

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 86/2
2692 SLC HB 7 (FILE 8) - HB 15

1 termination or the receipt of written notice of intent to terminate.
2 The department may notify the insurance carrier of a person with
3 previous policy abuses and require notice of termination of coverage
4 for the person. If the person whose coverage terminates fails to
5 provide the department with evidence satisfactory to it of the exist-
6 tence of a motor vehicle liability policy issued in conformity with
7 AS 28.20.440 or a certificate of self-insurance issued in conformity
8 with AS 28.20.400, the department shall suspend the driver's license
9 and all registration certificates and registration plates issued to
10 the person until the person has provided the department with such
11 evidence.

12 (m) The insurance carrier authorized to transact business in the
13 state who issues a motor vehicle liability policy to the owner of a
14 motor vehicle under this section shall provide the owner with a card
15 indicating the existence of the policy. The operator of the motor
16 vehicle shall at all times carry in the vehicle the card indicating
17 the existence of the policy.

18 * Sec. 16. AS 28.20.490 is amended to read:

19 Sec. 28.20.490. MONEY OR SECURITIES AS PROOF. Proof of finan-
20 cial responsibility may be evidenced by the deposit of \$100,000
21 [\$25,000] in cash, or securities which are legal investments for
22 saving banks or trust funds having a market value of \$100,000
23 [\$25,000]. The department shall not accept a deposit unless accom-
24 panied by evidence that there are no unsatisfied judgments of any
25 character against the depositor in the recording district where the
26 depositor resides.

27 * Sec. 17. AS 28 is amended by adding a new chapter to read:

28 CHAPTER 22. MOTOR VEHICLE LIABILITY INSURANCE.

29 Sec. 28.22.010. MOTOR VEHICLE LIABILITY POLICY. (a) In

1 AS 28.10.011, AS 28.15.011, and this chapter "motor vehicle liability
2 policy" means an "owner policy" or an "operator's policy" containing
3 an agreement or endorsement as provided in this section and issued by
4 an insurance carrier authorized to transact business in the state to
5 or for the benefit of the person named as insured.

6 (b) The owner's policy of liability insurance shall

7 (1) designate by description or appropriate reference all
8 vehicles that it covers;

9 (2) insure the person named and every other person using
10 the vehicle with the express or implied permission of the named insur-
11 ed, against loss from the liability imposed by law for damages arising
12 out of the ownership, maintenance, or use of the vehicle in the United
13 States or the Dominion of Canada, subject to limits exclusive of
14 interests and costs, with respect to each vehicle, as follows:

15 (A) \$50,000 because of bodily injury to or death of
16 one person in any one accident, and, subject to the same limit
17 for one person, \$100,000 because of bodily injury to or death of
18 two or more persons in any one accident; and

19 (B) \$25,000 because of injury to or destruction of
20 property of others in any one accident;

21 (3) contain coverage in the amounts set out in (2) of this
22 subsection for the protection of the persons insured under the policy
23 who are legally entitled to recover damages from the owner or operator
24 of an uninsured or underinsured motor vehicle because of bodily injury
25 or death, or damage to or destruction of property arising out of the
26 ownership, maintenance, or use of the uninsured or underinsured motor
27 vehicle, except that this coverage or part of it may be waived in
28 writing by the insured on or before the effective date of the policy.

29 (c) The operator's policy of liability insurance shall insure

1 the person named as insured against loss from the liability imposed on
2 the operator by law for damages arising out of the use by the operator
3 of a motor vehicle not owned by the operator, within the same territo-
4 rial limits and subject to the same limits of liability as are re-
5 quired for an owner's policy of liability insurance.

6 (d) The motor vehicle liability policy shall state the name and
7 address of the named insured, the coverage, the premium charges, the
8 policy period and the limits of liability, and shall contain an agree-
9 ment or an endorsement that insurance is provided in accordance with
10 the coverage defined in (b)(2) of this section for bodily injury and
11 death or property damage, or both.

12 (e) The motor vehicle liability policy need not insure liability
13 under a workers' compensation law nor liability for damage to property
14 owned by, rented to, in charge of, or transported by the insured.

15 (f) Every motor vehicle liability policy is subject to the
16 following provisions but these provisions need not be contained in the
17 policy:

18 (1) The liability of the insurance carrier becomes absolute
19 whenever injury or damage covered by the policy occurs. The policy
20 may not be cancelled or annulled as to this liability after the occur-
21 rence of the injury or damage. No statement made by the insured or on
22 behalf of the insured and no violation of the policy defeats or voids
23 the policy.

24 (2) The satisfaction by the insured of a judgment for
25 injury or damages is not a condition precedent to the right or duty of
26 the insurance carrier to make payment on account of injury or damage.

27 (3) The insurance carrier may settle a claim covered by the
28 policy, and if settlement is made in good faith, the amount of settle-
29 ment is deductible from the limits of liability specified in (b) of

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this section.

(4) The policy, the written application for the policy, if any, and every rider or endorsement that does not conflict with the provisions of this chapter constitute the entire contract between the parties.

(g) A policy that grants the coverage required for a motor vehicle liability policy may also grant lawful coverage in excess of or in addition to the coverage specified for a policy and the excess or additional coverage is not subject to the provisions of this chapter. With respect to a policy that grants excess or additional coverage the term "motor vehicle liability policy" applies only to that part of the coverage that is required by this section.

(h) A motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(i) A motor vehicle liability policy may provide for proration of the insurance with other valid and collectible insurance.

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers who together meet the requirements.

(k) A binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for a policy.

(l) The insurance carrier shall provide notice to the department of the termination of coverage commenced during the preceding 180 days under (a) of this section within 10 days of actual knowledge of the termination or the receipt of written notice of intent to terminate. The department may notify the insurance carrier of a person with previous policy abuses and require notice of termination of coverage

1 for the person. If the person whose coverage terminates fails to
2 provide the department with evidence satisfactory to it of the exist-
3 tence of a motor vehicle liability policy issued in conformity with
4 AS 28.22.010 or a certificate of self-insurance issued in conformity
5 with AS 28.20.400, the department shall suspend the driver's license
6 and all registration certificates and registration plates issued to
7 the owner of the motor vehicle until the person has provided the
8 department with such evidence.

9 (m) The insurance carrier authorized to transact business in the
10 state who issues a motor vehicle liability policy to the owner of a
11 motor vehicle under this section shall provide the owner with a card
12 indicating the existence of the policy. The operator of the motor
13 vehicle shall at all times carry in the vehicle the card indicating
14 the existence of the policy.

15 Sec. 28.22.020. REQUIREMENTS OF POLICY. (a) A policy is not
16 effective under AS 28.22.010 unless it is issued by an insurance
17 company or surety company authorized to do business in this state,
18 except as provided in (b) of this section, and unless it complies with
19 the limit requirements established in AS 28.22.010(b)(2).

20 (b) A policy is not effective under AS 28.22.010 with respect to
21 a vehicle not registered in the state or a vehicle that was registered
22 in another jurisdiction at the effective date of the policy or the
23 most recent renewal of it, unless the insurance or surety company
24 issuing the policy is authorized to do business in the state, or if
25 the company is not authorized to do business in the state, unless it
26 executes a power of attorney authorizing the director of the division
27 of insurance to accept service on its behalf of notice or process in
28 an action upon the policy arising out of the accident.

29 Sec. 28.22.500. DRIVING VEHICLE WITHOUT EVIDENCE OF MOTOR

1 VEHICLE LIABILITY POLICY. (a) A person may not drive or move, nor
2 may an owner knowingly permit to be driven or moved, on a highway or
3 vehicular way or area, a vehicle required to be insured under a motor
4 vehicle liability policy that complies with AS 28.22.010 or a certifi-
5 cate of self-insurance that complies with AS 28.20.400 unless a motor
6 vehicle liability policy is in effect for the motor vehicle.

7 (b) If a peace officer has probable cause to believe a motor
8 vehicle was used in the violation of (a) of this section, a citation
9 will be issued. The citation will be voided if the driver or owner of
10 a vehicle cited under this section appears at an Alaska State Trooper
11 Office or an office of the police agency that issued the citation and
12 provides evidence showing that a motor vehicle liability policy that
13 complies with AS 28.22.010 or a certificate of self-insurance that
14 complies with AS 28.20.400 was in effect at the time the citation was
15 issued.

16 (c) A person who violates (a) of this section commits a class B
17 misdemeanor. Upon conviction the court shall impose a fine of not
18 less than \$250 and may impose a fine up to the maximum amount estab-
19 lished by AS 12.55.035 for a person convicted of a class B misde-
20 meanor. The court may not suspend the minimum fine imposed under this
21 subsection.

22 (d) In addition to the fine required under (c) of this section,
23 the court shall impose the following sentence on a person convicted of
24 violating (a) of this section:

25 (1) For a person not previously convicted of an offense
26 under (a) of this section

27 (A) suspension of that person's driver's license for
28 up to 30 days; and

29 (B) suspension of the registration of the subject

1 motor vehicle until proof of compliance with AS 28.10.011(b) is
2 furnished to the department.

3 (2) For a person once previously convicted of an offense
4 under (a) of this section within 10 years

5 (A) suspension of the person's driver's license for
6 not less than 30 days nor more than 90 days with no limited
7 license privileges during the period of suspension;

8 (B) suspension of the registration of the subject
9 motor vehicle for not less than 30 days and thereafter until
10 proof of compliance with AS 28.10.011(b) is furnished to the
11 department.

12 (3) For a person twice or more previously convicted of an
13 offense under (a) of this section within 10 years suspension of that
14 person's driver's license for not less than 90 days nor more than one
15 year with no limited license privileges during the suspension and in
16 addition, either of the following:

17 (A) suspension of the registration of the subject
18 motor vehicle for not less than 90 days and thereafter until
19 proof of compliance with AS 28.10.011(b) is furnished to the
20 department; or

21 (b) forfeiture of the person's motor vehicle under
22 AS 28.22.510.

23 Sec. 28.22.510. FORFEITURE OF MOTOR VEHICLE. (a) After con-
24 viction of an offense under AS 28.22.500, if the convicted person was
25 twice or more previously convicted within the last 10 years of violat-
26 ing AS 28.22.500 or a statute in another jurisdiction with elements
27 substantially similar to AS 28.22.500, the state may move the court to
28 order the forfeiture of a motor vehicle. Upon receipt of a motion for
29 forfeiture, the court shall schedule a hearing on the matter and shall

1 notify the state of the time and place set for the hearing.

2 (b) After receiving notice of the time and place of the hearing,
3 the state shall provide to every person who has an ascertainable
4 ownership or security interest in the motor vehicle written notice
5 that includes

6 (1) a description of the motor vehicle;

7 (2) the time and place of the forfeiture hearing;

8 (3) the legal authority under which the motor vehicle may
9 be forfeited;

10 (4) notice of the right to intervene to protect the inter-
11 est in the motor vehicle.

12 (c) At the hearing, a person who claims an ownership or security
13 interest in the motor vehicle must establish by a preponderance of
14 evidence that

15 (1) the petitioner has an interest in the motor vehicle
16 acquired in good faith;

17 (2) a person other than the petitioner was convicted of
18 violating AS 28.22.500; and

19 (3) before parting with the motor vehicle, the petitioner
20 did not know or have reasonable cause to believe that it would be used
21 in the commission of an offense.

