiza-
16 tion of payments over a period of years.

17 * Sec. 30. AS 45.95 is amended by adding a new section to read:

18 Sec. 45.95.065. SPECIAL ACCOUNT ESTABLISHED. (a) There is
19 established as a special account within the small business revolving
20 loan fund the foreclosure expense account. This account is estab-
21 lished as a reserve from fund equity.

22 (b) The commissioner may expend money credited to the foreclo-
23 sure expense account when necessary to protect the state's security
24 interest in collateral on loans made under AS 45.95.020 or to defray
25 expenses incurred during foreclosure proceedings after a default by an
26 obligor.

27 * Sec. 31. AS 45.98 is amended by adding a new section to read:

28 Sec. 45.98.015. SPECIAL ACCOUNT ESTABLISHED. (a) There is
29 established as a special account within the historical district

1 revolving loan fund the foreclosure expense account. This account is
2 established as a reserve from fund equity.

3 (b) The commissioner of commerce and economic development may
4 expend money credited to the foreclosure expense account when neces-
5 sary to protect the state's security interest in collateral on loans
6 made under this chapter, or to defray expenses incurred during fore-
7 closure proceedings after a default by an obligor.

8 * Sec. 32. AS 45.98.020 is amended to read:

9 Sec. 45.98.020. HISTORICAL DISTRICT LOANS. Upon endorsement and
10 plan approval by a local historical district commission established
11 under AS 29.48.103 and the recommendation of a majority of the members
12 of the Historic Sites Advisory Committee, the Department of Commerce
13 and Economic Development may make loans to a person, firm, business or
14 municipality subject to applicable laws for the restoration, improve-
15 ment, rehabilitation, or maintenance of

16 (1) a structure which is [(1)] within the boundaries of a
17 historical district established under AS 29.48.110 and [;]

18 [(2)] identified as important in state or national history as
19 provided for in AS 29.48.110(b); or [AND]

20 (2) a [(3) ANOTHER] building or structure within a histor-
21 ical district, that is [AND] suitable for superficial modification so
22 that it can conform to the period or motif of the surrounding build-
23 ings or structures that are the reason for the area's designation as a
24 historical district.

25 * Sec. 33. AS 45.98 is amended by adding a new section to read:

26 Sec. 45.98.055. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
27 FORECLOSURE. The Department of Commerce and Economic Development
28 shall dispose of property acquired through default or foreclosure of a
29 loan made under this chapter. Disposal shall be made in a manner that

1 serves the best interests of the state, and may include the amortiza-
2 tion of payments over a period of years.

3 * Sec. 34. AS 16.10.310(b), 16.10.320(E), and 16.10.333(f) are re-
4 pealed.

5 * Sec. 35. This Act takes effect July 1, 1985.
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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SB 78: Sectional Analysis

Section 1) Makes both technical and policy changes to the present Commercial Fisheries Loan Program. The first substantive change occurs on line 11 of page 2 which repeals subsection pertaining to loans made to "corporations, partnerships, and joint venturers". Section 3 would allow individual fisherman who qualify for loans under 16.10.310 (a) (1) (B) to obtain loans jointly "whether operating as a corporation, partnership, joint venture, or otherwise"

Section also provides statutory authority to permit assumption of loans and repeals language which required consultation between the Dept of F&G and the DCED for all commercial fishing loan regulations.

Also adds language which grants the commissioner authority to consider all sources of a fisherman's income when determining a fisherman's ability to repay a loan. Currently the commissioner has that authority only with respect to loans for entry permits.

Section 2) Deletes references to "corporations, partnerships, or joint ventures (16.10.310 (a) (1) (C))" consistent with that deletion in section 1).

Section 3) Changes the "Limitations on Loans" section and provides for extensions on the term of loans because of a poor fishing season or adverse market conditions.

Language is also added which changes the loan limits from a "total dollar amount" to a borrower to the total "balances outstanding" to a borrower.

Further, deletes language regarding loans to "associates of the borrower" as all loans will be made to individuals.

Section 4) Currently, the department is able to consider fishing and all other sources of income of an applicant who applies for an entry permit loan under 16.10.310 (a) (1) (A). This bill would extend that authority to "consider all sources of income" for Commercial Fishing Loans

Section 5) Changes the requirements of notification when a debtor defaults on a note which has a permit pledged as security for the note. The mailing notice of default is changed from registered and certified mail to certified and first class mail. Changes the "countdown" provisions for notice of default and adds an additional day for each notice.

Requires that when a permit is pledged to secure a loan the borrower must maintain a current mailing address on file with the Department. Further states that upon evidence of mailing, the receipt of the notice of default by the debtor will be "presumed". This presumption is rebuttable by presentation of evidence by the debtor that the notice was not received and proof of lack of receipt nullifies the notice.

Section also grants the commissioner authority to waive any of the time limits if the department receives a request from the borrower or his representative before the expiration of the time limit for which the waiver is sought.

Section 6) Deletes the provision that the Commercial Fisheries Entry Commission, with the approval of the Department, adopt regulations for the limited entry permit sections of this bill.

Section 7) Provides statutory authority for the department to dispose of property acquired after default or foreclosure of a Comm Fish Loan.

Section 8) Establishes a special "foreclosure" expense account within the fisheries enhancement revolving loan fund. The account is established as a reserve from fund equity and this section also allows the department to dispose of property acquired thru default.

Section 9) Establishes a special foreclosure account for the Alaska WW II veterans revolving loan fund, and allows the department to dispose of property acquired thru default.

Section 10) Establishes a special foreclosure account for the mining loan fund, and allows the department to dispose of property acquired thru default.

Section 11) Establishes a special foreclosure account for the childcare facility revolving loan fund, and allows the department to dispose of property acquired thru default.

Section 12) Establishes a special foreclosure account for the bulk fuel revolving loan fund, and allows the department to dispose of property acquired thru default. Also permits the department to adopt regs to implement this chapter.

Section 13) Establishes the special foreclosure account for the Alternative Energy Revolving Loan Fund, and allows the department to dispose of property acquired thru default.

Section 14) Establishes the special foreclosure account for the Residential Energy Conservation Fund, and allows the department to dispose of property acquired thru default. Also allows the department to adopt regs to implement this program.

Section 15) Establishes a special foreclosure account for the tourism revolving fund, and allows the department to dispose of property acquired thru default.

Section 16) Establishes a special foreclosure account for the small business revolving loan fund, and allows the department to dispose of property acquired thru default.

Section 17) Establishes a special foreclosure account for the historical district revolving loan fund.

Section 18) Makes grammatical changes and defines the scope of the historical district loan program.

Section 19) Provides the state with authority to dispose of property acquired thru default or foreclosure from the historical district loan program.

Section 20) July 1, 1985 effective date.

agreed upon by L.P. Corp. + Sealaska

Offered: _____
Referred: Finance

Original Sponsors: Kerttula and
Ziegler

IN THE SENATE

BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 479 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to a forest products business loan guarantee program; and providing for an effective date."

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

* Section 1. AS 45 is amended by adding a new chapter to read:

CHAPTER 94. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM.

Sec. 45.94.010. ESTABLISHMENT OF LOAN GUARANTEE FUND.

The forest products business loan guarantee fund is established in the Department of Revenue.

Sec. 45.94.020. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM. The department may, in conformity with AS. 45.94.050., use money in the fund to guarantee a loan for the purpose of [financing the purchase of 35 percent or more of the stock or assets of a forest products business by, on behalf of, or for the benefit of the employees of that business, as provided in AS. 45.94.050.] acquiring an interest in a forest products business in the state.

Sec. 45.94.030. POWERS AND DUTIES OF THE DEPARTMENT.

(a) The commissioner may

(1) designate agents and delegate powers necessary to implement this chapter;

(2) adopt regulations to implement this chapter;

(3) make and execute contracts and other instruments to implement this chapter;

(4) acquire real or personal property by purchase, transfer, or foreclosure when the acquisition is necessary to protect an interest in the fund;

(5) receive, and protect against disclosure of, trade secrets or other confidential information reasonably necessary to conduct the review necessary under AS 45.94.050.

(b) The commissioner shall require that a loan guaranteed by the fund be secured by adequate collateral, and that the net cash flow from the forest products business provides adequate coverage for the debt service on the loan. The applicant shall provide a proposed operating plan and an economic and financial feasibility analysis prepared by a firm acceptable to the department.

Sec. 45.94.040. INVESTMENT OF THE FUND. Money in the fund that is not being used for loan guarantees under this chapter shall be invested as provided for the investment of state treasury surplus under AS 37.10.070. Income from investment shall be transferred to the general fund.

Sec. 45.94.050. CONDITIONS OF MAKING A LOAN GUARANTEE.

(a) The department may guarantee a loan under this

chapter [if] under the following conditions:

(1) the term of the loan [does] may not exceed 10 years;

(2) the loan [is] must be secured by the real or personal property, inventory or accounts receivable of the forest products business, or by other collateral acceptable to the department;

(3) the loan [is originated] must originate with and be serviced by a state or federally chartered financial institution; and

(4) [the loan is made to the employees of the forest products business, to an employee stock ownership trust, or to one or more corporations or other business associations or entities in which the controlling interest is held by state residents who are employees of the forest products business.] The commissioner finds that:

(A) ^{a legal or beneficial} the persons acquiring [the] interest are residents of the state and qualified to operate and manage the business;

(B) the interest acquired is not less than 35 percent of the stock or assets of the business; and

(C) the acquisition is necessary for the continued operations of the business; and

(D) on the basis of the financial and feasibility analysis and proposed operating plan submitted under AS 45.94.030(b), the acquisition will materially increase the likelihood of success of the business, and that

the additional debt service will be offset by beneficial operation^{cost} or management changes;

(b) The department may provide a guarantee from the fund for up to 50 percent of a loan, but may not guarantee less than \$5,000,000 or more than \$30,000,000 per borrower. The department may not guarantee the payment of annual interest on the guaranteed portion of a loan.

(c) After a default by a borrower, the amount of the maximum liability of the fund for a loan guarantee under this chapter is the percentage of the amount in default specified by the department in the guarantee agreement, multiplied by the amount then in default. Payments received toward satisfaction of a default shall be allocated between the lender and the fund according to the percentage specified by the department in the guarantee agreement until the principal balance has been repaid.