22 (d) If a person satisfies the requirements of (c) of this sec-
23 tion, the court shall order that an amount equal to the value of the
24 petitioner's interest in the motor vehicle be paid to the petitioner
25 from the proceeds of the sale of the motor vehicle, or shall order
26 that the motor vehicle be released to the petitioner together with
27 title to the motor vehicle.

28 (e) Upon forfeiture of a motor vehicle, the court shall require
29 the surrender of the registration and certificate of title of that

1 motor vehicle for delivery by the court to the department unless the
2 title is released to a petitioner under (d) of this section.

3 (f) If not released under (d) of this section, a motor vehicle
4 forfeited under this section may be disposed of at the discretion of
5 the department.

6 Sec. 28.22.520. UNUSED MOTOR VEHICLES. A person may terminate
7 or suspend a motor vehicle liability policy covering a vehicle that is
8 unused. A person exercising this option shall remove the unused
9 vehicle plates and deliver them to the nearest department office.
10 When the vehicle is to be used the person shall present evidence
11 satisfactory to the department of a motor vehicle liability policy
12 that complies with AS 28.22.010 or a certificate of self-insurance
13 that complies with AS 28.20.400 covering the vehicle and person, at
14 which time the department shall reissue vehicle plates to the person.

15 Sec. 28.22.530. ANNUAL REPORT. Beginning in 1988, the Depart-
16 ment of Commerce and Economic Development and Department of Public
17 Safety shall submit a joint report to the legislature no later than
18 February 1 of each year on the administration of this chapter. The
19 report shall include

20 (1) a review of this chapter's effect on the number of
21 uninsured motorists before and after it was adopted;

22 (2) the administrative problems and costs of enforcing this
23 chapter for the courts and involved departments; and

24 (3) the effect of the program on motor vehicle liability
25 premiums in the state.

26 * Sec. 18. AS 21.89.020(a) is amended to read:

27 (a) An automobile liability policy that [WHICH] insures an owner
28 or operator of a motor vehicle against loss resulting from [HIS]
29 liability for bodily injury or death, or for property injury or

1 destruction, or both, which is sold in the state [AFTER JANUARY 1,
2 1969, BY AN INSURANCE CARRIER AUTHORIZED TO TRANSACT BUSINESS IN THIS
3 STATE], shall contain limits in at least the amount prescribed for a
4 motor vehicle liability policy in AS 28.20.440(b)(2) and AS 28.22.-
5 010(b)(2), [AND MEET THE REQUIREMENTS OF AS 28.20.440(b)(3) UNLESS
6 WAIVED AS PROVIDED IN THAT PARAGRAPH].

7 * Sec. 19. AS 21.89.020 is amended by adding a new subsection to read:

8 (c) In addition to the coverages and limits required in (a) of
9 this section, an insurance company offering automobile liability
10 insurance in this state shall offer coverage, with limits equal to at
11 least the limit purchased voluntarily to cover the insured persons
12 liability, for the protection of the persons insured under the policy
13 who are legally entitled to recover damages from owners or operators
14 of uninsured or underinsured motor vehicles. The coverage shall be
15 offered in four parts, one or more of which may be waived under
16 AS 28.20.440(b)(3) or AS 28.22.010(b)(3). The parts are:

- 17 (1) uninsured motorists, bodily injury;
- 18 (2) uninsured motorists, property damage;
- 19 (3) underinsured motorists, bodily injury; and
- 20 (4) underinsured motorists, property damage.

21 * Sec. 20. Section 7 of this Act takes effect January 1, 1985.

22 * Sec. 21. Sections 18 and 19 of this Act take effect January 1, 1984.

23 * Sec. 22. Except for secs. 7, 18, and 19, this Act takes effect July
24 1, 1984.

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465 000

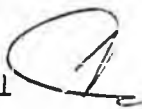
LEGISLATIVE AFFAIRS AGENCY

M E M O R A U M

June 21, 1983

SUBJECT: Mandatory motor vehicle insurance
 (SCS CSSSHB 7 (L&C))

TO: Senator Richard I. Eliason
 Chair, Senate Labor and Commerce Committee

FROM: Richard C. Folta
 Legislative Counsel 

Here is the sectional analysis you requested for SCS
CSSSHB 7 (L&C).

Section 1 sets out the findings by the legislature on why
mandatory motor vehicle insurance is necessary in the state.

Section 2 adds a new section to AS 45.45 relating to motor
vehicle warranties.

AS 45.45.300(a) places a duty on a manufacturer or distribu-
tor of motor vehicles, or their agents or dealers, to make
repairs under the terms of express warranties that apply to
new vehicles, during the term of the warranty or one year,
whichever period ends first.

AS 45.45.300(b) provides that if a motor vehicle cannot be
repaired under the terms of the warranty after a reasonable
number of attempts, and the defect that cannot be repaired
substantially impairs the use and value of the vehicle, the
owner may return the vehicle and receive a new, comparable
replacement or a refund of the purchase price, at the option
of the owner.

AS 45.45.300(c) gives the manufacturer, distributor, agent
or dealer two affirmative defenses to the owner's claim for
replacement or refund:

(1) that the defect complained of does not substan-
tially impair the use and value of the vehicle; and

(2) that the defect is the fault of the owner or any other party not an official representative of the manufacturer, distributor, agent or dealer.

AS 45.45.300(d) establishes a presumption that a reasonable number of attempts to repair the vehicle have occurred if the defect has been repaired four or more times during a year, but continues to exist, or if the vehicle is out of service for more than 30 days during the warranty term or the one-year period. The one-year time period during which the owner may seek repair is extended by periods during which repairs are not available for reasons that are not the responsibility of the owner. The 30 day time period does not include periods of time when repairs are not made for reasons that are beyond the control of the manufacturer, distributor, agent, or dealer.

AS 456.45.300(e) makes violation of the section an unfair trade practice under AS 45.50.471.

AS 45.45.300(f) prohibits the resale of a vehicle returned under the section, without full disclosure of the reason for the return to the prospective buyer.

AS 45.45.300(g) makes the remedy provided by the section non-exclusive and allows owners to seek remedies that they may have under other provisions of law.

AS 45.45.300(h) requires manufacturers or distributors to maintain warranty service facilities near population centers of the state to service vehicles sold in the state. Manufacturers or distributors may contract with independent facilities to provide warranty service if the contract requires full payment for such service. Payment for shipping motor vehicles to and from service facilities is allowed in lieu of establishing additional facilities.

AS 45.45.300(i) requires owners to resort to informal dispute settlement procedures established under federal law, if such procedures exist in the state, before exercising the rights provided in (b) of the section.

AS 45.45.300(j) provides that no claim may be filed by the owner more than 12 months after expiration of the express warranty.

AS 45.45.300(k) defines terms used in the section, including "distributor", "motor vehicle", "owner", "population center", "substantial impairment of use and value", and "reasonable allowance".

Section 3 provides for an amendment to AS 28.20.440(b)(3) for insurance coverage for underinsured motor vehicles and for damage to or destruction of property arising from underinsured vehicles.

Section 4 amends AS 21.89.020(a) to require a motor vehicle liability policy to contain 50,000/100,000/25,000 coverage.

Section 5 amends AS 21.89.020 by adding a subsection requiring 50,000/100,000/25,000 coverage for uninsured and underinsured motorists.

Section 6 adds "mobile homes" to the list of eleven other vehicles exempt from motor vehicle registration under AS 28.10.011.

Section 7 adds a new subsection to AS 28.10.011 requiring evidence of a motor vehicle liability policy or a certificate of self-insurance or deposit of cash, securities or bonds, before a motor vehicle may be registered or a registration renewed in the state. A second new subsection allows submittal of an affidavit exempting an owner for vehicles out-of-state or in certain communities served by the Alaska ferries off the connected state highway system.

Section 8 adds a new subsection to AS 28.10.021 requiring applicants for vehicle registration to comply with AS 28.10.011(b) or (c).

Section 9 adds a new subsection to AS 28.10.111 requiring applications for renewal of vehicle registration to comply with AS 28.10.011(b) or (c).

Section 10 adds a new subsection to AS 28.10.131 allowing temporary permits for a maximum of 30 days for driving or moving unused motor vehicles for repair, maintenance, etc. purposes.

Section 11 adds a new paragraph to AS 28.10.151 allowing a temporary permit for a maximum of 30 days for moving or driving a motor vehicle for repair, maintenance, etc. purposes.

Section 12 amends AS 28.10.181 by adding a new subsection relating to issuance of unique vehicle plates to vehicles exempt from liability insurance requirements of AS 28.10.011(b).

Section 13 amends AS 28.10.201(b) by adding a number of motor vehicles exempt from registration, that may have a certificate of title issued, i.e., special mobile equipment vehicles moved by human or animal power, vehicles driven only on private property or driven or moved on certain highways, and mobile homes; only upon application by the owner.

Section 14 adds a new subsection to AS 28.15.011 to require evidence of motor vehicle liability policy, self-insurance, or deposit of cash, securities or bonds, before a drivers license may be issued, renewed or reissued.

Section 15 adds a new subsection to AS 28.15.011 requiring suspension of a drivers license if insurance coverage is terminated and if no response is made to a 30-day written notice.

Section 16 amends the driver examination subsection to provide for testing applicants on knowledge of mandatory insurance provisions, and effects of alcohol or drugs on drivers.

Sections 17, 18, 19, and 20 increase insurance coverage minimums to \$50,000/\$100,000/\$25,000.

Section 21 provides for an amendment to AS 28.20.440(b)(3) for insurance coverage for underinsured motor vehicles and for damage to or destruction of property arising from underinsured vehicles.

Section 22 adds new subsections to AS 28.20.440 relating to insurance termination and policy abuses; and suspension of licenses and registration unless there is evidence of motor vehicle liability insurance or a certificate of self-insurance or cash, securities or bonds; and for the insurance company to provide cards indicating the existence of an insurance policy for the insured.

Section 23 increases financial responsibility deposit minimums to \$100,000 in cash or securities, in AS 28.20.490.

Section 24 adds a new chapter, AS 28.22, providing criteria for the mandatory motor vehicle liability insurance for the state, covering generally the following:

- (1) defines "motor vehicle liability policy";
- (2) provides minimum \$50,000/\$100,000/\$25,000 insurance for primary and underinsured and uninsured coverages;
- (3) provides coverage for vehicles not owned by the policy holder;
- (4) provides for standard insurance provisions that will be effective but need not be contained in the policy;
- (5) allows for excess insurance coverage;
- (6) additional standard insurance provisions that will be contained in a policy -- including a ten day notice of termination by the carrier to the state and requirement for a card indicating existence of a policy.
- (7) relates to insurance carrier's requirements in doing business in the state before insurance policies are effective;
- (8) relates to provisions for sanctions, for persons driving without a motor vehicle liability policy or proof of self-insurance, i.e., the issuance of a citation, fines of not less than \$250 for a class B misdemeanor, suspension of licenses and registration for periods of time and forfeiture of a motor vehicle, depending on previous record of offenses.
- (9) sets out the procedure for forfeiture of motor vehicles, giving notice to all interested parties, allowing for a hearing, requiring court findings; and surrender of documents and sale of vehicle;
- (10) provides procedure for terminating an insurance policy and for reinstating policies regarding unused motor vehicles; and

Senator Richard I. Eliason
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June 22, 1933

(11) requires a department annual report to the legislature on the effect, problems and administration of the mandatory insurance program.

Section 25 provides for a January 1, 1985 deadline for insurance carriers to develop a motor vehicle liability policy for state drivers that complies with this Act (Secs. 3, 4, and 5).

Section 26 provides for an effective date of July 1, 1984 for this Act with the exception of the provisions in Secs. 3, 4, 5, and 14.

RCF:ljb
25/017

Version #1
Folta
6/22/83

Original sponsors: Hayes, Barnes,
Phillips, et al

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 7 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor vehicles; and providing for
7 an effective date."

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

9 * Section 1. DECLARATION OF PURPOSE. (a) The legislature is concerned
10 over the rising toll of motor vehicle accidents and the suffering and loss
11 inflicted by them. The legislature determines that it is a matter of grave
12 concern that motorists be financially responsible for their negligent acts
13 so that innocent victims of motor vehicle accidents may be recompensed for
14 the injury and financial loss inflicted upon them. The legislature finds
15 and declares that the public interest can best be served by the requirement
16 that the owner of a motor vehicle be required to furnish evidence of the
17 existence of a motor vehicle liability policy issued in conformity with
18 AS 28.22.010 or of a certificate of self-insurance issued under AS 28.20.-
19 400 when the vehicle registration is made or renewed as a prerequisite to
20 the exercise of the privilege of registering and operating a motor vehicle
21 in the state.

22 (b) The legislature further finds and declares that the public
23 interest can be best served by providing for the improvement of motor
24 vehicle warranty.

25 * Sec. 2. AS 45.45 is amended by adding a new section to read:

26 ARTICLE 6. MOTOR VEHICLE WARRANTIES.

27 Sec. 45.45.300. MOTOR VEHICLE WARRANTIES. (a) If a new motor
28 vehicle does not conform to an express warranty that is applicable to
29 it and the owner of the vehicle reports the nonconformity in writing

1 to the manufacturer or distributor of the vehicle, the agent of the
 2 manufacturer or distributor, or the manufacturer's or distributor's
 3 dealer during the term of the warranty or within one year after the
 4 date of delivery of the motor vehicle to the owner, whichever date is
 5 earlier, the manufacturer, distributor, agent, or dealer shall make
 6 the necessary repairs to conform the vehicle under the express
 7 warranty.

8 (b) If a manufacturer, distributor, agent, or dealer is unable
 9 to conform the motor vehicle under an applicable express warranty
 10 under (a) of this section after a reasonable number of attempts and
 11 the nonconformity is a defect or condition that substantially impairs
 12 the use and market value of the motor vehicle to the owner, the
 13 manufacturer or distributor shall accept the return of the defective
 14 motor vehicle and shall, at its option, replace the motor vehicle with
 15 a new, comparable motor vehicle, or refund the full purchase price to
 16 the owner, including all collateral charges less a reasonable
 17 allowance for the consumer's use of the motor vehicle. A refund under
 18 this subsection shall be made to the owner and to a lienholder as
 19 their respective interests appear.

20 (c) It is an affirmative defense to a claim made under (b) of
 21 this section for a new motor vehicle or a refund that the nonconformi-
 22 ty complained of

23 (1) does not substantially impair the use and market value
 24 of the motor vehicle; or

25 (2) is the result of abuse, unreasonable neglect, or un-
 26 authorized modification or alteration of the motor vehicle by the
 27 owner or any other party who is not an official representative of the
 28 manufacturer, distributor, agent, or dealer.

29 (d) A presumption that a reasonable number of attempts have been

Yellow indicated new lang.

was taken out

If the nonconformity is a defect in the motor vehicle that makes it unsafe for the owner to operate it & the defect is reported under (a) of this section, the time period for repair, refund, or replacement under (b) of this section is reduced to 14 days.

1 undertaken to conform a motor vehicle under an applicable express
2 warranty is established if (1) the same nonconformity has been subject
3 to repair four or more times by the manufacturer or distributor, its
4 agent, or its dealer during the term of the warranty or the one-year
5 period after delivery of the motor vehicle to the owner, whichever
6 period terminates first, but the nonconformity continues to exist; or
7 (2) the vehicle is out of service for repair for a total of 30 or more
8 business days during the warranty term or the one-year period referred
9 to in (1) of this subsection, whichever period terminates first. (The
10 warranty term or the one-year period referred to in (1) of this sub-
11 section is extended by any period during which repair services are not
12 available to the owner for reasons that are not the responsibility of
13 the owner.) Any period of time that repairs are not performed for
14 reasons that are beyond the control of the manufacturer or the manu-
15 facturer's agent is excluded from the 30-day time period referred to
16 in (2) of this subsection.

*In, but
worded
slightly
differently*

17 (e) A failure to replace or refund the purchase price of a motor
18 vehicle when there is a requirement to do so under this section is an
19 unfair trade practice under AS 45.50.471.

20 (f) A motor vehicle returned under (b) of this section may not
21 be resold unless full disclosure of the reasons for the return is made
22 to the prospective buyer before the resale is concluded.

23 (g) The provisions of this section do not limit other rights and
24 remedies that may be available to the owner of a motor vehicle under
25 other provisions of law.

26 (h) A manufacturer or distributor of motor vehicles sold in the
27 state under manufacturer's or distributor's express warranty shall
28 maintain a repair facility that is able to perform the service and
29 make the repairs required by the warranty and by this section. A

1 manufacturer or distributor may comply with the requirements of this
2 subsection by entering into a warranty service contract with an inde-
3 pendent service and repair facility that provides for the manufacturer
4 or distributor to reimburse the facility for all service and repairs
5 that are covered by the written independent service contract. In lieu
6 of establishing a repair facility or entering into a warranty service
7 contract with an independent service and repair facility as required
8 by this subsection, a manufacturer or distributor may pay the actual
9 costs of shipping a motor vehicle to and from the nearest authorized
10 facility for warranty service and repairs.

11 (i) If a manufacturer or distributor has established an informal
12 dispute settlement procedure in the state that substantially complies
13 with the provisions of 16 C.F.R. Part 703, as that Part may be
14 amended, the provisions of (b) of this section concerning refund or
15 replacement do not apply to an owner who has not first resorted to the
16 informal dispute settlement procedure.

17 (j) No claim under this section may be filed by an owner more
18 than 12 months after expiration of the express warranty.

19 (k) In this section

20 (1) "distributor" means an agent of a manufacturer or a
21 corporation engaged in the wholesale distribution of motor vehicles to
22 retail motor vehicle dealers;

23 (2) "motor vehicle" or "vehicle" means a motor vehicle as
24 defined in AS 28.35.260 that is purchased for personal, family, or
25 household purposes and required to be registered under AS 28.10 or
26 with a governmental agency of another jurisdiction performing a
27 similar function;

28 (3) "owner" means a purchaser, other than for resale, of a
29 new motor vehicle, a person to whom the motor vehicle is transferred

1 during the term of an express warranty applicable to the vehicle, or
2 any other person entitled to enforce an express warranty on the vehi-
3 cle under the terms of the warranty;

4 (4) "reasonable allowance" means an amount attributable to
5 a consumer's use of a motor vehicle, but does not include any period
6 after the consumer's first report to the manufacturer, or any of its
7 authorized agents or dealers, of a nonconformity with an express
8 warranty applicable to the motor vehicle during which the motor
9 vehicle is out of service due to the nonconformity;

10 (5) "substantially impairs use and value" refers to a
11 defect or condition in a vehicle that

12 (A) prevents it from being operated;

13 (B) makes it unsafe to operate; or

14 (C) decreases the economic life of the vehicle.

15 * Sec. 3. AS 28.20.440(b)(3) is amended to read:

16 (3) contain coverage in the amounts set out in (2) of this
17 subsection for the protection of the persons insured under the policy
18 who are legally entitled to recover damages from owners or operators
19 of uninsured or underinsured motor vehicles because of bodily injury
20 or death, or damage to or destruction of property arising out of the
21 ownership, maintenance or use of the uninsured or underinsured motor
22 vehicle, except that this coverage or part of it may be waived in
23 writing by the insured on or before the effective date of the policy.

24 * Sec. 4. AS 21.89.020(a) is amended to read:

25 (a) An automobile liability policy that [WHICH] insures an owner
26 or operator of a motor vehicle against loss resulting from [HIS]
27 liability for bodily injury or death, or for property injury or de-
28 struction, or both, which is sold in the state [AFTER JANUARY 1, 1969,
29 BY AN INSURANCE CARRIER AUTHORIZED TO TRANSACT BUSINESS IN THIS

1 STATE], shall contain limits in at least the amount prescribed for a
2 motor vehicle liability policy in AS 28.20.440(b)(2) [, AND MEET THE
3 REQUIREMENTS OF AS 28.20.440(b)(3) UNLESS WAIVED AS PROVIDED IN THAT
4 PARAGRAPH].

5 * Sec. 5. AS 21.89.020 is amended by adding a new subsection to read:

6 (c) In addition to the coverages and limits required in (a) of
7 this section, an insurance company offering automobile liability
8 insurance in this state shall offer coverage, with limits equal to at
9 least the limit purchased voluntarily to cover the insured persons
10 liability, for the protection of the persons insured under the policy
11 who are legally entitled to recover damages from owners or operators
12 of uninsured or underinsured motor vehicles. The coverage shall be
13 offered in four parts, one or more of which may be waived under
14 AS 28.20.440(b)(3). The parts are:

- 15 (1) uninsured motorists, bodily injury;
- 16 (2) uninsured motorists, property damage;
- 17 (3) underinsured motorists, bodily injury; and
- 18 (4) underinsured motorists, property damage.

19 * Sec. 6. AS 28.10.011 is amended by adding a new paragraph to read:

20 (12) a mobile home as defined by regulation.

21 * Sec. 7. AS 28.10.011 is amended by adding new subsections to read:

22 (b) An owner of a motor vehicle may not register a motor vehicle
23 in the state and may not renew the registration of a motor vehicle in
24 the state without providing evidence satisfactory to the department of
25 the existence of (1) a motor vehicle liability policy that complies
26 with AS 28.22.010; or (2) a certificate of self-insurance that
27 complies with AS 28.20.400; or (3) cash, securities or a bond deposit-
28 ed or filed with the department on the terms and conditions that will
29 provide the same benefits available under a required motor vehicle

liability insurance

1 liability policy.

2 (c) An owner of a motor vehicle is exempt from (b) of this
 3 section if that person submits to the department an affidavit in the
 4 form prescribed by the department declaring, under penalty of perjury,
 5 that either (1) the motor vehicle will be continuously garaged and
 6 operated outside the state and explaining the reasons why the motor
 7 vehicle will be continuously garaged and operated outside the state;
 8 or (2) the motor vehicle will only be operated in communities where
 9 the highways or vehicular ways of that community are only accessible
 10 to the connected state highway system by the Alaska Marine ferries,
 11 with the exception of the following communities: (A) Juneau; (B)
 12 Sitka; (C) Kodiak; (D) Ketchikan; (E) Cordova; (F) Petersburg; (G)
 13 Wrangell. A person who violates a provision of an affidavit submitted
 14 under this subsection is subject to penalties under AS 28.10.491(9)-
 15 (B). A person required to maintain and show proof of financial re-
 16 sponsibility required by AS 28.20, may not claim an exemption under
 17 this subsection.

exemption

18 (d) A person who registers a motor vehicle in compliance with
 19 (c) of this section by signing an affidavit in lieu of providing the
 20 department with proof of financial responsibility shall be issued
 21 unique vehicle plates under AS 28.10.181(1). When the person provides
 22 proof of financial responsibility for the motor vehicle under (b) of
 23 this section, and returns the unique vehicle plates, the person shall
 24 be issued vehicle plates under AS 28.10.161 or AS 28.10.181.