Sec. 45.95.060. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of revenue;

(2) "department" means the Department of Revenue;

(3) "forest products business" means a sole proprietorship, partnership, corporation or other business organization formed for the purpose of harvesting or processing timber or other forest resources;

(4) "fund" means the forest products business loan guarantee fund.

Sec. 2. This Act takes effect immediately in accordance with AS. 01.10.070(c).

* Sec. A. Section 1, ch. 171, SLA 1980 is amended to read:

Section 1. The sum of \$325,000,000 [\$350,000,000] is appropriated from the general fund to the Department of Revenue for the reserve for emergency operating expenses account (AS 37.05.159(a)).

* Sec. B. The sum of \$25,000,000 is appropriated from the general fund to the Department of Revenue for the forest products business loan guarantee fund (AS 45.94).

* Sec. C. The unexpended and unobligated portion of the appropriation made to the forest products business loan guarantee fund (AS 45.94) by sec. B of this Act is transferred to the reserve for emergency operating expenses account (AS 37.05.159) on the date of a proclamation issued by the governor under AS 37.05.159(b)(1) to the extent that the amount set out in the governor's proclamation exceeds the amount of money in the reserve for emergency operating expenses account.

* Sec. D. The unexpended and unobligated portion of the appropriation made to the forest products business loan guarantee fund (AS 45.94) by sec. B of this Act is transferred to the reserve for emergency operating expenses account (AS 37.05.159).

* Sec. E. Money appropriated to the forest products business loan guarantee fund (AS 45.94) by sec. B of this Act that is obligated for the purpose of guaranteeing a loan is transferred to the reserve for emergency operating expenses account when principal payments on the loan are paid. The amount of the transfers shall be the percentage guaranteed as specified by the Department of Revenue in the loan guarantee agreement multiplied by the amount of principal paid.

* Sec. F. Sections A, B, C, and E of this Act take effect on the effective date of an Act entitled "An Act relating to a forest products business loan guarantee program; and providing for an effective date."

* Sec. G. Section D of this Act takes effect one year after the effective date of an Act entitled "An Act relating to a forest products business loan guarantee program, and providing for an effective date."

* Sec. A. Section 1, ch. 171, SLA 1980 as amended by section 4, ch. 34, SLA 1982 is amended to read:

Section 1. The sum of \$225,000,000 [\$250,000,000] is appropriated from the general fund to the Department of Revenue for the reserve for emergency operating expenses account (AS 37.05.159(a)).

* Sec. B. The sum of \$25,000,000 is appropriated from the general fund to the Department of Revenue for the forest products business loan guarantee fund (AS 45.94).

* Sec. C. The unexpended and unobligated portion of the appropriation made to the forest products business loan guarantee fund (AS 45.94) by sec. B of this Act is transferred to the reserve for emergency operating expenses account (AS 37.05.159) on the date of a proclamation issued by the governor under AS 37.05.159(b)(1) to the extent that the amount set out in the governor's proclamation exceeds the amount of money in the reserve for emergency operating expenses account.

* Sec. D. The unexpended and unobligated portion of the appropriation made to the forest products business loan guarantee fund (AS 45.94) by sec. B of this Act is transferred to the reserve for emergency operating expenses account (AS 37.05.159).

* Sec. E. Money appropriated to the forest products business loan guarantee fund (AS 45.94) by sec. B of this Act that is obligated for the purpose of guaranteeing a loan is transferred to the reserve for emergency operating expenses account when principal payments on the loan are paid. The amount of the transfers shall be the percentage guaranteed as specified by the Department of Revenue in the loan guarantee agreement multiplied by the amount of principal paid.

* Sec. F. Sections A, B, C, and E of this Act take effect on the effective date of an Act entitled "An Act relating to a forest products business loan guarantee program; and providing for an effective date."

* Sec. G. Section D of this Act takes effect one year after the effective date of an Act entitled "An Act relating to a forest products business loan guarantee program, and providing for an effective date."

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1984

SUBJECT: Sectional analysis of
HB 627

TO: Representative Ron Wendte

FROM: *LH* Linn H. Asper
Legislative Council

You have asked for a sectional analysis of HB 627, relating to a forest products business loan guarantee program.

*Section 1 establishes the forest products business loan guarantee program and sets conditions for the loan guarantees.

Sec. 45.94.010 establishes the forest products business loan guarantee fund in the Department of Revenue

Sec. 45.94.020 allows the Department of Revenue to use fund money to guarantee a loan for the purchase of 35 percent or more of the stock or assets of a forest products business by the employees of that business.

Sec. 45.94.030 grants the department the powers necessary to administer loan guarantees under the forest products business loan guarantee program, and requires that a loan guaranteed must be secured by adequate collateral.

Sec. 45.94.040 directs the department to invest money from the loan guarantee fund that is not being used to guarantee loans in investments allowed under AS 37.10.070.

Sec. 45.94.050 establishes conditions on a loan guarantee, including maximum and minimum amounts that may be guaranteed, terms of loans guaranteed, security for guaranteed loans, state financial institution participation in the guaranteed loan, and other terms applicable to guaranteed loans.

Offered: 3/9/84
Referred: Resources and
Finance

Original sponsors: Wendte and McBride

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 627 (Loans)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 THIRTEENTH LEGISLATURE - SECOND SESSION
6 A BILL
7 For an Act entitled: "An Act relating to a forest products business loan
8 guarantee program; and providing for an effective
9 date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 45 is amended by adding a new chapter to read:
12 CHAPTER 94. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM.
13 Sec. 45.94.010. ESTABLISHMENT OF LOAN GUARANTEE FUND. The
14 forest products business loan guarantee fund is established in the
15 Department of Revenue.
16 Sec. 45.94.020. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM.
17 The department may use money in the fund to guarantee a loan for the
18 purpose of financing the purchase of 35 percent or more of the stock
19 or assets of a forest products business by, on behalf of, or for the
20 benefit of the employees of that business, as provided in AS 45.94.-
21 050.
22 Sec. 45.94.030. POWERS AND DUTIES OF THE DEPARTMENT. (a) The
23 commissioner may
24 (1) designate agents and delegate powers necessary to
25 implement this chapter;
26 (2) adopt regulations to implement this chapter;
27 (3) make and execute contracts and other instruments to
28 implement this chapter;
29 (4) acquire real or personal property by purchase, trans-
fer, or foreclosure when the acquisition is necessary to protect an

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Sec. 45.94.030 grants the department the powers necessary to administer loan guarantees under the forest products business loan guarantee program, and requires that a loan guaranteed must be secured by adequate collateral.

Sec. 45.94.040 directs the department to invest money from the loan guarantee fund that is not being used to guarantee loans in investments allowed under AS 37.10.070.

Sec. 45.94.050 establishes conditions on a loan guarantee, including maximum and minimum amounts that may be guaranteed, terms of loans guaranteed, security for guaranteed loans, state financial institution participation in the guaranteed loan, and other terms applicable to guaranteed loans.

Representative Wendte
Page 2
February 27, 1984

Sec. 45.94.055 allows the department to guarantee additional loans for a borrower under the terms of the chapter.

Sec. 45.94.060 provides definitions of terms used in the chapter.

Section 2 of the Act provides an immediate effective date.

LHA:csh
C2/138

Offered: 3/9/84
Referred: Resources and
Finance

Original sponsors: Wendte and McBride

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 627 (Loans)
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5 THIRTEENTH LEGISLATURE - SECOND SESSION
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15 Department of Revenue.
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17 The department may use money in the fund to guarantee a loan for the
18 purpose of financing the purchase of 35 percent or more of the stock
19 or assets of a forest products business by, on behalf of, or for the
20 benefit of the employees of that business, as provided in AS 45.94.-
21 050.
22 Sec. 45.94.030. POWERS AND DUTIES OF THE DEPARTMENT. (a) The
23 commissioner may
24 (1) designate agents and delegate powers necessary to
25 implement this chapter;
26 (2) adopt regulations to implement this chapter;
27 (3) make and execute contracts and other instruments to
28 implement this chapter;
29 (4) acquire real or personal property by purchase, trans-
fer, or foreclosure when the acquisition is necessary to protect an

1 interest in the fund.

2 (b) The commissioner shall require that a loan guaranteed by the
3 fund be secured by adequate collateral.

4 Sec. 45.94.040. INVESTMENT OF THE FUND. Money in the fund that
5 is not being used for loan guarantees under this chapter shall be
6 invested as provided for the investment of state treasury surplus
7 under AS 37.10.070. Income from investment shall be transferred to
8 the general fund.

9 Sec. 45.94.050. CONDITIONS OF LOAN GUARANTEES. (a) The depart-
10 ment may guarantee a loan under this chapter if

11 (1) the term of the loan does not exceed 10 years;

12 (2) the loan is secured by the real or personal property,
13 inventory or accounts receivable of the forest products business, or
14 by other collateral acceptable to the department;

15 (3) the loan is originated with and serviced by a state or
16 federally chartered financial institution; and

17 (4) the loan is made to the employees of the forest prod-
18 ucts business, to an employee stock ownership trust, or to one or
19 more corporations or other business associations or entities in which
20 the controlling interest is held by state residents who are employees
21 of the forest products business.

22 (b) The department may provide a guarantee from the fund for up
23 to 50 percent of a loan, but may not guarantee less than \$5,000,000 or
24 more than \$30,000,000 per borrower. The department may not guarantee
25 the payment of annual interest on the guaranteed portion of a loan.

26 (c) Upon default by a borrower, the amount of the maximum liabi-
27 lity of the fund for a loan guarantee under this chapter is the per-
28 centage of the amount in default specified by the department in the
29 guarantee agreement.

1 Sec. 45.94.060. DEFINITIONS. In this chapter

2 (1) "commissioner" means the commissioner of revenue;

3 (2) "department" means the Department of Revenue;

4 (3) "forest products business" means a sole proprietorship,
5 partnership, corporation or other business organization formed for the
6 purpose of harvesting or processing timber or other forest resources;

7 (4) "fund" means the forest products business loan guaran-
8 tee fund.

9 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
10 0.070(c).



COMMITTEE SUBSTITUTE
FOR HB 627

Sec 45.94.050. CONDITIONS OF LOAN GUARANTEES. (a)

(3) the loan is originated with and serviced by [the Alaska Commercial Fishing and Agriculture Bank, or by] a state or federally chartered financial institution [located in the state]; and

(4) the loan is made to the employees of the forest products business, to an employee stock ownership trust, or to one or more corporations or other business associations or entities in which the controlling interest is held by state residents who are employees of the forest products business. [hold an interest that is equal to or greater than the interest held by the seller of the forest products business.]

Amended version reads:

(4) the loan is made to the employees of the forest products business, to an employee stock ownership trust, or to one or more corporations or other business associations or entities in which the controlling interest is held by state residents who are employees of the forest products business.

[Sec. 45.94.055. ADDITIONAL GUARANTEES. Not less than 30 days after the department enters into a contract to guarantee a loan to a borrower under this chapter, the department may enter into a contract to guarantee another loan to that borrower under this chapter.]

Introduced: 2/13/84
Referred: House Special Committee
on State Loans, Resources and
Finance

1 IN THE HOUSE

BY WENDTE AND MCBRIDE

2

HOUSE BILL NO. 627

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to a forest products business loan
guarantee program; and providing for an effective
date."

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

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* Section 1. AS 45 is amended by adding a new chapter to read:

11

CHAPTER 94. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM.

12

Sec. 45.94.010. ESTABLISHMENT OF LOAN GUARANTEE FUND. The

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forest product business loan guarantee fund is established in the
Department of Revenue.

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Sec. 45.94.020. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM.

16

The department may use money in the fund to guarantee a loan for the
purpose of financing the purchase of 35 percent or more of the stock
or assets of a forest products business by, on behalf of, or for the
benefit of the employees of that business, as provided in AS 45.94.-
050.

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Sec. 45.94.030. POWERS AND DUTIES OF THE DEPARTMENT. (a) The

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commissioner may

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(1) designate agents and delegate powers necessary to

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implement this chapter;

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(2) adopt regulations to implement this chapter;

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(3) make and execute contracts and other instruments to

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implement this chapter;

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(4) acquire real or personal property by purchase, trans-

29

fer, or foreclosure when the acquisition is necessary to protect an

1 interest in the fund.

2 (b) The commissioner shall require that a loan guaranteed by the
3 fund be secured by adequate collateral.

4 Sec. 45.94.040. INVESTMENT OF THE FUND. Money in the fund that
5 is not being used for loan guarantees under this chapter shall be
6 invested as provided for the investment of state treasury surplus
7 under AS 37.10.070. Income from investment shall be transferred to
8 the general fund.

9 Sec. 45.94.050. CONDITIONS OF LOAN GUARANTEES. (a) The depart-
10 ment may guarantee a loan under this chapter if

11 (1) the term of the loan does not exceed 10 years;

12 (2) the loan is secured by the real or personal property,
13 inventory or accounts receivable of the forest products business, or
14 by other collateral acceptable to the department;

15 (3) the loan is originated with and serviced by the Alaska
16 Commercial Fishing and Agriculture Bank, or by a state or federally
17 chartered financial institution located in the state; and

18 (4) the loan is made to the employees of the forest pro-
19 ducts business, to an employee stock ownership trust, or to one or
20 more corporations or other business associations or entities in which
21 the employees of the forest products business hold an interest that is
22 equal to or greater than the interest held by the seller of the forest
23 products business.

24 (b) The department may provide a guarantee from the fund for up
25 to 50 percent of a loan, but may not guarantee less than \$5,000,000 or
26 more than \$30,000,000 per borrower. The department may not guarantee
27 the payment of annual interest on the guaranteed portion of a loan.

28 (c) Upon default by a borrower, the amount of the maximum liabi-
29 lity of the fund for a loan guarantee under this chapter is the

1 percentage of the amount in default specified by the department in the
2 guarantee agreement.

3 Sec. 45.94.055. **ADDITIONAL GUARANTEES.** Not less than 30 days
4 after the department enters into a contract to guarantee a loan to a
5 borrower under this chapter, the department may enter into a contract
6 to guarantee another loan to that borrower under this chapter.

7 Sec. 45.94.060. **DEFINITIONS.** In this chapter

8 (1) "commissioner" means the commissioner of revenue;

9 (2) "department" means the Department of Revenue;

10 (3) "forest products business" means a sole proprietorship,
11 partnership, corporation or other business organization formed for the
12 purpose of harvesting or processing timber or other forest resources;

13 (4) "fund" means the forest products business loan guaran-
14 tee fund.

15 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1984

SUBJECT: Sectional analysis of
SB 479

TO: Senator Jalmar Kerttula

FROM: *LH* Linn H. Asper
Legislative Council

You have asked for a sectional analysis of SB 479, relating to a forest products business loan guarantee program.

*Section 1 establishes the forest products business loan guarantee program and sets conditions for the loan guarantees.

Sec. 45.94.010 establishes the forest products business loan guarantee fund in the Department of Revenue

Sec. 45.94.020 allows the Department of Revenue to use fund money to guarantee a loan for the purchase of 35 percent or more of the stock or assets of a forest products business by the employees of that business.

Sec. 45.94.030 grants the department the powers necessary to administer loan guarantees under the forest products business loan guarantee program, and requires that a loan guaranteed must be secured by adequate collateral.

Sec. 45.94.040 directs the department to invest money from the loan guarantee fund that is not being used to guarantee loans in investments allowed under AS 37.10.070.

Sec. 45.94.050 establishes conditions on a loan guarantee, including maximum and minimum amounts that may be guaranteed, terms of loans guaranteed, security for guaranteed loans, state financial institution participation in the guaranteed loan, and other terms applicable to guaranteed loans.

Senator Kerttula
Page 2
February 27, 1984

Sec. 45.94.055 allows the department to guarantee additional loans for a borrower under the terms of the chapter.

Sec. 45.94.060 provides definitions of terms used in the chapter.

Section 2 of the Act provides an immediate effective date.

LHA:csh
C2/137

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE
MEMBER
SENATE JUDICIARY COMMITTEE
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

March 29, 1984

Senator John C. Sackett,
Co-Chairman - Senate Finance Committee
Alaska State Legislature
Juneau, Alaska

Re: SB 479

Dear John:

Although I recognize the captioned bill is somewhat controversial, and although I further recognize that Sealaska, for reasons not known or made clear to me, has expressed moderate disapproval of the legislation, I would still appreciate it very much if you could give my boys a day in court, so to speak, by scheduling the bill for a hearing on the merits.

I am told they can hold their running time to no more than 20 minutes.

Obviously, since the livelihoods of some 3,000 to 3,500 people are affected, the legislation does carry a considerable potential impact.

Regards,

3 —

Robert H. Ziegler, Sr.

RHZ:1k

Attachment

Amendments
to
CS SB 479 (Resources)

1. Add a new section amending AS 45.92.010 to read:

"Sec. 45.92.010. Establishment of Fund. The fishery and forest product revolving loan guarantee fund is established in the Department of Revenue."

2. Add a new section amending AS.45.92.040 to read:

"Sec. 45.92.040. Investment of the Fund. Money in the fund that is not being used for loan guarantees [UNDER THIS CHAPTER] shall be invested as provided for the investment of state treasury surplus under AS 37.10.070. Income from investment shall be transferred to the general fund."

3. Add a new section amending AS 45.92.050(b) to read:

"(b) The department may provide a guarantee from the fund for up to 50 percent of a loan, but may not guarantee more than \$15,000,000 per loan or \$30,000,000 per borrower under this chapter. The department may not guarantee the payment of annual interest on the guaranteed portion of a loan."

4. Add a new section amending AS 45.92.060(6) to read:

"(6) "fund" means the fishery and forest product revolving loan guarantee fund."

5. Delete sections 45.94.010 and 45.94.040.

6. Amend Sec. 45.94.030(b) to read:

"(b) The commissioner shall require that a loan guaranteed by the fund under this chapter be secured by adequate collateral and that the net cash flow from the forest products business provide adequate coverage for the debt service on the loan. The applicant shall provide an economic and financial feasibility analysis prepared by a firm acceptable to the department."

7. Amend Sec. 45.94.050(b) to read:

"(b) The department may provide a guarantee from a fund for up to 50 percent of a loan, but may not guarantee less than \$5,000,000 or more than \$30,000,000 per borrower under this chapter. The department may not guarantee the payment of annual interest on the guaranteed portion of a loan."

8. Amend Sec. 45.94.060(4) to read:

"(4) "fund" means the fishery and forest product [S BUSINESS] revolving loan guarantee fund."

Amendments
to
CS SB 479 (Resources)

9. Renumber section 2 as section 3 and add a new section 2 to read:

"Sec. 2. Section 1 of this Act takes effect on the effective date of amendments to sections 2 and 3, ch. 34, SLA 1982."

Introduced: 2/13/84
Referred: Labor and Commerce
Resources and
Finance

1 IN THE SENATE

BY KERTTULA AND ZIEGLER

2

C.S. SENATE BILL NO. 479

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to a forest products business loan
7 guarantee program; and providing for an effective
8 date."

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

10 * Section 1. AS 45 is amended by adding a new chapter to read:

11 CHAPTER 94. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM.

12 Sec. 45.94.010. ESTABLISHMENT OF LOAN GUARANTEE FUND. The
13 forest product business loan guarantee fund is established in the
14 Department of Revenue.

15 Sec. 45.94.020. FOREST PRODUCTS BUSINESS LOAN GUARANTEE PROGRAM.
16 The department may use money in the fund to guarantee a loan for the
17 purpose of financing the purchase of 35 percent or more of the stock
18 or assets of a forest products business by, on behalf of, or for the
19 benefit of the employees of that business, as provided in AS 45.94.-
20 050.

21 Sec. 45.94.030. POWERS AND DUTIES OF THE DEPARTMENT. (a) The
22 commissioner may

23 (1) designate agents and delegate powers necessary to
24 implement this chapter;

25 (2) adopt regulations to implement this chapter;

26 (3) make and execute contracts and other instruments to
27 implement this chapter;

28 (4) acquire real or personal property by purchase, trans-
29 fer, or foreclosure when the acquisition is necessary to protect an

1 interest in the fund.

2 (b) The commissioner shall require that a loan guaranteed by the
3 fund be secured by adequate collateral, AND THAT THE NET CASH

1. FLOW FROM THE FOREST PRODUCTS BUSINESS PROVIDE ADEQUATE COVERAGE
FOR THE DEBT SERVICE ON THE LOAN. THE APPLICANT SHALL PROVIDE
AN ECONOMIC AND FINANCIAL FEASIBILITY ANALYSIS PREPARED BY A
FIRM ACCEPTABLE TO THE DEPARTMENT.