25 * Sec. 8. AS 28.10.021 is amended by adding a new subsection to read:

26 (b) A certificate of registration may not be issued under this
 27 section unless the owner complies with AS 28.10.011(b) or (c).

28 * Sec. 9. AS 28.10.111 is amended by adding a new subsection to read:

29 (c) The department may not renew the registration of a motor

*Similar to
Sec 2 of
HB 184*

1 vehicle under this section unless the owner complies with AS 28.10.-
2 011(b) or (c).

3 * Sec. 10. AS 28.10.131 is amended by adding a new subsection to read:

4 (c) A person registering a vehicle under AS 28.10.011(c) may be
5 issued a temporary permit by the department to operate or transport
6 the motor vehicle in areas other than those to which the vehicle is
7 restricted under AS 28.10.011(c), if the vehicle is to be moved or
8 driven only for the purpose of maintenance, repair, rebuilding or
9 dismantling. A person applying for this permit shall provide adequate
10 evidence to the department that the vehicle will be operated only for
11 the purposes for which the permit may be granted. A permit granted
12 under this subsection is effective for no more than 30 days.

13 * Sec. 11. AS 28.10.151 is amended by adding a new paragraph to read:

14 (4) a vehicle subject to AS 28.22.520 that is to be moved
15 or driven only for the purpose of maintenance, repair, rebuilding or
16 dismantling; this permit shall be effective for 30 days.

17 * Sec. 12. AS 28.10.181 is amended by adding a new subsection to read:

18 (1) Uninsured motor vehicles. A person who registers a motor
19 vehicle under AS 28.10.011(c) in lieu of AS 28.10.011(b) shall be
20 issued unique vehicle plates. When the person provides proof of
21 financial responsibility for the motor vehicle under AS 28.10.011(b),
22 the person upon returning the unique plates, shall be issued vehicle
23 plates under AS 28.10.161 or this section.

24 * Sec. 13. AS 28.10.201(b) is amended to read:

25 (b) The owner of a vehicle described in AS 28.10.011 as being
26 exempt from registration and the owner of a snowmobile or off-highway
27 vehicle may not apply for, nor may the department issue, a certificate
28 of title for such a vehicle. However, the department may issue a
29 certificate of title to the owner of a vehicle exempt from

1 registration under AS 28.10.011(a)(3), (7), (11) and (12) only
2 [28.10.011(6)], upon application by that owner.

3 * Sec. 14. AS 28.15.011 is amended by adding a new subsection to read:

4 (d) A person's driver's license may be issued, renewed, or
5 reissued following a suspension or revocation under this chapter only
6 on presentation of evidence satisfactory to the department of the
7 existence of a motor vehicle liability policy that complies with
8 AS 28.22.010 or a certificate of self-insurance that complies with
9 AS 28.20.400 for all motor vehicles owned by the person and registered
10 in the person's name under AS 28.10.011(b) or (c) and located within
11 the state. Cash, securities, or a bond that will provide the same
12 benefits available under a required motor vehicle liability policy may
13 be deposited or filed with the department in lieu of a motor vehicle
14 liability policy or certificate of self insurance.

15 * Sec. 15. AS 28.15.011 is amended by adding a new subsection to read:

16 (e) The department shall suspend the driver's license of a
17 person when the department is advised that the person's insurance
18 coverage is terminated and there has been no written response by the
19 person within thirty days to a written notice issued by the department
20 to the person requesting verification of compliance with AS 28.15.-
21 011(d).

22 * Sec. 16. AS 28.15.081(a) is amended to read:

23 (a) The department shall examine every applicant for a driver's
24 license. The examination shall include a test of the applicant's (1)
25 eyesight, (2) [HIS] ability to read and understand official traffic
26 control devices, (3) [HIS] knowledge of safe driving practices, (4)
27 knowledge of the effects of alcohol and drugs on drivers and the
28 dangers of driving under the influence of alcohol or drugs. (5) knowl-
29 edge of laws relating to driving while intoxicated, (6) knowledge of

1 laws relating to financial responsibility, and (7) knowledge of the
2 traffic laws and regulations of this state. The examination [, AND]
3 may include a demonstration of ability to exercise ordinary and rea-
4 sonable control in the driving of a motor vehicle of the type and
5 general class of vehicles for which the applicant seeks a license.
6 However, an applicant who has not been previously issued a driver's
7 license by this or another jurisdiction must demonstrate [HIS] abil-
8 ity, and must present medical information that [WHICH] the department
9 reasonably requires to determine [HIS] fitness to safely drive a motor
10 vehicle of the type and general class of vehicles for which the appli-
11 cant [HE] seeks a license.

12 * Sec. 17. AS 28.20.070(a) is amended to read:

13 (a) No policy or bond is effective under AS 28.20.060 unless it
14 is issued by an insurance company or surety company authorized to do
15 business in this state, except as provided in (b) of this section, and
16 if the accident resulted in bodily injury or death, unless the policy
17 or bond is subject to a limit, exclusive of interest and costs, of not
18 less than \$50,000 [\$25,000] because of bodily injury to or death of
19 one person in any one accident and, subject to the same limit for one
20 person, to a limit of not less than \$100,000 [\$50,000] because of
21 bodily injury to or death of two or more persons in any one accident,
22 and if the accident has resulted in injury to, or destruction of,
23 property to a limit of not less than \$25,000 [\$10,000] because of
24 injury to or destruction of property of others in any one accident.

25 * Sec. 18. AS 28.20.230(b) is amended to read:

26 (b) The term "proof of financial responsibility for the future"
27 as used in this chapter means proof of ability to respond in damages
28 for liability, on account of an accident occurring after the effective
29 date of proof, which arises out of the ownership, maintenance or use

1 of a vehicle subject to registration under the laws of this state, in
2 the amount of \$50,000 [\$25,000] because of bodily injury to or death
3 of one person in any one accident, and, subject to the same limit for
4 one person, in the amount of \$100,000 [\$50,000] because of bodily
5 injury to or death of two or more persons in any one accident, and in
6 the amount of \$25,000 [\$10,000] because of injury to or destruction of
7 property of others in any one accident. As used in this chapter the
8 terms "proof of financial responsibility" or "proof" mean proof of
9 financial responsibility for the future.

10 * Sec. 19. AS 28.20.360(a) is amended to read:

11 (a) For the purpose of this chapter, a judgment is satisfied
12 when

13 (1) \$50,000 [\$25,000] is credited upon a judgment given in
14 excess of that amount because of bodily injury to or death of one
15 person as the result of any one accident; or

16 (2) subject to the limit of \$50,000 [\$25,000] because of
17 bodily injury to or death of one person, the sum of \$100,000 [\$50,000]
18 is credited upon a judgment given in excess of that amount because of
19 bodily injury to or death of two or more persons as the result of any
20 one accident; or

21 (3) \$25,000 [\$10,000] is credited upon a judgment given in
22 excess of that amount because of injury to or destruction of property
23 of others as a result of any one accident.

24 * Sec. 20. AS 28.20.440(b)(2) is amended to read:

25 (2) insure the person named and every other person using
26 the vehicle with the express or implied permission of the named insur-
27 ed, against loss from the liability imposed by law for damages arising
28 out of the ownership, maintenance or use of the vehicle within the
29 United States of America or the Dominion of Canada, subject to limits

1 exclusive of interests and costs, with respect to each vehicle, as
2 follows: \$50,000 [\$25,000] because of bodily injury to or death of
3 one person in any one accident, and, subject to the same limit for one
4 person, \$100,000 [\$50,000] because of bodily injury to or death of two
5 or more persons in any one accident, and \$25,000 [\$10,000] because of
6 injury to or destruction of property of others in any one accident;

7 * Sec. 21. AS 28.20.440(b)(3) is amended to read:

8 (3) contain coverage in the amounts set out in (2) of this
9 subsection for the protection of the persons insured under the policy
10 who are legally entitled to recover damages from owners or operators
11 of uninsured or underinsured motor vehicles because of bodily injury
12 or death, or damage to or destruction of property arising out of the
13 ownership, maintenance or use of the uninsured or underinsured motor
14 vehicle, except that this coverage or part of it may be waived in
15 writing by the insured on or before the effective date of the policy.

16 * Sec. 22. AS 28.20.440 is amended by adding new subsections to read:

17 (1) The insurance carrier shall provide notice to the department
18 of the termination of coverage commenced during the preceding 180 days
19 under (a) of this section within 10 days of actual knowledge of the
20 termination or the receipt of written notice of intent to terminate.
21 The department may notify the insurance carrier of a person with
22 previous policy abuses and require notice of termination of coverage
23 for the person. If the person whose coverage terminates fails to
24 provide the department with evidence satisfactory to it of the exist-
25 tence of (1) a motor vehicle liability policy issued in conformity
26 with AS 28.20.440; or (2) a certificate of self-insurance issued in
27 conformity with AS 28.20.400; or (3) cash, securities or a bond depos-
28 ited or filed with the department on the terms and conditions that
29 will provide the same benefits available under a required motor

1 vehicle liability policy, the department shall suspend the driver's
2 license and all registration certificates and registration plates
3 issued to the person until the person has provided the department with
4 such evidence.

5 (m) An insurance carrier authorized to transact business in the
6 state that issues a motor vehicle liability policy to the owner of a
7 motor vehicle under this section shall provide the owner with a card
8 indicating the existence of the policy. The operator of the motor
9 vehicle shall at all times carry in the vehicle the card indicating
10 the existence of the policy.

11 * Sec. 23. AS 28.20.490 is amended to read:

12 Sec. 28.20.490. MONEY OR SECURITIES AS PROOF. Proof of finan-
13 cial responsibility may be evidenced by the deposit of \$100,000
14 [\$25,000] in cash, or securities which are legal investments for
15 saving banks or trust funds having a market value of \$100,000
16 [\$25,000]. The department shall not accept a deposit unless accom-
17 panied by evidence that there are no unsatisfied judgments of any
18 character against the depositor in the recording district where the
19 depositor resides.

20 * Sec. 24. AS 28 is amended by adding a new chapter to read:

21 CHAPTER 22. MOTOR VEHICLE LIABILITY INSURANCE.

22 Sec. 28.22.010. MOTOR VEHICLE LIABILITY POLICY. (a) In AS 28.-
23 10.011, AS 28.15.011, and this chapter "motor vehicle liability
24 policy" means an "owner policy" or an "operator's policy" containing
25 an agreement or endorsement as provided in this section and issued by
26 an insurance carrier authorized to transact business in the state to
27 or for the benefit of the person named as insured.