4 Sec. 45.94.040. INVESTMENT OF THE FUND. Money in the fund that
5 is not being used for loan guarantees under this chapter shall be
6 invested as provided for the investment of state treasury surplus
7 under AS 37.10.070. Income from investment shall be transferred to
8 the general fund.

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11 (1) the term of the loan does not exceed 10 years;

12 (2) the loan is secured by the real or personal property,
13 inventory or accounts receivable of the forest products business, or
14 by other collateral acceptable to the department;

2. 15 (3) the loan is originated with and serviced by [the Alaska
16 Commercial Fishing and Agriculture Bank, or by a state or federally
17 chartered financial institution [located in the state] and

18 (4) the loan is made to the employees of the forest pro-
19 ducts business, to an employee stock ownership trust, or to one or
20 more corporations or other business associations or entities in which
3. ~~CONTROLLING INTEREST IS HELD BY STATE RESIDENTS WHO ARE~~
21 the employees of the forest products business [hold an interest that is
22 equal to or greater than the interest held by the seller of the forest
23 products business].

24 (b) The department may provide a guarantee from the fund for up
25 to 50 percent of a loan, but may not guarantee less than \$5,000,000 or
26 more than \$30,000,000 per borrower. The department may not guarantee
27 the payment of annual interest on the guaranteed portion of a loan.

4. ~~AT ANY TIME FOLLOWING~~
28 (c) ~~Upon~~ default by a borrower, the amount of the maximum liabi-
29 lity of the fund for a loan guarantee under this chapter is the

1 percentage of the amount in default specified by the department in the
2 guarantee agreement., multiplied by the amount then in default.
Any amounts received in satisfaction of a default shall be shared
between the lender and the fund according to the percentage
specified by the Department in the guarantee agreement until all
principal has been repaid.

5.

3 [Sec. 45.94.055. ADDITIONAL GUARANTEES. Not less than 30 days
4 after the department enters into a contract to guarantee a loan to a
5 borrower under this chapter, the department may enter into a contract
6 to guarantee another loan to that borrower under this chapter.]

7 Sec. 45.94.060. DEFINITIONS. In this chapter

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12 purpose of harvesting or processing timber or other forest resources;

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14 tee fund.

15 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).

Introduced: 2/13/84
Referred: Labor and Commerce
Resources and
Finance

1 IN THE SENATE

BY KERTTULA AND ZIEGLER

2

SENATE BILL NO. 479

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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17 chartered financial institution located in the state; and

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19 ducts business, to an employee stock ownership trust, or to one or
20 more corporations or other business associations or entities in which
21 the employees of the forest products business hold an interest that is
22 equal to or greater than the interest held by the seller of the forest
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16 10.070(c).

IN THE SENATE

BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 479 (Resources)
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to a forest products business loan
guarantee program; and providing for an effective
date."

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(b) The department may provide a guarantee from the fund for up to 50 percent of a loan, but may not guarantee less than \$5,000,000 or more than \$30,000,000 per borrower. The department may not guarantee the payment of annual interest on the guaranteed portion of a loan.

2 (c) After a default by a borrower, the amount of the maximum
3 liability of the fund for a loan guarantee under this chapter is the
4 percentage of the amount in default specified by the department in the
5 guarantee agreement, multiplied by the amount then in default. Pay-
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18 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
19 10.070(c).

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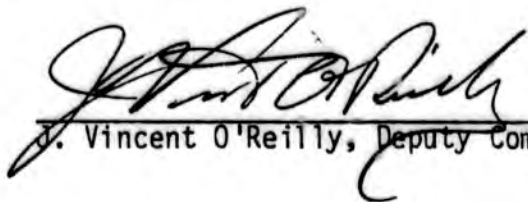
*Revised
in letter
start*

TESTIMONY CONCERNING SB 479
SENATE LABOR AND COMMERCE COMMITTEE
MARCH 1, 1984

SB 479: "An Act relating to a forest products business loan guarantee program; and providing for an effective date."

- I. We share with you the deep concern over the grave situation facing all aspects of the Southeast timber industry. We are aware the larger mills must operate in order for the economics of the small operators to function. We have evidenced our concern by:
 - A. Meeting with involved parties and participating in their presentations.
 - B. Meeting with other departments and agencies of the State attempting to arrive at mutually agreeable and reasonable environmental controls.
 - C. Causing to be performed overview studies focused on the Southeast timber situation. More studies and solution alternatives will be offered.
- II. Our view on this bill is that it offers a solution, but it may not be aimed at the right problems.
 - A. The problems of the larger mills' operation appear to be:
 - 1. Markets for their product both as to volume price and stability.
 - 2. Raw material supply.
 - 3. Environmental and operating regulations.
 - 4. Labor costs and efficiency.
- III. This bill offers a means of transfer of ownership, but that may be only a transfer of the problems from one group to another.

Our view is that the State's assets should be used to solve economic problems to the benefit of our citizens. But before we put our citizens and the State more at risk by freezing staff assets in a guarantee, we should perhaps assist in applying the State's assets in solving the major problems.


J. Vincent O'Reilly, Deputy Commissioner

RECEIVED LPK

MAR 12 1984

LAW OFFICES

LANE POWELL MOSS & MILLER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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RICHMOND W. HAMAN, P.S.
WILLIAM J. WALSH, JR.
D. KEITH GRIM, P.S.
WILBUR J. LAWRENCE
D. WAYNE GITTINGER
BARRY H. BIGGS
RICHARD F. ALLEN, P.S.
THOMAS S. ZILLY
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*DAVID T. HUNTER
D. JOSEPH HURSON
*MONICA JENICER

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RALPH C. POND
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THOMAS C. SORENSON
W. BRADFORD WELLS
CHRISTOPHER B. WELLS
DENISE D. WIEST

OF COUNSEL

W. BYRON LANE
GEORGE V. POWELL
PENDLETON MILLER
WILLIAM T. JACOBSON
BRUCE SHORTS

*ADMITTED IN ALASKA
*ADMITTED IN ALASKA AND WASHINGTON
ALL OTHERS ADMITTED IN WASHINGTON

March 9, 1984

ESOT Study Committee
Ketchikan Pulp Company
P.O. Box 6600
Ketchikan, AK 99901

ATTN: Clyde Johnson

Gentlemen:

We enclose herewith the Study Group's executed original of the agreement in principle dated March 6, 1984; it should be retained by the custodian of the Study Group's records.

Very truly yours,

LANE POWELL MOSS & MILLER

Wayne
D. Wayne Gittinger

DWG:ssh
Enclosure

cc: Mr. Kit Keyes (w/encl.)
Mr. Martin Pihl (w/encl.) ✓

March 6, 1984

Louisiana-Pacific Corporation
111 Southwest Fifth Avenue
Portland, Oregon 97204

Attention: Mr. Harry A. Merlo, President

Re: Ketchikan Pulp Company
Kenai Lumber Company

Gentlemen:

This letter of intent is to confirm the basic terms and conditions of an agreement in principle between the KPC-Employees ESOT Study Committee, Inc., on behalf of an Employee Stock Ownership Trust (the "ESOT") to be established by Ketchikan Pulp Company ("KPC") and Louisiana-Pacific Corporation ("LP").

The agreement in principle is that LP will sell and the ESOT will purchase five-ninths (5/9) of the outstanding capital stock of KPC (the "ESOT-KPC Stock") on the following terms and conditions:

1. Price. The price for the ESOT-KPC Stock shall be \$50-million.

2. Payment. The ESOT will pay for the ESOT-KPC Stock as follows:

| | |
|-------------------------|--------------|
| a. Cash at closing | \$40,000,000 |
| b. Public Offering Note | 5,000,000 |
| c. Subordinated Note | 5,000,000 |

3. Financing.

a. It is anticipated that the \$40-million payable at closing will be financed by the ESOT from the

Louisiana-Pacific Corporation
Attention: Mr. Harry A. Merlo, President
March 6, 1984
Page 2

proceeds of the senior debt (the "Senior Debt") consisting of loans to the ESOT from commercial banks or other financial institutions. On or before May 1, 1984, the ESOT shall have obtained from a commercial bank or banks or other financial institutions, binding commitments to provide (i) the Senior Debt; (ii) a working capital line of credit for KPC in the amount of \$20-million, with amortization, interest rates and other terms acceptable to the ESOT; and (iii) a standby credit in the amount of \$5-million to assure timely payment of the Public Offering Note.

b. The Senior Debt shall be secured by security interests granted by the ESOT and KPC with respect to all assets of KPC except its inventories and accounts receivable. KPC's working capital line of credit in effect from time to time shall be secured solely by security interests granted by KPC in its inventories and accounts receivable.

c. Subject to whatever restrictions exist in connection with the Senior Debt, KPC shall have the right from time to time to increase its working capital line of credit.

4. The Public Offering Note. The Public Offering Note shall not bear interest and shall be payable in full on December 31, 1984. The Public Offering Note may be prepaid without penalty at any time in whole or in part and will be secured by security interests granted by the ESOT and KPC to LP with respect to all assets of KPC, which security interests shall be subordinate to (a) the security interests to be granted to holders of the Senior Debt; (b) the security interests to be granted by KPC to lenders under its working capital line of credit in inventories and accounts receivable; (c) the security interests to be granted to LP to secure the unpaid balance of the Subordinated Note (the "LP Note"); and (d) the security interest heretofore granted by KPC in connection with Alaska Industrial Development Authority ("AIDA") Pollution Control Project as defined in a financing agreement dated October 1, 1983 between AIDA and KPC.

Louisiana-Pacific Corporation
Attention: Mr. Harry A. Merlo, President
March 6, 1984
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5. The LP Note.

a. For a period of 10 years the LP Note will bear interest at a rate per annum equal to the lesser of the average prime rate of Bank of America National Trust and Savings Association ("B of A") during the 90-day period ending on the closing date plus 3 percent, or 15 percent. Except as provided in subparagraph c herein, no principal or interest will be payable on the LP Note during the first 10 years of its term. On the tenth anniversary date of the LP Note, the principal amount of the LP Note shall become an amount equal to \$5 million plus the amount of deferred interest (not compounded) theretofore accrued on the LP Note less the amount of any prepayments thereon pursuant to subparagraph c herein. The recomputed principal amount of the LP Note will bear interest at a rate per annum equal to the lesser of (i) the average prime rate of B of A during the 90-day period ending on such anniversary date plus 1 1/2 percent; or (ii) 14 percent, and shall be payable in 20 equal semi-annual payments including interest. Such payments shall be due and payable on the 31st day of December and the 30th day of April in each year, commencing December 31, 1994.

b. The prime rate of B of A shall be defined to mean the rate of interest publicly announced from time to time by B of A in San Francisco, California, as its prime rate, with any change in such prime rate to take effect on the day specified in the public announcement of such change.

c. The LP Note may be prepaid without penalty in whole or in part at any time. In addition, the ESOT shall be obligated to prepay on the LP Note the amount, if any, by which the proceeds from the public offering described in paragraph 6 hereof exceed \$5 million. Any prepayment upon the LP Note shall be applied first to accrued interest and then to principal and shall reduce proportionately each of the semi-annual payments of principal and interest payable on the LP Note subsequent to the date of prepayment.

Louisiana-Pacific Corporation
Attention: Mr. Harry A. Merlo, President
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d. The LP Note will be secured by security interests granted by the ESOT and KPC to LP with respect to all assets of KPC, which security interests shall be subordinate to (i) the security interests to be granted to holders of the Senior Debt; (ii) the security interests to be granted by KPC to lenders under its working capital line of credit in its inventories and accounts receivable; and (iii) the security interest heretofore granted by KPC in connection with Alaska Industrial Development Authority ("AIDA") Pollution Control Project as defined in a financing agreement dated October 1, 1983 between AIDA and KPC.

6. Public Offering. As soon as practicable but conditioned upon the consummation of the ESOT's purchase of the ESOT-KPC Stock, one-ninth (1/9) of the KPC Stock will be made the subject of a registration statement with the Securities and Exchange Commission or, at KPC's option, its intrastate Alaska counterpart, pursuant to which the KPC Stock so registered ("Public KPC Stock") will be offered for sale by the ESOT at a price at least equal to the price per share paid by the ESOT for the KPC Stock purchased from LP. All expenses of the offering, including underwriting expenses, will be paid by KPC. On or before the 15th day of each month during the public offering period, the proceeds from the sale of Public KPC Stock during the preceding calendar month will be remitted to LP and applied first to the payment of the Public Offering Note and the proceeds remaining, if any, shall be applied as a prepayment against the LP Note.

7. Disposition of KPC Stock by LP.

a. LP may at any time or from time to time sell all or any portion of the KPC Stock retained by it (the "LP-KPC Stock") in accordance with any applicable securities or other regulations; provided however, (i) that any single purchaser (including affiliates) of one-third (1/3) or more of the LP-KPC Stock agrees to be bound by the undertakings herein contemplated, and (ii) the ESOT or its nominee or other purchaser designated by it shall have a right of first refusal to purchase KPC Stock so offered by LP except in the case of a public offering of such stock by LP.

Louisiana-Pacific Corporation
Attention: Mr. Harry A. Merlo, President
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b. The ESOT and LP agree that on two occasions (the first of which shall in no event occur earlier than 18 months following the closing date), LP may require KPC to register all or a portion of the LP-KPC Stock at LP's sole cost and expense, to qualify LP's KPC Stock for sale in those jurisdictions requested by LP at a time determined by LP. In addition, at LP's sole cost and expense, KPC will undertake to file one additional registration statement for the balance of LP's shares of KPC Stock as shall not theretofore have been registered. The foregoing notwithstanding, LP may not make such a request pursuant to the foregoing for any number of shares which represents less than 25 percent of the KPC shares then held by it.

8. Voting Agreement. The ESOT and LP will at closing enter into a Voting Agreement, each committing the other, with respect to all shares of KPC Stock held by each (unless either party's holdings directly or indirectly represent less than 20 percent of the total outstanding KPC Stock) to vote their shares to elect nine directors, three of which will be nominated by LP and six of which will be nominated by the ESOT which will include the Chief Executive Officer of KPC, two salaried and three hourly employees of KPC.

9. Standstill Agreement. The ESOT and LP will at closing enter into an agreement to the effect that for a period of 20 years, LP will not directly or indirectly acquire or reacquire from any source additional shares of KPC Stock nor will it seek, accept or exercise any voting or proxy rights with respect to additional KPC Stock. The foregoing notwithstanding, if (a) the ESOT defaults upon the Senior Debt and if (b) holders of the Senior Debt declare the Senior Debt due and payable or initiate foreclosure pursuant to the terms of the Senior Debt undertakings, and if (c) such default is not cured or waived on terms acceptable to KPC's board of directors, then LP shall have the right, but not the obligation, to assume the Senior Debt (i) by surrender to the ESOT and cancellation of the LP Note; and (ii) by payment to the ESOT of a sum equal to the amount of Senior Debt principal payments theretofore made by the ESOT, less an amount (Reduction Amount) calculated by multiplying such Senior Debt principal payments by the ratio obtained by dividing the number

Louisiana-Pacific Corporation
Attention: Mr. Harry A. Merlo, President
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of ESOT-KPC shares theretofore distributed to ESOT participants by the original number of ESOT-KPC shares less the number of such shares theretofore sold to the public, and (iii) by offering to purchase from ESOT participants ESOT-KPC shares theretofore distributed to and held by them at a price per share calculated by dividing the Reduction Amount by the number of ESOT-KPC shares theretofore distributed to ESOT participants. In consideration of such Senior Debt assumption the ESOT will assign to LP all of the undistributed ESOT-KPC shares. If such Senior Debt assumption shall occur as herein provided, then upon its occurrence, the Standstill Agreement shall terminate.

10. Marketing. Between the date hereof and closing, KPC and LP will discuss and negotiate in good faith to determine the role (if any) and terms upon which LP should or could play in the post-closing marketing of products produced by KPC.

11. Preclosing Operating Plan. On or before March 15, 1984, LP and KPC shall agree to a preclosing operating plan. The operating plan will specify the levels of receivables; log, chip, pulp and other inventories; accounts payable; intercompany accounts and other current assets and liabilities.

12. Establishment of the ESOT. The Committee will cause the ESOT to be formed on or before May 1, 1984. The ESOT shall meet the requirements of the Internal Revenue Code and the Employee Retirement Income Security Act.

13. Definitive Agreement.

a. On or before May 1, 1984, LP and the ESOT will enter into a definitive agreement containing the terms and conditions included in this letter of intent and other covenants, warranties, representations, terms and conditions to which the parties shall agree. Counsel for LP shall prepare the initial draft of the definitive agreement.

Louisiana-Pacific Corporation
Attention: Mr. Harry A. Merlo, President
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b. The definitive agreement shall provide for the assignment by LP to KPC, all of the outstanding stock of Kenai Lumber Company.

14. Opinion. On or before the closing date, the ESOT shall have received an opinion from Salomon Brothers Inc satisfactory to the ESOT regarding (a) fairness to the ESOT, from a financial point of view, of the consideration to be paid by the ESOT; and (b) the financial viability of KPC as an independent company following consummation of the transaction.

15. Disclosure Statement. On or before June 1, 1984, (a) the Committee shall prepare a disclosure statement describing the transaction and related matters; and (b) the disclosure statement shall be distributed to the KPC employees and any required vote by KPC employees with respect to any part of the transaction or any related matter shall be completed. The disclosure statement shall be subject to approval by LP, which approval shall not be unreasonably withheld.

16. Other Conditions.

a. Regulatory Approvals. Prior to closing, all required governmental, regulatory and lender approvals shall have been obtained.

b. Compensation Expenses. Effective not later than the closing date, there shall have been implemented reductions in annual wage and compensation expenses as may be necessary in order to obtain a firm Senior Debt commitment (which reduction is currently anticipated to be not less than \$6,700,000). Such reduction shall have been accomplished and approved in compliance with applicable collective bargaining laws and agreements.

17. Closing. The closing of the transaction contemplated by this letter of intent shall take place in Seattle, Washington on June 30, 1984, or on such other date as shall be agreed upon by the parties (the "closing date").

Louisiana-Pacific Corporation
Attention: Mr. Harry A. Merlo, President
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It is understood that this letter reflects an agreement in principle only and, unless and until the transaction contemplated hereby is evidenced by a definitive agreement between LP and the ESOT which has been duly authorized by the Committee, the trustees of the ESOT and the board of the directors of LP, neither the Committee, the ESOT nor LP shall have any legal obligations hereunder. The date by which any action is to be accomplished pursuant to this letter may be changed by agreement between the parties.

If the foregoing accurately expresses the basic terms and conditions of our agreement in principle, please so indicate by signing and returning the enclosed copy of this letter.

Very truly yours,

KPC - EMPLOYEES ESOT STUDY
COMMITTEE, INC.

By

W. R. Hill
Walter Hart
Robert Jones

The foregoing accurately reflects our agreement in principle.

LOUISIANA-PACIFIC CORPORATION

By

Harry A. Merlo
Harry A. Merlo
Chairman and President

By

John C. Hart
John C. Hart
Vice President

DWG:ddr
7475A

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

March 19, 1984

CS SB 479 (Res)

1. Department of Revenue amendment to require that an applicant show it can service a loan.
2. The original language referencing the Commercial Fishing and Agriculture Bank was pulled from current statute on Fish-Pac financing. It is not appropriate in this bill.
3. Clarifies that the controlling interest in corporations that apply for a loan guarantee must be held by state residents.
4. Department of Revenue amendment clarifying how the State's investment is protected in case of default by the borrower.
5. Deletes the provision regarding subsequent guarantees.



March 21, 1984

The Honorable Bill Sheffield
Governor of the State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

Sealaska Corporation has been following with keen interest the progress of HB 627 and SB 479, which establish a "forest products business loan guarantee program" in the Department of Revenue. As you know, this legislation is in specific response to the decision of Louisiana Pacific Corporation to close its operations in Alaska, and its attempt to sell a controlling interest in its Alaska subsidiary (LPK) to an Employee Stock Ownership Trust (ESOT). If this stock sale does not occur, Louisiana Pacific would close its facilities, which would cause severe hardship to Ketchikan.