28 (b) The owner's policy of liability insurance shall

29 (1) designate by description or appropriate reference all

1 vehicles that it covers;

2 (2) insure the person named and every other person using
3 the vehicle with the express or implied permission of the named insur-
4 ed, against loss from the liability imposed by law for damages arising
5 out of the ownership, maintenance, or use of the vehicle in the United
6 States or the Dominion of Canada, subject to limits exclusive of
7 interests and costs, with respect to each vehicle, as follows:

8 (A) \$50,000 because of bodily injury to or death of
9 one person in any one accident, and, subject to the same limit
10 for one person, \$100,000 because of bodily injury to or death of
11 two or more persons in any one accident; and

12 (B) \$25,000 because of injury to or destruction of
13 property of others in any one accident;

14 (3) contain coverage in the amounts set out in (2) of this
15 subsection for the protection of the persons insured under the policy
16 who are legally entitled to recover damages from the owner or operator
17 of an uninsured or underinsured motor vehicle because of bodily injury
18 or death, or damage to or destruction of property arising out of the
19 ownership, maintenance, or use of the uninsured or underinsured motor
20 vehicle, except that this coverage or part of it may be waived in
21 writing by the insured on or before the effective date of the policy.

22 (c) The operator's policy of liability insurance shall insure
23 the person named as insured against loss from the liability imposed on
24 the operator by law for damages arising out of the use by the operator
25 of a motor vehicle not owned by the operator, within the same territo-
26 rial limits and subject to the same limits of liability as are re-
27 quired for an owner's policy of liability insurance.

28 (d) The motor vehicle liability policy shall state the name and
29 address of the named insured, the coverage, the premium charges, the

1 policy period and the limits of liability, and shall contain an agree-
2 ment or an endorsement that insurance is provided in accordance with
3 the coverage defined in (b)(2) of this section for bodily injury and
4 death or property damage, or both.

5 (e) The motor vehicle liability policy need not insure liability
6 under a workers' compensation law nor liability for damage to property
7 owned by, rented to, in charge of, or transported by the insured.

8 (f) Every motor vehicle liability policy is subject to the
9 following provisions but these provisions need not be contained in the
10 policy:

11 (1) The liability of the insurance carrier becomes absolute
12 whenever injury or damage covered by the policy occurs. The policy
13 may not be cancelled or annulled as to this liability after the occur-
14 rence of the injury or damage. No statement made by the insured or on
15 behalf of the insured and no violation of the policy defeats or voids
16 the policy.

17 (2) The satisfaction by the insured of a judgment for
18 injury or damages is not a condition precedent to the right or duty of
19 the insurance carrier to make payment on account of injury or damage.

20 (3) The insurance carrier may settle a claim covered by the
21 policy, and if settlement is made in good faith, the amount of settle-
22 ment is deductible from the limits of liability specified in (b) of
23 this section.

24 (4) The policy, the written application for the policy, if
25 any, and every rider or endorsement that does not conflict with the
26 provisions of this chapter constitute the entire contract between the
27 parties.

28 (g) A policy that grants the coverage required for a motor
29 vehicle liability policy may also grant lawful coverage in excess of

1 or in addition to the coverage specified for a policy and the excess
 2 or additional coverage is not subject to the provisions of this chap-
 3 ter. With respect to a policy that grants excess or additional cover-
 4 age the term "motor vehicle liability policy" applies only to that
 5 part of the coverage that is required by this section.

6 (h) A motor vehicle liability policy may provide that the in-
 7 sured shall reimburse the insurance carrier for any payment the insur-
 8 ance carrier would not have been obligated to make under the terms of
 9 the policy except for the provisions of this chapter.

10 (i) A motor vehicle liability policy may provide for proration
 11 of the insurance with other valid and collectible insurance.

12 (j) The requirements for a motor vehicle liability policy may be
 13 fulfilled by the policies of one or more insurance carriers that to-
 14 gether meet the requirements.

15 (k) A binder issued pending the issuance of a motor vehicle
 16 liability policy fulfills the requirements for a policy.

17 (l) The insurance carrier shall provide notice to the department
 18 of the termination of coverage commenced during the preceding 180 days
 19 under (a) of this section within 10 days of actual knowledge of the
 20 termination or the receipt of written notice of intent to terminate.
 21 The department may notify the insurance carrier of a person with
 22 previous policy abuses and require notice of termination of coverage
 23 for the person. If the person whose coverage terminates fails to
 24 provide the department with evidence satisfactory to it of the exis-
 25 tence of (1) a motor vehicle liability policy issued in conformity
 26 with AS 28.22.010; or (2) a certificate of self-insurance issued in
 27 conformity with AS 28.20.400; or (3) cash, securities or a bond depos-
 28 ited or filed with the department on the terms and conditions that
 29 will provide the same benefits available under a required motor

Public safety?

added to 28.22.010

listed on pg 12 as sec.22 AS.28.20.440

1 vehicle liability policy, the department shall suspend the driver's
2 license and all registration certificates and registration plates
3 issued to the owner of the motor vehicle until the person has provided
4 the department with such evidence.

5 (m) An insurance carrier authorized to transact business in the
6 state that issues a motor vehicle liability policy to the owner of a
7 motor vehicle under this section shall provide the owner with a card
8 indicating the existence of the policy. The operator of the motor
9 vehicle shall at all times carry in the vehicle the card indicating
10 the existence of the policy. 28.20.440 pg 13 (M)

11 Sec. 28.22.020. REQUIREMENTS OF POLICY. (a) A policy is not
12 effective under AS 28.22.010 unless it is issued by an insurance
13 company or surety company authorized to do business in this state,
14 except as provided in (b) of this section, and unless it complies with
15 the limit requirements established in AS 28.22.010(b)(2).

16 (b) A policy is not effective under AS 28.22.010 with respect to
17 a vehicle not registered in the state or a vehicle that was registered
18 in another jurisdiction at the effective date of the policy or the
19 most recent renewal of it, unless the insurance or surety company
20 issuing the policy is authorized to do business in the state, or if
21 the company is not authorized to do business in the state, unless it
22 executes a power of attorney authorizing the director of the division
23 of insurance to accept service on its behalf of notice or process in
24 an action upon the policy arising out of the accident.

25 Sec. 28.22.500. DRIVING VEHICLE WITHOUT EVIDENCE OF MOTOR VEHI-
26 CLE LIABILITY POLICY. (a) A person may not drive or move, nor may an
27 owner knowingly permit to be driven or moved, on a highway or vehic-
28 ular way or area, a vehicle required to be insured under a motor
29 vehicle liability policy that complies with AS 28.22.010 or a

1 certificate of self-insurance that complies with AS 28.20.400 unless a
 2 motor vehicle liability policy is in effect for the motor vehicle.
 3 Cash, securities, or a bond that will provide the same benefits
 4 available under a required motor vehicle liability policy may be
 5 deposited or filed with the department in lieu of a motor vehicle
 6 liability policy or certificate of self-insurance.

7 (b) If a peace officer has probable cause to believe a motor
 8 vehicle was used in the violation of (a) of this section, a citation
 9 will be issued. The citation will be voided if the driver or owner of
 10 a vehicle cited under this section appears at an Alaska State Trooper
 11 Office or an office of the police agency that issued the citation
 12 before the court appearance date indicated on the citation and pro-
 13 vides evidence showing that a motor vehicle liability policy that
 14 complies with AS 28.22.010 or a certificate of self-insurance that
 15 complies with AS 28.20.400 was in effect at the time the citation was
 16 issued or that cash, securities or a bond had been deposited or filed
 17 with the department at the time the citation was issued and meets
 18 conditions that will provide the same benefits available under a
 19 required motor vehicle policy.

20 (c) A person who violates (a) of this section commits a class B
 21 misdemeanor. Upon conviction the court shall impose a fine of not
 22 less than \$250 and may impose a fine up to the maximum amount estab-
 23 lished by AS 12.55.035 for a person convicted of a class B misde-
 24 meanor. The court may not suspend the minimum fine imposed under this
 25 subsection.

26 (d) In addition to the fine required under (c) of this section,
 27 the court shall impose the following sentence on a person convicted of
 28 violating (a) of this section:

29 (1) For a person not previously convicted of an offense

1 under (a) of this section

2 (A) suspension of that person's driver's license for
3 not less than 10 days or more than 30 days; and

4 (B) suspension of the registration of the subject
5 motor vehicle until proof of compliance with AS 28.10.011(b) is
6 furnished to the department.

7 (2) For a person once previously convicted of an offense
8 under (a) of this section within 10 years

9 (A) suspension of the person's driver's license for
10 not less than 30 days nor more than 90 days with no limited
11 license privileges during the minimum period of suspension; and

12 (B) suspension of the registration of the subject
13 motor vehicle for not less than 30 days and thereafter until
14 proof of compliance with AS 28.10.011(b) is furnished to the
15 department.

16 (3) For a person twice or more previously convicted of an
17 offense under (a) of this section within 10 years, suspension of that
18 person's driver's license for not less than 90 days nor more than one
19 year with no limited license privileges during the minimum suspension
20 and, in addition, either:

21 (A) suspension of the registration of the subject
22 motor vehicle for not less than 90 days and thereafter until
23 proof of compliance with AS 28.10.011(b) is furnished to the
24 department; or

25 (B) forfeiture of the person's motor vehicle under
26 AS 28.22.510.

27 Sec. 28.22.510. FORFEITURE OF MOTOR VEHICLE. (a) Upon a per-
28 son's conviction of an offense under AS 28.22.500, if the convicted
29 person was twice or more previously convicted within the last 10 years

1 of violating AS 28.22.500 or a statute in another jurisdiction with
2 elements substantially similar to AS 28.22.500, the state may move the
3 court to order the forfeiture of a motor vehicle. Upon receipt of a
4 motion for forfeiture, the court shall schedule a hearing on the
5 matter and shall notify the state of the time and place set for the
6 hearing.

7 (b) After receiving notice of the time and place of the hearing,
8 the state shall provide to every person who has an ascertainable
9 ownership or security interest in the motor vehicle written notice
10 that includes

- 11 (1) a description of the motor vehicle;
12 (2) the time and place of the forfeiture hearing;
13 (3) the legal authority under which the motor vehicle may
14 be forfeited;
15 (4) notice of the right to intervene to protect the inter-
16 est in the motor vehicle.

17 (c) At the hearing, a person who claims an ownership or security
18 interest in the motor vehicle must establish by a preponderance of
19 evidence that

- 20 (1) the petitioner has an interest in the motor vehicle
21 acquired in good faith;
22 (2) a person other than the petitioner was convicted of
23 violating AS 28.22.500; and
24 (3) before parting with the motor vehicle, the petitioner
25 did not know or have reasonable cause to believe that it would be used
26 in the commission of an offense.

27 (d) If a person satisfies the requirements of (c) of this sec-
28 tion, the court shall order that an amount equal to the value of the
29 petitioner's interest in the motor vehicle be paid to the petitioner

1 from the proceeds of the sale of the motor vehicle, or shall order
2 that the motor vehicle be released to the petitioner together with
3 title to the motor vehicle.

4 (e) Upon forfeiture of a motor vehicle, the court shall require
5 the surrender of the registration and certificate of title of that
6 motor vehicle for delivery by the court to the department unless the
7 title is released to a petitioner under (d) of this section.

8 (f) If not released under (d) of this section, a motor vehicle
9 forfeited under this section may be disposed of at the discretion of
10 the department.

11 Sec. 28.22.520. UNUSED MOTOR VEHICLES. (a) A person may termi-
12 nate or suspend a motor vehicle liability policy covering a vehicle
13 that is unused. A person exercising this option shall remove the
14 unused vehicle's plates and deliver them to the nearest department
15 office. Except as provided in (c) of this section, when the vehicle
16 is to be used the person shall present evidence satisfactory to the
17 department of a motor vehicle liability policy that complies with
18 AS 28.22.010 or a certificate of self-insurance that complies with
19 AS 28.20.400 covering the vehicle and person, at which time the de-
20 partment shall reissue vehicle plates to the person. Cash, securities
21 or a bond that will provide the same benefits available under a re-
22 quired motor vehicle policy may be deposited or filed with the depart-
23 ment in lieu of a motor vehicle liability policy or certificate of
24 self-insurance.

25 (b) The department shall retain, for a period not to exceed one
26 year, special vehicle plates turned in under this section and reissue
27 the identical plates to the person in accordance with this chapter.

28 (c) When the vehicle is to be driven or transported only for the
29 purposes for which registration is not required under AS 28.10.151,

1 the department shall issue a special permit that shall be effective
2 for a 30-day period. Presentation of evidence of financial respon-
3 sibility as required by (a) of this section is not required for issu-
4 ance of this special permit.

5 (d) A person seeking a special permit under (c) of this section
6 must present evidence satisfactory to the department that the vehicle
7 will be operated only as allowed by AS 28.10.151.

8 Sec. 28.22.530. ANNUAL REPORT. Beginning in 1988, the Depart-
9 ment of Commerce and Economic Development and Department of Public
10 Safety shall submit a joint report to the legislature no later than
11 February 1 of each year on the administration of this chapter. The
12 report shall include

13 (1) a review of this chapter's effect on the number of
14 uninsured motorists before and after it was adopted;

15 (2) the administrative problems and costs of enforcing this
16 chapter for the courts and involved departments; and

17 (3) the effect of the program on motor vehicle liability
18 premiums in the state.

19 * Sec. 25. Sections 3, 4, 5, and 14 of this Act take effect January 1,
20 1984.

21 * Sec. 26. Except for secs. 3, 4, 5, and 14, this Act takes effect
22 July 1, 1984.

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STATE OF ALASKA
FISCAL NOTE

Revision Date March , 1983

I. REQUEST

Bill/Resolution No.: CSHB 15 (Finance)
 Title: Commercial Fishing Loans
 Sponsor: Hayes, Flood, Lindauer, et al.
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Development
 Program Category Affected: Development
 BRU, Program of Subprogram(s) Affected: Loans & Veterans' Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		44.3	46.9	49.7	52.7	55.9
200 TRAVEL		7.9	8.3	8.8	9.3	9.9
300 CONTRACTUAL		3.0	3.1	3.3	3.5	3.7
400 COMMODITIES		.5	.2	.2	.2	.2
500 EQUIPMENT		5.3	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		2.7	2.8	3.0	3.2	3.4
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		63.7	61.3	65.0	68.9	73.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		63.7	61.3	65.0	68.9	73.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: D. A. Hostak Phone: 465-2510
 Division: Loans & Veterans' Affairs Date: 3/24/83
 Approved by Commissioner: Richard A. Lyon Date: 3/25/83
 Department: Commerce & Economic Development

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

CSHB 15 (Finance) FISCAL NOTE ANALYSIS:

Provides for an Investigator III position. This position's primary responsibility would be to investigate the residency claims of applicants under the Commercial Fishing Loan Program. This would involve civil as well as criminal investigations. A large amount of the emphasis would be to insure that only qualified applicants receive loans and to prosecute applicants who provide fraudulent claims. There would also be a large amount of follow-up work. CSHB 15 (Finance) provides for an accelerated payback if a borrower terminates his State residency. All figures are based on a 6% inflation increase per year. FY '85 figures are slightly lower than FY '84, due to the elimination of one-time expenditures for equipment and commodities.

1.	POSITION TITLE Investigator III				RANGE/STEP 18A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFI	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEC.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	2,838/month	34,056.00							
6.	Benefits		5,279.00							
7.	Supplemental Benefits		2,088.00							
8.	Fixed Benefits		2,880.00							
9.	TOTAL PERSONAL SERVICES		01	44,303.00						
10.	Travel		02	7,872.00						
11.	Contractual		03	2,961.00						
12.	Commodities		04	520.00						
13.	Equipment		05	5,300.00						
14.	Other			2,700.00						
15.	TOTAL COST			63,656.00						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		63,656.00						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER _____										

13 REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
PROGRAM Economic Development
BRU Loans & Veterans' Affairs
COMPONENT _____

FY 84

Page i of 1
Revised Date 3-23-83

HOUSE SPECIAL COMMITTEE ON STATE LOANS
LETTER OF INTENT FOR CSHB 15 (Loans)

The Commercial Fishing Loan Program is a significant project for the State of Alaska. The program is intended to strengthen the state's fishing industry; to provide economic opportunities to persons who, because of the lack of training or lack of employment in the area of residency, do not have occupational opportunities otherwise available; and to aid persons who are economically dependent on fishing and for whom fishing has been a traditional way of life.

Because of its substantial contribution to the Alaska economy and traditional life style, the extant commercial fishing program is an extremely generous loan program and was intended to be so. The loans can be for up to \$300,000 to be paid back over a maximum of fifteen years at 10.5 percent interest. Frequently there is very little bankable collateral for the loan.

Testimony before the committee, experience of members of the committee, and other available material clearly establish that commercial fishing is a seasonal occupation, and that fishermen are extremely mobile. It has been shown that the pattern of fishing life makes it very difficult, if using the normal indices of intent over a short period such as one year, to distinguish between resident fishermen and non-resident fishermen.

The attractiveness of the program and the difficulty in effectively determining loan eligibility has led to a substantial percentage of fraudulent loan applications. According to the testimony given the committee, even with the current five-year residency requirement, a substantial number of questionable loan applications are filed and a significant number of false applications have been discovered.

Therefore, it is the opinion of the committee and of other legislators familiar with commercial fishing that a one-year residency requirement is not truly adequate to determine residency, which is largely a matter of subjective intent that must be inferred from objective evidence. While certainly a two-year residency requirement does not completely obviate the possibility of fraud, it significantly reduces it. For example, a bona fide Alaskan resident is less likely to spend two consecutive off-seasons outside than one off-season; and a non-resident is less likely to spend two consecutive off-seasons in Alaska than one off-season.

After examining the problem and the possible solutions, the committee has found that a durational residency requirement of two years is the most desirable solution to the problem. No narrower

method has been discovered which would produce satisfactory results. A broader test, such as a five-year residency requirement, would better achieve the aim of preventing fraud, but the gain from requiring a five-year pattern over requiring a two-year pattern is an incremental gain not a gain in kind. On the other hand, a one-year requirement has been shown unable to consistently distinguish a resident fisherman from a non-resident fisherman.

The committee recognizes the importance of the Commercial Fishing Loan Program to Alaska and strongly desires that the program be continued. It also recognizes the possibility of fraud and desires that this possibility be minimized. The committee firmly believes both objectives to be legitimate concerns of the state. The committee is of the considered opinion that these goals are more significant to the state than the opportunity to apply for a commercial fishing loan, after only one season as a resident, is to the individual.

The committee has been unable to find a narrower method of achieving these two objectives. Stronger anti-fraud measures would contribute nothing since the problem is an evidentiary problem, not a problem of penalties. Obviously hiring a horde of investigators would lessen the possibility of fraud, but such action would reduce the program's cost-effectiveness beyond practicality. Specifying other required indicia of residency would have little effect in preventing fraud since these could be obtained by a person desiring to commit fraud, and, more importantly, would result in people who are eligible for loans having their loan applications unfairly denied because they did not meet arbitrary criteria.

The committee understands that durational residency requirements for participation in state programs, especially requirements beyond one year, require substantial justification, and must be related to the particular evil they seek to remedy. There can be no serious question that this residency requirement does indeed relate directly to the evil of fraud in obtaining the loans. Given the facts in this particular situation, other, narrower, means of achieving the goal would not work reasonably satisfactorily. The prevention of fraud is a legitimate state objective and here the possibilities of fraudulently obtaining state benefits are unusually high. The committee is firmly convinced that the two-year requirement is adequately justified.

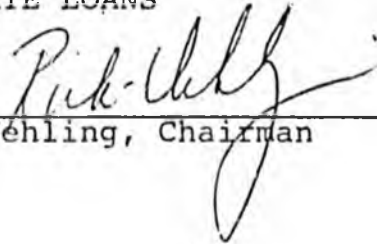
The state's interest in maintaining the fishing loan program is more important than the state's interest in minimizing fraud by requiring a two-year durational residency. It is therefore the

intent of the Legislature that, if a court of competent jurisdiction finally determines the two-year residency requirement to be unconstitutional, the two-year residency requirement should be severed and the program continued.

Should this occur, while recognizing that the effective prevention of fraud will be significantly more difficult, it is the intent of the Legislature that the administrator of the program use all means constitutionally possible to minimize the increase in successful fraud and in fraudulent applications.

Respectfully submitted,

THE HOUSE SPECIAL COMMITTEE
ON STATE LOANS



Rick Uehling, Chairman

Original sponsors: Hayes, Flood,
Lindauer, et al

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IN THE HOUSE

BY THE SPECIAL COMMITTEE
ON STATE LOANS

CS FOR HOUSE BILL NO. 15 (Loans)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to commercial fishing loans (AS 16.-
10.300 - 16.10.370)."

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 [FIVE 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 [ANY ONE] of the past five years, and who actively participated in the fishery during ^{those periods} ~~that period~~ [that period] for the purchase of entry permits;

(B) an individual who has been a state resident for a continuous period of two years [FIVE YEARS] immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.-370, who

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

(ii) is economically dependent on commercial

1 fishing for a livelihood and for whom commercial fishing has
2 been a traditional way of life [FOR HIM] in Alaska, for the
3 repair, restoration or upgrading of existing vessels and
4 gear, for the purchase of entry permits and gear, and for
5 the construction and purchase of vessels;

6 (C) corporations, partnerships, or joint ventures, 100
7 percent of which are owned by individual commercial fishermen who
8 have been state residents for a continuous period of two years
9 [FIVE YEARS] immediately preceding the date of application for a
10 loan under AS 16.10.310(a)(1)(B) and have had a crewmember or
11 commercial fishing license under AS 16.05.480 or a permit under
12 AS 16.43 for the year immediately preceding the date of applica-
13 tion and any other two [ANY ONE] of the past five years, and who
14 actively participated in the fishery during that period, for the
15 repair, restoration or upgrading of existing vessels and gear,
16 for the purchase of gear, and for the construction and purchase
17 of vessels;

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

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

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

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

27 (6) enter into agreements with other agencies or organiza-
28 tions to create an outreach program to make loans under AS 16.10.300 -
29 16.10.370 in rural areas of the state.

1 * Sec. 2. -- AS 16.10 is amended by adding a new section to read:

2 Sec. 16.10.315. ALLOCATION OF LOANS. The department shall
3 allocate at least ten percent of the money that is ^{appropriated} available to make
4 loans under AS 16.10.310 for loans of \$35,000 or less made under
5 AS 16.10.310(a)(1)(B) and (C).