Presently, the entire forest products industry in Alaska is suffering. World markets are soft, the strong dollar and high interest rates doubly hurt exporters of Alaska forest products, and we find it increasingly difficult to operate profitably in a world commodity market against foreign and domestic competition. The Alaska dissolving pulp industry is hurt not only by these factors, but also by the fact that the market for that product is a mature (some say declining) market, and that recent entry by large subsidized foreign competition has fundamentally changed the economic viability of facilities like Alaska's. Louisiana Pacific has realized this to the extent that they have made the decision to close their Alaska facilities. Alaska Lumber & Pulp Company, and with them the cities of Sitka and Wrangell, are also laboring under very tenuous circumstances. Certainly they require the State's financial assistance as desperately as does Louisiana Pacific.

We empathize strongly with LPK employees and with the people of Ketchikan, and applaud their courageous actions and hard work in attempting to fashion a transaction to keep LPK's facilities operating, paying local taxes, and employing one-third of Ketchikan's workforce. We sincerely hope that they can successfully purchase the mills and run them at a profit where Louisiana Pacific has failed.

Nevertheless, the proposed involvement of the State as an equity loan guarantor does raise some fundamental philosophical public policy questions, many of which have concerned Sealaska Corporation in the past when we questioned State involvement in private industry through the Alaska Resources Corporation and other programs.

Whenever government becomes involved in specifically underwriting a single or limited portion of an industry, it can unknowingly affect the competitive balance in that industry in some largely unforeseen ways. The State's negotiated timber sale to Schnabel Lumber Company in 1979 had significant and unexpected effects on subsequent U.S. Forest Service timber sales in the year following, for example. Is it possible, we wonder, for the State to apply its financial power for the benefit of one participant in an industry and still maintain a balanced industry over the long term?

Secondly, whenever the government applies its financial strength to aid one segment of an ailing industry, it often discovers that it has only scratched the surface. Fairness and the proper maintenance of competitive balance invariably demand further and greatly expanded intervention to assist other businesses involved. Has the State consciously and carefully investigated and determined the possible impacts to other existing businesses and the long-term restructuring of the timber industry?

Third, legislation such as has been proposed often constitutes merely a "quick fix" -- the treatment of a symptom with inadequate consideration of the generic and underlying problems. Will a simple transfer of controlling ownership strengthen a company in trouble, or merely weaken its financial condition by adding debt service burdens that were not present before? We would hope that the State would delve deeper into the source of Louisiana Pacific's business problems, and of the problems facing all major participants in Alaska forest industries.

Most analyses of Alaska's forest products industry suggest a number of weaknesses, some of which may be solvable by the industry with the State's help, and others of which can only be endured. Markets, raw material supply questions, costs related to harvest practices, environmental and other resource management requirements, exchange and interest rates and subsidized foreign competition are such problems. Injections of public capital can sometimes alleviate these for a time, but how fundamental or lasting is the "cure"?

Other problems are more amenable to policy-level solutions. The State has labored mightily to achieve EPA variances for Alaska's two pulp mills. Without such variances, few believe the mills can long survive. Antitrust problems, essentially brought upon themselves by elements of the industry, can be solved by federal natural resource policy changes and with the help of recent federal legislation. But should the State assist a company whose

recent past performance under antitrust laws is still questionable? Weaknesses in marketing due to currency exchange and interest rates, and the high cost of the large working capital and infrastructure requirements inherent in Alaska operations could be aided by a State Export-Import Bank, which we have suggested in the past, and by more State construction and ownership of public roads and docks available for industry use. Restricted timber supply and overly costly production methods dictated by the U.S. Forest Service could be improved upon by simple policy changes in that agency.

We hope that the State is considering the whole potential range of fundamental public policy initiatives to assist the forest products industry in addition to the proposed non-traditional involvement in a loan guarantee for a single company.

Sealaska Corporation has several questions more specifically applicable to the individual transaction the legislation is designed to subsidize. The loan guarantee may or may not make sense if the State does decide to thus underwrite a specific commercial transaction. However, we feel that the public record to date is not adequate to make that decision.

For example, does the administration have a thorough analysis of the risk of the intended loan? Is the request for a loan guarantee a "need" integral to effecting financing of the LPK/ESOT transaction or is it a "want"? What is the most likely ability of the company to service its proposed new debt? What measure or analysis has been made with respect to the chance of success for this transaction in the face of the yet undetermined Environmental Protection Agency ruling and the Weaver Committee questions regarding the U.S. Forest Service long-term contracts and the 45% mmbf per year commitment? Is the Forest Service going to approve necessary cost savings measures recently advanced by the industry? What is the U.S. Forest Service position on this transaction? Is it good public policy to risk such a large sum of money based upon the analysis of an investment banker paid by the seller, retained by the buyer and with a vested interest in closing the transaction; especially when this analysis is yet to become part of the public record? There have been no representations that the loan is unattainable without a guarantee. If there were such representations, what would they imply regarding the strength of the proposed credit? If the unthinkable were to happen and the ESOT were to default, who would be the real beneficiary of the State's loss, given that the guaranteed loan proceeds would be used to "take out" an equity investment already made by Louisiana Pacific? Should the State consider guaranteeing loans to other parties wishing to purchase the 11% of shares to be offered to the general public? Is the State going to change its post-ARC policy, and once again underwrite loans of capital that will not be reinvested in the State? What collateral, specifically, will be available to secure a loan taken for the purchase of equity? If the project does default, is it possible that the State then is in a position

of having to throw good money after bad?

Satisfactory answers to these and other important questions may be available now but we must in good conscience question whether a public commitment of such magnitude should be considered before such facts are spread on the record.

Sealaska Corporation's interest in these major policy questions is sincere and important. Native ownership and operations involve more than one-third of Alaska's entire forest products industry, and employs more than 1,200 Alaskans. We have never been subsidized in our business activities, and are critically concerned over the future of our industry. As is the case with the non-Alaskan participants in our industry, we have also been squeezed hard over the past three years. We have operated when our return-to-stump has been marginal at best, and have been forced to curtail our production and marketing this year despite our large capital investment.

Native timber owners operate capital facilities (eg: Klawock Island Dock Company) similar to those the State has traditionally publicly financed. Several of our smaller corporations have had perennial difficulties securing credit facilities, despite their large and continuing equity investments.

Our future is inextricably tied to the future of Alaska's forest products industry, so we are understandably concerned lest the State, in honestly attempting to treat a single segment of the timber industry symptom, cause a ripple of unforeseen effects that may actually compound the underlying problems we all face.

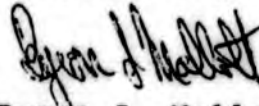
If the State is intent on setting aside normal public policy constraints to attempt to revitalize a portion of the timber industry, we strongly urge you to consider the rest of the industry -- and the industry as a whole -- as well. If State underwriting of a transfer of existing equity of LPK is only an initial step in a broad, major State program to support the entire forest products industry, we can accept it. But as part of that acceptance we want assurance and support as well, this session, for other segments of the industry in similar, and just as serious, circumstances.

Finally, let me reiterate that it is not Sealaska Corporation's intent or desire to bring further economic hardship to the residents of Ketchikan. Louisiana Pacific Corporation made the decision to close its Alaskan operations permanently and it is ultimately Louisiana Pacific Corporation and its shareholders who will most directly benefit from the proposed State action. It is in Sealaska's business interest that the Ketchikan pulp mill remain in operation and we will support any responsible effort to see that it does. However, the proposed loan guarantee raises

such fundamental questions of public policy that we are compelled to present this letter.

Sincerely,

SEALASKA CORPORATION



Byron I. Mallott
President and Chief Executive
Officer

BIM/RL:mt

cc: The Honorable Albert P. Adams
The Honorable Dick Eliason
The Honorable Bettye M. Fahrenkamp
The Honorable Peter Goll
The Honorable Ben Grussendorf
The Honorable Jalmar Kerttula
The Honorable Jack McBride
The Honorable John Ringstad
The Honorable John Sackett
The Honorable Ron Wendte
The Honorable Robert Ziegler
Martin Pihl, Chairman ESOT Group
Frank Roppel, Executive Vice President, ALP
John Sandor, Regional Forester, USFS

Local Natives surprised by Sealaska stand

By DAVID S. KIFFER
Daily News Staff Writer

Sealaska's decision to oppose a state loan guarantee for the Louisiana Pacific-Ketchikan Division employee buy out took local Sealaska shareholders by surprise, according to a local Native leader.

Georgia Skannes, a Sealaska shareholder and a member of the Ketchikan City Council, said she was disappointed in Sealaska's position.

"As a shareholder, I feel we should have been consulted," she said. "There is a local Sealaska advisory board here and, to my knowledge, it was not consulted before Byron (Mallot) released his position statement."

Mallot, the chief executive officer of Sealaska — the southeast regional Native corporation — recently sent a lengthy letter to Gov. Bill Sheffield opposing a proposal to have the state guarantee half of a loan the L-P employees hope to receive to purchase the division.

"The percentage of Sealaska shareholders that work at L-P is so high, it upsets me that Sealaska would take this position," Ms. Skannes said this morning. L-P comptroller Martin Pihl said 30 percent of the division workforce are Sealaska shareholders.

"This isn't showing any unity among the Native people," she said. "LPK has tried several times to open communication with Sealaska, but Sealaska has not responded."

She said she and former Sealaska board member Ray Demmert of Ketchikan will meet Wednesday to discuss the situation and work out a plan to "get the L-P side of the issue out to the Native people."

This morning, Pihl released a lengthy LPK response to Sealaska's letter to the governor. The response pointed out economic differences between LPK's export of cants and Sealaska's export of round logs.

"We recognize there is a good deal

of factual information in Sealaska's letter about conditions and the status of the Alaska Forest Products industry," Pihl said. "Particularly in the segments which are required to domestically process the logs before export. Unfortunately, Sealaska fails to acknowledge the market and competitive advantages which it has in the export of round logs and the impact those round log imports have had on the market for domestically processed cants."

Pihl said L-P has sought to work together with Sealaska and other parts of the forest products industry, but that Sealaska does not "have receptive ears." He said L-P will continue to press for cooperation because it will "result in an improved market for pulp logs, most of which Sealaska has left in the woods."