6 * Sec. 3. AS 16.10.320 is amended by adding a new subsection to read:

7 (j) If a borrower ceases to be a state resident during the term
8 of a loan made under AS 16.10.310 ~~16.10.370~~, the loan shall be
9 accelerated and the outstanding principal and interest shall be repaid
10 by the borrower within 120 days after the state residence terminates.
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12 * Sec. 4. This Act takes effect immediately in
13 accordance with AS 01.10.070 e
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Effect of amendments. — The 1982 amendment, effective June 16, 1982, substituted "AS 16.10.265 — 16.10.296" for "AS 16.10.270 — 16.10.296" in the introductory language, added the language beginning "and includes fish eggs" to the end of paragraph (2), and deleted "raw" preceding "fishery resource" in paragraph (4).

Article 7. Commercial Fishing Loan Act.

Section	Section
310. Powers of the department	337. Deficiencies and transfer of entry permits after foreclosure
320. Limitations on loans	338. Entry permits as collateral
325. Guarantors	339. Regulations
330. [Repealed]	342. Special account established
333. Loans for purchase of Alaska limited entry permits	360. Definitions
335. Default and foreclosure	

Sec. 16.10.310. Powers of the department. (a) The department may

(1) make loans to

(A) individual commercial fishermen who have been state residents for a continuous period of five 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 any one of the past five years, and who actively participated in the fishery during that period, for the purpose of entry permits;

(B) an individual who has been a state resident for a continuous period of five years immediately preceding the date of application for a loan under AS 16.10.300 — 16.10.370, who (i) because of lack of training or lack of employment opportunities in the area of residence does not have occupational opportunities available other than commercial fishing; or (ii) is economically dependent on commercial fishing for a livelihood and commercial fishing has been a traditional way of life for the individual in Alaska, 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;

(C) corporations, partnerships, or joint ventures, 100 percent of which are owned by individual commercial fishermen who have been state residences for a continuous period of five years immediately preceding the date of application for a loan under AS 16.10.310(a)(1)(B) and have had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for any one of the past five years, and who actively participated in the fishery during that period, for the repair, restoration or upgrading of existing vessels and gear, for the purchase of gear, and for the construction and purchase of vessels;

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

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

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

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

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

(b) The department shall consult with the Department of Fish and Game on regulations and procedures established under this chapter. (§ 1 ch 134 SLA 1972; am § 3 ch 54 SLA 1973; am § 3 ch 128 SLA 1975; am § 1 ch 154 SLA 1977; am § 3 ch 83 SLA 1978; am §§ 2 — 7 ch 72 SLA 1979; am § 7 ch 113 SLA 1982)

Effect of amendments. — The 1977 amendment in paragraph (1)(A) of subsection (a), substituted "crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43" for "commercial fishing license," inserted commas following "three years," "existing vessels and gear," and "entry permits and gear," deleted "and" following "existing vessels and gear," and inserted "for" preceding "the construction and purchase of vessels."

The 1978 amendment, in paragraph (1) of subsection (a), inserted "immediately preceding the date of application for a loan under AS 16.05.300 — 16.05.370" and substituted "any one of the past five years, and who actively participated in the fishery during that period" for "three years" in subparagraph (A) and added subparagraph (C).

The 1979 amendment substituted "one of the past five years" for "three of the past five years" in paragraph (1)(C) of subsection (a).

The 1982 amendment, effective June 25, 1982, in subsection (a), deleted "for the repair, restoration or upgrading of existing vessels and gear" following "during that period" and "and gear, and for the construction and purchase of vessels; and" following "purchase of entry permit" in subparagraph (1)(A), added present subparagraph (1)(B), substituted "AS 16.10.310(a)(1)(B)" for "AS 16.10.300 — 16.10.370" in subparagraph (1)(C), deleted "rules and" preceding "regulations" in paragraph (3), added "or for adverse market conditions for Alaskan products" to the end of paragraph (4), and added paragraph (6).

Editor's notes. — Section 71, ch. 106, SLA 1980 provides that after July 1, 1981, "no further loans may be made under AS 16.10.310 and 16.10.320(a) except for loans authorized under AS 16.10.333 pursuant to AS 16.10.310 and 16.10.320(a)."

This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Section 64, ch. 113, SLA 1982, provides: "A borrower who receives a loan before the effective date of this Act [June 25, 1982] under AS 16.10.650 — 16.10.720 [now repealed] may receive a loan under

(1) AS 16.10.310(a)(1)(A) after the effective date of this Act if the total of the loans received by the borrower under AS 16.10.650 — 16.10.720 and AS 16.10.310(a)(1)(A) does not exceed \$300,000;

(2) AS 16.10.310(a)(1)(B) or (C) if the total of the loans received by the borrower under AS 16.10.650 — 16.10.720 and AS 16.10.310(a)(1)(B) or (C) does not exceed \$100,000."

Section 65 of ch. 113, provides: "A borrower who receives a loan under AS 16.10.310 before the effective date of this Act [June 25, 1982] may receive a loan under

(1) AS 16.10.310(a)(1)(B) or (C) after the effective date of this Act if the total of the loans received by the borrower under AS 16.10.310 before the effective date of this Act and AS 16.10.310(a)(1)(B) or (C) after the effective date of this Act does not exceed \$100,000;

(2) AS 16.10.310(a)(1)(A) after the effective date of this Act if the total of the loans received under AS 16.10.310 before the effective date of this Act and AS 16.10.310(a)(1)(A) after the effective date of this Act does not exceed \$300,000."

Section 66 of ch. 113 provides: "Notwithstanding AS 16.10.320(i) and secs. 64 and 65 of this Act the total of all loans that a borrower receives under (1) AS 16.10.650 — 16.10.720; (2) AS 16.10.310 before the effective date of this Act [June 25, 1982]; and (3) AS 16.10.310 after the effective date of this Act, may not exceed \$300,000."

Section 67 of ch. 113 provides: "In secs. 64-66 of this Act a loan to an associate of a borrower is considered to be a loan to the borrower. In this section 'associate of a borrower' has the same meaning set out under AS 16.10.320(d)."

Sec. 16.10.320. Limitations on loans. (a) A loan under AS 16.10.310 - 16.10.370

- (1) may not exceed a term of 15 years;
- (2) may not bear interest exceeding 10-1/2 percent;
- (3) shall be secured by a first priority lien and appropriate security agreement; and

(4) may not exceed 90 percent of the appraised value of the collateral used to secure the loan, except that a loan granted under AS 16.10.333 for the purchase of an Alaska limited entry permit may not exceed an amount determined in accordance with (f) or (h) of this section.

(b) A lien in favor of the state is not required for loans guaranteed fully by the federal government under the Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271-1279(b); 86 Stat. 909), as amended. In the case of a security agreement given to secure a loan made under AS 16.10.300 - 16.10.370 and covering a vessel documented under the laws of the United States and so long as the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911-984; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801-842; 39 Stat. 728), as amended, remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those Acts, the first lien requirement of this section may be satisfied by the recordation and endorsement of a first preferred ship mortgage under the Ship Mortgage Act of 1920, and by perfection of a security interest under the Uniform Commercial Code - Secured Transactions (AS 45.09.101 - 45.09.507), if the approval of the Secretary of Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the department of the interest in a vessel documented under the laws of the United States. In the case of a security agreement given to secure a loan made under AS 16.10.300 - 16.10.370 and covering a vessel documented under the laws of the United States, the first lien requirement of this section may also be satisfied by use of a trust deed and bond issued under it, if the trustee is a citizen of the United States and obtains a first preferred ship mortgage on the vessel under the Ship Mortgage Act of 1920, and the approval of the Secretary of Commerce is obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the department if the trustee is not a trustee approved by the Secretary of Commerce under 46 U.S.C. secs. 808, 835 and 961.

(c) Repealed by § 72 ch 113 SLA 1982.

(d) Loans made to a borrower under AS 16.10.310(a)(1)(A) may not exceed a total of \$300,000. Loans made to a borrower under AS 16.10.310(a)(1)(B) or (C) may not exceed a total of \$100,000. A loan to an associate of the borrower is considered to be a loan to the borrower. For the purposes of this section, "associate of the borrower" means

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(1) a corporation or other organization of which the borrower is an officer, director or partner, or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities;

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

(3) a trust or other estate in which the borrower has a substantial beneficial interest or as to which the borrower serves as trustee or in a similar fiduciary capacity.

(e) Two or more individual commercial fishermen who each satisfy the requirements specified in AS 16.10.310(a)(1)(B) may jointly obtain a commercial fishing loan for the construction of a fishing vessel or the purchase of an existing fishing vessel. Loans granted under this subsection

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

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

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

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

(5) may not exceed 90 percent of the appraised value of the collateral used to secure the loan.

(f) Except as permitted in (h) of this section, a loan made under AS 16.10.310(a)(1)(A) and (B) for the purchase of an Alaska limited entry permit may not exceed 90 percent of the appraised value of the collateral used to secure the loan.

(g) Repealed by § 72 ch 113 SLA 1982.

(h) A loan for an entry permit under AS 16.10.310(a)(1)(B) may be made for up to 100 percent of the appraised value of the collateral used to secure the loan if the borrower demonstrates that (1) the borrower has at least three years of experience as a commercial fisherman in the fishery to which the entry permit applies; and (2) the borrower has not owned an Alaska limited entry permit in the year immediately preceding the application for the loan. In this subsection "three years of experience as a commercial fisherman in the fishery" means that for an accumulated total of three fishing seasons in the same fishery the borrower has actively participated in the commercial harvest of fish under the direction of a limited entry permit holder.

(i) If a loan is made to a borrower under AS 16.10.310(a)(1)(A), a subsequent loan may not be made to the borrower or an associate of the borrower under AS 16.10.310(a)(1)(B) or (C). If a loan is made to a borrower under AS 16.10.310(a)(1)(B) or (C), a subsequent loan may be made to the borrower or an associate of the borrower under AS 16.10.310(a)(1)(A) if the total of the loans received by the borrower or the associate under AS 16.10.310 does not exceed \$300,000. (§ 1 ch 134 SLA 1972; am § 3 ch 54 SLA 1973; am § 3 ch 128 SLA 1975; am § 1 ch 154 SLA 1977; am § 3 ch 83 SLA 1978; am §§ 2 — 7 ch 72 SLA 1979; am §§ 8 — 12, 72 ch 113 SLA 1982)

Effect of amendments. — The 1978 amendment rewrote this section.

The 1979 amendment substituted "nine and one-half per cent" for "seven per cent" in paragraph (3) of subsection (a), in paragraph (4) of subsection (c), and in paragraph (4) of subsection (e), and deleted "except that loans granted under this subsection may bear interest at a rate not to exceed eight per cent if the commissioner determines that an increase in the interest rate is necessary for the security of the loan" from the end of paragraph (4) of subsection (c). The amendment also added the language beginning "except that a loan granted under AS 16.10.333" to the end of paragraph (5) of subsection (a), rewrote the first sentence of subsection (d), added the present second sentence of subsection (d), and added subsections (f) and (g).

The 1982 amendment, effective June 25, 1982, rewrote subsections (a) and (d); repealed subsections (c) and (g); and in subsection (e), substituted "AS 16.10.310(a)(1)(B)" for "AS 16.10.310(a)(1)(A)" in the first sentence, substituted "(d) of this section" for "(a)(1) of this section" in paragraph (1), substituted "10-½ percent" for "nine and one-half per cent" in paragraph

(4), and substituted "90 percent" for "75 percent" in paragraph (5). The amendment also substituted "Except as permitted in (h) of this section, a loan made under AS 16.10.310(a)(1)(A) and (B)" for "A loan granted under AS 16.10.333(a)" at the beginning of subsection (f), and added subsections (h) and (i).