"Sealaska's comments that the loan guarantee bill is special interest for a single limited portion of the industry is not correct in our view," Pihl said. "The guarantee bill would be available for any employees purchase of any company in the forest products industry."

He said two things are needed for the loan guarantee — legislative action and the setting aside of \$20 million "in the unlikely event of a call on the guarantee."

Pihl said the chief benefit from the guarantee is low interest rates for the purchase and a thoroughly studied proposal.

"The employees are not looking for a quick fix (as Mallot had asserted in his letter)." He added that the lending institutions are also keeping a close watch on the proposal.

"The alternatives (to the employee buy out) are very grim," Pihl said. "A projection by the state Department of Labor indicated that, should a Ketchikan closure occur, the draw on unemployment benefits in the first year alone would be \$20 million. That is just about the amount of the requested loan guarantee and one half of the employee purchase price."

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE
MEMBER
SENATE JUDICIARY COMMITTEE
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

March 29, 1984

Mr. Byron I. Mallott,
President and Chief Executive
Officer
Sealaska Corporation
One Sealaska Plaza
Juneau, Alaska 99801

Re: SB 479.

Dear Mr. Mallott:

I find it hard to believe you personally wrote the letter concerning the captioned bill to the Governor dated March 21st.

It's also difficult for me to believe that it wasn't written by your Mr. Loescher who has been a pretty faithful attendant at the various meetings which have been held on SB 479.

In my opinion, you have made some unwarranted assumptions concerning the employee stock ownership trust, and in the process of so doing have perhaps potentially and severely impacted the economic livelihoods of several hundred of your shareholders.

Sealaska and Louisiana Pulp are not truly competitive and your actions have distressed me personally.

Very truly yours,

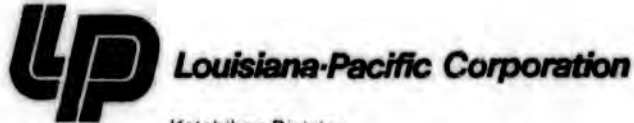
Robert H. Ziegler, Sr.

RHZ:lk

cc: The Honorable Albert P. Adams
The Honorable Richard I. Eliason
The Honorable Bettye M. Fahrenkamp
The Honorable Peter Goll
The Honorable Ben Grussendorf
The Honorable Jalmar Kerttula
✓ The Honorable Jack McBride
The Honorable John Ringstad

Mr. Bryon I. Mallott
March 29, 1984
Page Two

The Honorable John Sackett
The Honorable Ron Wendte
Mr. Martin Pihl, Chairman ESOT Group
Mr. Frank Roppel, Executive Vice President, ALP
Mr. John Sandor, Regional Forester, U.S.F.S.



Ketchikan Division

Post Office Box 6600
Ketchikan, Alaska 99901, U.S.A.
Telephone: 907-225-2151
Telex: 099-55-251
Answer back: KAYPULCO KET

April 3, 1984

Mr. Byron I. Mallott
President and Chief Executive Officer
Sealaska Corporation
One Sealaska Plaza
Juneau, Alaska 99801

Dear Mr. Mallott:

This letter is intended to formalize a response which becomes incumbent on us to the Sealaska Letter to Governor Sheffield dated March 21, 1984, regarding the "Forest Products Business Loan Guarantee Bill HB627 and SB479 and broader issues facing the forest products industry. This will supplement the responsive statements we have given to requests from the news media.

We were of the belief that most of the questions and concerns of Sealaska had been addressed in discussions with Sealaska representatives on February 29, and by the testimony of the three-man KPC ESOT representation before Senate and House Committee hearings on SB479 and HB627 which were attended by Sealaska representatives, and other meetings with State Administration officials.

As you know, the Sealaska letter was met by substantial shock reaction in the Ketchikan-Prince of Whales area and including many of Sealaska's own members. We recognize that you have issued follow-up clarifying and somewhat modifying statements such as reported by the Ketchikan Daily News on Wednesday March 28. The damage was, however, already done. Our response follows.

We would first emphasize our disappointment in finding objection to the Ketchikan Pulp employees as people trying to help themselves. We are talking about 800 direct employees, many of which have invested 20 to 30 years in pioneering the timber industry in Southeast Alaska. We as employees, have committed to take a substantial reduction in

pay and benefits as a primary step in restoring economic viability. The ESOT purchase study by employees has covered all aspects of operations, economics and viability including markets, resource base, raw material costs, environmental and regulatory matters, and plants and asset base as well as wage and benefit levels. The Ketchikan employee purchase is not a "quick fix". The employees are not interested in merely buying their jobs for a few years. This purchase is designed to be a viable, bankable transaction subject to regular bank standards of credit review and showing of purchase debt capacity.

We do recognize that there is a good deal of factual comment in the Sealaska letter about the condition and status of the forest products industry. These factors are particularly true and more acutely affect the segments of the forest products industry which are required to domestically process logs before export. Unfortunately, Sealaska fails to acknowledge the market and competitive advantage which it has in export of round logs and the impact round log exports has had on the market for domestically processed cants. Ketchikan Pulp (LPK) has long seen the need for Alaska's Forest Products Industry to work together and not oppose each other in the market place. We initiated a number of discussions two to three years ago with Sealaska Timber and more recently Sealaska in Juneau. We maintain a willingness and commitment to work together. Logs and cants can be marketed together, and our working together will result in improved overall economics and price available for pulp logs which export-logging operations leave a high percentage in the woods. Prices we have offered for pulp logs have consistently exceeded the economic return to the log from pulp sales and operations. The combined log and cant exports from Alaska to Japan and other Pacific Rim Countries represents only about ten percent of a total of more than three billion board feet annually off the West Coast including Washington and Oregon. Hence, neither Sealaska, KPC nor ALP (nor combined) set, or in any way control, the market for logs and cants.

The Loan Guarantee Bill does not "specifically underwrite a single or limited portion of an industry". The guarantee would be available for any qualifying employee purchase of any company in forest products. We may be first, but others may follow. We have often found this to be true. Two things are necessary to effectuate the loan guarantee; first, enabling legislation and secondly, a transfer or set aside of regularly invested state funds in the highly unlikely event of a call on the guarantee. There is no grant or direct loan of funds.

The forest products industry has not, to date, called on the State of Alaska for assistance such as we have seen in many instances for fisheries and tourism. The one exception

involves the Haines sawmill which we understand Sealaska supported in the final stages. The State can assist and make more assured the financing of the Ketchikan employee purchase at a lower interest rate benefiting all concerned.

The alternative to the Ketchikan employee effort is grim indeed. Projections by the Alaska Department of Labor indicate that, in the event of closure or shutdown, the draw on unemployment benefits in the first year alone would approximate \$20 million. This amount alone approximates the amount of the requested loan guarantee and about one-half of the employee purchase price. We believe about 30 percent of the jobs we are seeking to maintain are Alaska Natives and Sealaska members.

We would very much appreciate your support and joining efforts to maintain and improve Alaska's Forest Products Industry. Our employee purchase will Alaskanize the ownership of Ketchikan Pulp Company. We invite you to join us as a shareholder. On request, we ask that this letter be shared with the Sealaska Board of Directors.

Sincerely,

M. R. Pihl

M. R. Pihl
Controller and Chairman
ESOT Finance Committee

cg

cc: Governor Bill Sheffield
Senator Dick Eliason
Senator Bettye Fahrenkamp
Senator Jay Kerttula
Senator John Sackett
Senator Bob Ziegler
Representative Al Adams
Representative Peter Goll
Representative Ben Grussendorf
Representative Jack McBride
Representative John Ringstad
Representative Ron Wendte
Commissioner Dick Lyon
Mr. Mel B. Mountain, President, KPC
Mr. Frank Roppel, Executive Vice-President, ALP
Mr. John Sandor, Regional Forester, USFS



April 5, 1984

Mr. Michael B. Salazar
President
Southeast Conference
P.O. Box 29
Douglas, Alaska 99824

Re: Alaska Timber Industry

Dear Mr. Salazar:

The Southeast Alaska timber industry continues to be in a severe depression. This condition has created sharp unemployment, shut down of manufacturing facilities and logging operations throughout the region. The impacts to the social, economic and political life of each of our communities has been detrimentally affected - and there is no foreseeable end in sight.

There comes a time when all elements of the community - citizens, private landowners, industry, environmentalists and government officials - must come together and face head on the calamities of the day. For the timber industry, in our opinion, this time has come if we are to see any positive change.

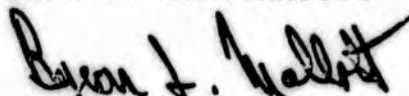
Many efforts by many people are being promoted on singular bases. But the problems appear to be larger than they seem and a more comprehensive approach to identifying and finding solutions to industry problems may be in order.

With this in mind, I would like to advance to the Southeast Conference a draft resolution and an outline of draft legislation calling upon Governor Sheffield and the Legislature to establish and fund an Alaska Timber Review Commission. I would urge your consideration of this proposal. I believe that with the support and recognition of the Southeast Conference that this legislation could pass this session.

Additionally, with the interest and participation of all segments of industry, government and citizens, I believe that such an effort will find lasting solutions to timber industry problems that can benefit the total community and can establish an economic foundation for the future.

Sincerely,

SEALASKA CORPORATION



Byron I. Mallott
President and Chief Executive
Officer

BIM/RWL:mt

cc: The Honorable Albert P. Adams
The Honorable Dick Eliason
The Honorable Bettye M. Fahrenkamp
The Honorable Peter Goll
The Honorable Ben Grussendorf
The Honorable Jalmar Kerttula
The Honorable Jack McBride
The Honorable John Ringstad
The Honorable John Sackett
The Honorable Bill Sheffield, Governor of Alaska
The Honorable Ron Wendte
The Honorable Robert Ziegler
James Clark, Esq.
Martin Pihl
Frank Roppel
John Sandor
Sealaska Board of Directors
Southeast Alaska ANCSA Corporations

Alaska Loggers Association, Inc.



111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99901
Phone 907-225-6114

April 5, 1984

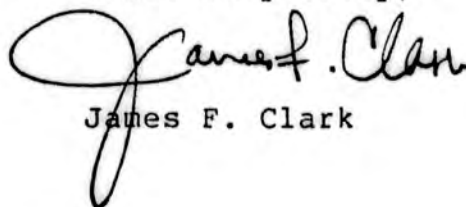
Mr. Michael B. Salazar
President, Southeast Conference
P. O. Box 29
Douglas, Alaska 99824

Re: Alaska Timber Industry

Dear Mr. Salazar:

The Alaska Loggers' Association (ALA) has worked closely with Sealaska Corporation in forging the Alaska Timber Review Commission proposed in Mr. Mallott's letter of this date. The proposed Commission will provide a vehicle for the timber industry to focus its efforts in an attempt to come up with a comprehensive, creative approach to the problems that beset it. We particularly welcome the opportunity to review the Forest Service policies "that materially offset the economic health of the industry" (Section .050(2)), as we believe a thorough review is needed in this area. We would appreciate the active support of this proposal by the Southeast Conference.

Yours very truly,


James F. Clark

JFC:sd

Mill buyout faces fight over loan guarantee

by Dean Fosdick
Associated Press

Juneau — Agreement was reached Wednesday on an employee buyout plan for the estimated \$90 million in Alaska assets of Louisiana-Pacific Ketchikan, but legislation that would guarantee half the \$45 million loan needed to float the deal is facing a "major uphill battle," a sponsor says.

Louisiana Pacific Corp., a Fortune 500-listed company based in Portland, Ore., initiated the buyout proposal in September with L-PK employees.

The division's assets include a hemlock mill in Metlakatla, a chip mill in Seward, a spruce mill in Ketchikan, the huge Ward Cove pulp mill, some logging camps and long-term timber contracts.

The division is the largest em-

ployer in the Ketchikan area with a work force of about 800 people and a \$23 million annual payroll.

Wally Kubley, a Capitol lobbyist for L-PK and the 28-member panel which is handling the purchase under an Employee Stock Ownership Plan (ESOP), said agreement awaits a feasibility study from a Wall Street investment firm.

"If they say it's not a good deal, then they won't buy it," Kubley said.

Under terms of the proposal, employees will own and control 55 percent of the company and have five of seven people on the board, he said. The remaining two would be from Louisiana-Pacific.

"A \$45 million loan from one state and four large outstate banks will be the up-front payment for L-P," he said. "The loan will be backed by ap-

proximately \$90 million in assets.

"We're asking that the state guarantee 50 percent of the \$45 million loan," Kubley said, adding that it would make it a more "viable deal."

"It would make the loan more saleable and they might get it at a rate of 1 percent less with the state guarantee," he said.

ESOP leader and L-PK Controller Martin Pihl said the committee feels pretty good about the \$90 million deal.

"There was not unanimous approval, but very near," he said.

Among the many concerns is a tentative denial by the federal Environmental Protection Agency on L-PK's request for a variance from new waste water treatment standards. L-PK has estimated that the cost of complying with EPA require-

ments will exceed \$10 million.

EPA Regional Administrator Ernesta Barnes said during a visit to Ketchikan last week that a final ruling will come in late May.

A sponsor of one of two bills that would establish a "Forest Products Business Loan Guarantee Fund," Sen. Bob Ziegler, D-Ketchikan, said Wednesday he believes the odds are against passage.

"From talking to colleagues and scouting around, it looks like it's going to be a major uphill battle and I'm not optimistic," Ziegler said. "We'll keep trying."

"The whole thing is highly complex and a lot of people don't seem to grasp it," he said. "We're not looking for a raid on the treasury, we're looking for a guarantee."

4/8/84 Anch. Times



April 11, 1984

Mr. Martin Pihl
Controller and Chairman
ESOT Finance Committee
Louisiana-Pacific Corporation
Ketchikan Division
P.O. Box 6600
Ketchikan, Alaska 99901

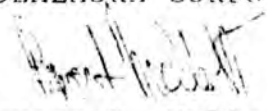
Dear Mr. Pihl:

Sealaska Corporation has not found objection as your April 3, 1984 letter erroneously asserts "to the Ketchikan Pulp employees as people trying to help themselves." Quite the contrary is true. Sealaska Corporation in its March 21, 1984 letter raised issues which in our judgment merit attention if HB627 or SB479 is to stand any meaningful chance of enactment. Neither does Sealaska need to be reminded by anyone of its obligation to its shareholders and I personally resent that inference in your letter.

Now, my friend; you, me, Senator Ziegler and others can continue this sort of negative dialogue or we can sit down together as your letter and mine suggest and try to work for the good of industry. Sealaska is prepared to do that and I look forward to the meeting which we will have April 16, 1984.

Sincerely,

SEALASKA CORPORATION


Byron I. Mallott
President and Chief
Executive Officer

cc: The Honorable William Sheffield, Governor
The Honorable Richard Eliason, Alaska State Senator
The Honorable Bettye Fahrenkamp, Alaska State Senator
The Honorable Jay Kerttula, Alaska State Senator
The Honorable John Sackett, Alaska State Senator
The Honorable Robert Ziegler, Alaska State Senator

SEALASKA CORPORATION ONE Sealaska Plaza, Juneau, Alaska 99801 Phone (907) 586-1512

The Honorable Al Adams, Alaska State Representative
The Honorable Peter Goll, Alaska State Representative
The Honorable Ben Grussendorf, Alaska State Representative
The Honorable Jack McBride, Alaska State Representative
The Honorable John Ringstad, Alaska State Representative
The Honorable Ron Wendte, Alaska State Representative
The Honorable Dick Lyon, Commissioner
Mr. Mel B. Mountain, President, KPC
Mr. Frank Roppel, Executive Vice President, ALP
Mr. John Sandor, Regional Forester, USFS

DRAFT RESOLUTION FOR SOUTHEAST CONFERENCE

WHEREAS, Southeast Alaska's timber industry is in a severe and lasting financial depression; and

WHEREAS, The industry is being restructured internally as a result of pressures wrought by this depression; and such restructuring is or has the potential to significantly disrupt the financial and social fabrics of Southeast Alaska communities; and

WHEREAS, The causes of the industry's present problems are many and complex, and arise both from State and Federal government policies and from national and international financial and competitive factors; and

WHEREAS, The financial health and well-being of the citizens of Southeast Alaska is and historically have been greatly dependent upon the well-being of the region's timber industry; and

WHEREAS, The industry can be strengthened over the long-term only through actions based on a detailed analysis of all aspects of the industry as they are affected by government policies and the interaction of world economics; and

WHEREAS, Such an analysis, and any recommendations for public policy or statutory initiatives that might result from it, can be accomplished only with the full involvement, cooperation and expertise of all participants in the industry acting together for the good of the industry as a whole;

NOW, THEREFORE, BE IT RESOLVED THAT

- (1) The Southeast Conference urges the Governor and the Alaska State Legislature to establish and fund immediately an Alaska

Timber Review Commission.

- (2) The Alaska Timber Review Commission should be composed of representatives of companies engaged in producing forest products from Southeast Alaska lands and relevant State and Federal government officials.
- (3) The Alaska Timber Review Commission should be charged with completing a thorough analysis of the present situation in the Southeast Alaska timber industry, and with recommending policy and statutory changes that would strengthen the industry as a whole over the long-term.
- (4) The Alaska Timber Review Commission should be funded by a combination of private and public funds, and should be administered as a private commission and chaired by a member from the private sector.

DRAFT LEGISLATION (OUTLINE)

An Act entitled: An act creating the Alaska Timber Review Commission and appropriating funds for its operations.

Sec. 1: Findings: The legislature finds that

1. A combination of public policies and world financial and market factors has weakened Alaska's forest products industry in recent years.
2. The industry is critically important to the economy of Alaska.
3. Improvement can be accomplished only with a better understanding of the industry as a whole and of world financial and competitive factors.
4. Such an analysis and recommendations will be of value only if they are accomplished by the industry itself with the assistance of the State of Alaska.

Sec. 2. Purpose: The purpose of the act is to:

Establish the ALASKA TIMBER REVIEW COMMISSION for a period of 10 months to analyze the Alaska timber industry as it is presently structured and as it relates to existing statutes and governmental policies and to world financial and competitive factors, and to recommend to the Governor and the Legislature any changes in policies or statutes and regulations it deems appropriate.

Sec. 3. A.S. _____ is amended by adding a new chapter to read:

Chapter ____: ALASKA TIMBER REVIEW COMMISSION. Sec.

010. There is established in the Office of the Governor the Alaska Timber Review Commission. The commission is a study and review commission with a limited existence to accomplish the purposes set out in this chapter.

Sec. 020: Membership: (a) The commission shall be composed of 13 Commissioners, appointed by the Governor. The Commissioner of Natural Resources, Commerce, and Revenue or their designees, shall sit as ex officio members on the commission. The commission shall be comprised of: one member of the Alaska State Senate, one member of the Alaska House of Representatives, the U.S. Department of Agriculture Regional Forester for Alaska, the Director of the Office of Management and Budget, one member representing environmental interests, and nine members representing the Alaska forest products industry.

(b) The Governor shall appoint one commissioner as chairman of the commission.

Sec. 030. Compensation of Commissioners: The members of the commission shall serve without compensation.

Sec. 040. Employment of Personnel: The commission may retain through contract an Executive Director. The Executive Director may, with the approval of the Commission, retain through contracts individuals or firms to accomplish work under this chapter.

Sec. 050. Responsibilities: The commission shall

(1) Analyze the Alaska forest products industry as it is presently structured;

(2) Analyze State and Federal policies that materially affect the economic health of the industry;

(3) Analyze world market and financial factors that materially affect the economic health of the industry;

(4) Make recommendations to the Governor and the Alaska Legislature no later than January 15, 1985 for: 1) changes in State policies, statutes and regulations that would benefit the industry and the public interest, 2) changes in Federal policies, statutes and regulations that would benefit the industry; and 3) new public institutions, appropriations or policies that would stabilize and enhance the industry as a whole and serve the public interest.

Sec. 060. POWERS. The commission may

(1) Conduct or contract for research to accomplish its responsibilities under this chapter.

(2) receive contributions of money from the State or from persons.

(3) establish an office in the State and otherwise incur expenses incidental to the performance of its duties;

(4) establish bank accounts for the transaction of its business.

Sec. 070. APPROPRIATION. There is appropriated to the Office of the Governor \$500,000 for the purpose of funding the Alaska Timber Review Commission.

Sec. 080. Termination of the Alaska Timber Review Commission. This chapter shall terminate upon the submission of the report by the commission to the Governor and the Legislature.