Editor's notes. — In view of the renumbering of the Uniform Commercial Code in 1980 by the revisor of statutes, the reference in subsection (b) to "AS 45.05.690 — 45.05.794" has been changed to "AS 45.09.101 — 45.09.507."

Section 71, ch. 106, SLA 1980 provides that after July 1, 1981, "no further loans may be made under AS 16.10.310 and 16.10.320(a) except for loans authorized under AS 16.10.333 pursuant to AS 16.10.310 and 16.10.320(a)."

For limitation on loans received under repealed AS 16.10.650 — 16.10.720; AS 16.10.310 before June 25, 1982; and AS 16.10.310 after June 25, 1982, see editor's note to AS 16.10.310.

This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 16.10.325. Guarantors. A person may act as guarantor if the borrower has insufficient collateral to secure a loan for the purposes described in AS 16.10.310(a)(1)(B). The loan agreement shall specifically describe the property of the guarantor to be used as collateral by the borrower and shall be signed by the guarantor and the borrower. The department shall provide the guarantor with a copy of all notices sent to the borrower by the department. If the loan is for the purchase of an entry permit, the guaranty by the guarantor may not constitute a lien, mortgage, or encumbrance on or pledge of the entry permit. (§ 13 ch 113 SLA 1982)

Effective dates. — Section 78, ch. 113, June 25, 1982, in accordance with AS SLA 198", makes this section effective 01.10.070(c).

Sec. 16.10.330. Sale or transfer of mortgages, bonds and notes.

Repealed by § 14 ch 122 SLA 1980.

Editor's notes. — The repealed section 54, SLA 1973; § 1, ch. 177, SLA 1976; derived from § 1, ch. 134, SLA 1972; § 4, § 8, ch. 72, SLA 1979.

Sec. 16.10.333. Loans for purchase of Alaska limited entry permits. (a) Loans under AS 16.10.320(a) may be made to an individual commercial fisherman for the purchase of a limited entry permit

upon certification by the commission that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43.010 — 16.43.380 and the regulations adopted by the commission.

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

(1) the certificate for the pledged permit lists the commissioner as the legal owner of the permit;

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

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

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

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

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

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

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

(f) In determining whether an individual commercial fisherman is reasonably likely to be able to repay a loan made under this section, the commissioner shall consider the individual commercial fisherman's income from commercial fishing and from all other sources. (§ 4 ch 83 SLA 1978; am § 1 ch 106 SLA 1980)

Effect of amendments. — The 1980 reassignment of entry permits taken as amendment added subsection (f). security for loans after such permits are

Cross references. — As to the revoked, see AS 16.43.355(i).

Sec. 16.10.335. Default and foreclosure. (a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under AS 16.10.333 or under AS 16.10.338, the commissioner shall provide the debtor, by registered or certified mail sent to his last known address on file with the commissioner, with a notice of default which includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the commission;

(2) the date upon which the default occurred;

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

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

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

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

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

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

(b) Upon the debtor's failure to reinstate or satisfy the note within the time specified in (a) of this section, his interest in the permit is terminated by operation of law without further notice. Any entry permit cards issued to him under the permit shall be cancelled immediately upon receipt by the commission of a certificate of termination containing a copy of the notice required by (a) of this section issued by the commissioner. (§ 4 ch 83 SLA 1978; am § 9 ch 72 SLA 1979)

Effect of amendments. — The 1979 amendment inserted "or under AS 16.10.338" in the introductory language of subsection (a) and substituted "his interest in the permit" for "his equitable interest" in the first sentence of subsection (b).

Sec. 16.10.337. Deficiencies and transfer of entry permits after foreclosure. (a) Upon a foreclosure on an entry permit as provided in AS 16.10.335, the commissioner shall offer the commission a right of first refusal if the permit is subject to a buy-back program under AS 16.43.290 — 16.43.330 at a price equal to the amount outstanding on the note plus any costs the department directly incurred in administering the loan.

(b) If the commission does not exercise its right of first refusal within 30 days after it receives the offer, or if the permit is not subject to a buy-back program under AS 16.43.290 — 16.43.330, the department shall promptly notify the debtor of this fact. The debtor has 30 days from the postmark date of the notice to nominate a person qualified to assume the note. The person nominated must qualify under the requirements of AS 16.10.333(a). If qualified, he may assume all rights and liabilities of the original debtor.

(c) Repealed by § 72 ch 113 SLA 1982.

(d) Nothing in this section affects the right of the commissioner to institute legal action for a deficiency resulting from a default on a note given under AS 16.10.333. In addition to any deficiency, the debtor is liable for the costs of administering the note and for costs and attorney fees. (§ 4 ch 83 SLA 1978; am § 72 ch 113 SLA 1982)

Cross references. — As to the reassignment of entry permits taken as security for loans after such permits are revoked, see AS 16.43.355(i).

Effect of amendments. — The 1982 amendment, effective June 25, 1982, repealed subsection (c), which read: "If the debtor is unable to nominate a qualified person to assume the note under (b) of this section, the permit must be made available to a qualified person, chosen as provided in this section, who must assume the note subject to all rights and liabilities of the original debtor. The commission shall

provide the commissioner with a list of persons chosen by lottery who qualify as transferees of entry permits under AS 16.43.010 — 16.43.380 and regulations adopted by the commission and who have met the residency and commercial fishing participation requirements of AS 16.10.310(a). The commissioner then shall determine, in order of presentation, any remaining qualifications. The commissioner shall allow the first applicant meeting all qualifications to assume the note."

Sec. 16.10.338. Entry permits as collateral. Alaska limited entry permits may be used as security for loans under AS 16.10.310(a). The provisions of AS 16.10.335 and 16.10.337 apply to Alaska limited entry permits pledged as security for loans in accordance with this section. (§ 10 ch 72 SLA 1979)

Sec. 16.10.339. Regulations. The commission, with the approval of the department, shall adopt regulations to implement AS 16.10.333 — 16.10.337. (§ 4 ch 83 SLA 1978)

Sec. 16.10.340. Creation of fund.

Editor's notes. — Section 63, ch. 113, SLA 1982, provides: "All assets of the fishermen's mortgage and note fund (AS 16.10.650) are transferred to the commercial fishing revolving loan fund (AS 16.10.340). Repayments of principal and

interest on loans made from the fishermen's mortgage and note fund shall be deposited into the commercial fishing revolving loan fund by the commissioner of the Department of Commerce and Economic Development as they are received."

Sec. 16.10.342. Special account established. (a) There is established as a special account within the commercial fishing revolving loan fund the foreclosure expense account.

(b) Repealed by § 72 ch 113 SLA 1982.

(c) The commissioner may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans granted under AS 16.10.300 — 16.10.370 or to defray expenses incurred during foreclosure proceedings after a default by an obligor. (§ 4 ch 83 SLA 1978; am § 72 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 25, 1982, repealed subsection (b), which read, "The commissioner may credit the foreclosure

expense account with money earned as a result of an increased interest rate on a commercial fishing loan granted under AS 16.10.320(c).

Sec. 16.10.360. Definitions. In AS 16.10.300 — 16.10.370

- (1) "commissioner" means the commissioner of commerce;
- (2) "department" means the Department of Commerce;

(3) "commission" means the Alaska Commercial Fisheries Entry Commission;

(4) "debtor" means an individual commercial fisherman who either initially contracts for a loan under AS 16.10.333 — 16.10.337 or assumes a loan as provided in those sections. (§ 1 ch 134 SLA 1972; am § 5 ch 83 SLA 1978)

Effect of amendments. — The 1978 amendment added paragraphs (3) and (4).

Article 8. Salmon Hatcheries.

Section	Section
380. Regional associations	440. Regulation
385. [Transferred]	460. Inspection of hatchery
420. Conditions of a permit	470. Annual report

Editor's notes. — As to legislative findings concerning salmon enhancement and purpose of AS 16.10.375 -- 16.10.620, see § 1, ch. 59, SLA 1979, in the 1979 Temporary and Special Acts and Resolves.

Sec. 16.10.380. Regional associations. (a) The commissioner shall assist in and encourage the formation of qualified regional associations for the purpose of enhancing salmon production. A regional association is qualified if the commissioner determines that

(1) it is comprised of associations representative of commercial fishermen in the region;

(2) it includes representatives of other user groups interested in fisheries within the region who wish to belong; and

(3) it possesses a board of directors which includes no less than one representative of each user group that belongs to the association.

(b) In this section "user group" includes, but is not limited to, sport fishermen, processors, commercial fishermen, subsistence fishermen, and representatives of local communities.

(c) A qualified regional association, when it becomes a nonprofit corporation under AS 10.20.005 — 10.20.725, is established as a service area in the unorganized borough under AS 29.03.020 for the purpose of providing salmon enhancement services. (§ 2 ch 161 SLA 1976; am § 2 ch 59 SLA 1979)

Effect of amendments. — The 1979 amendment added subsection (c).

fishery resource in intrastate, interstate, or foreign commerce. (§ 2 ch 102 SLA 1977)

Article 7. Commercial Fishing Loan Act.

<p>Section 300. Declaration of policy 310. Powers of the department 320. Limitations on loans 330. Sale or transfer of mortgages, bonds and notes</p>	<p>Section 340. Creation of fund 350. Administration of fund 360. Definitions 370. Short title</p>
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Legislative committee report. — For report on ch. 134, SLA 1972 (SCS CSHB 102 am FCC), see 1971 House Journal, p. 399; 1972 House Journal, p. 554.

Sec. 16.10.300. Declaration of policy. It is the policy of the state, under §§ 300 — 370 of this chapter, to promote the rehabilitation of the state's fisheries, the development of a predominantly resident fishery, and the continued maintenance of commercial fishing gear and vessels throughout the state by means of long-term low interest loans. (§ 1 ch 134 SLA 1972; am § 1 ch 54 SLA 1973; am § 1 ch 128 SLA 1975)

Effect of amendments. — The 1973 amendment inserted "of a predominantly resident fishery." The 1975 amendment inserted "the rehabilitation of the state's fisheries" and also inserted "the" preceding "continued maintenance."

Sec. 16.10.310. Powers of the department. (a) The department may

- (1) make loans to
 - (A) individual commercial fishermen who have been state residents for a continuous period of five years and have had a commercial fishing license for three years for the repair, restoration or upgrading of existing vessels and gear and for the purchase of entry permits and gear and the construction and purchase of vessels; and
 - (B) Repealed by § 2 ch 190 SLA 1976.
 - (2) designate agents and delegate its powers to them as necessary;
 - (3) adopt rules and regulations necessary to carry out its functions;
 - (4) establish amortization plans for repayment of loans, which may include extensions for poor fishing seasons;
 - (5) enter into agreements with private lending institutions, other state agencies or agencies of the federal government, to carry out the purposes of §§ 300 — 370 of this chapter.
- (b) The department shall consult with the Department of Fish and Game on regulations and procedures established under this chapter. (§ 1

ch 134 SLA 1972; am § 2 ch 54 SLA 1973; am § 2 ch 128 SLA 1975; am § 2 ch 190 SLA 1976)

Effect of amendments. — The 1973 amendment substituted "fishing" for "gear" preceding "license" in paragraph (1) and added "and for the purchase of entry permits and gear and the construction and purchase of vessels" to the end of that paragraph of subsection (a).

The 1975 amendment designated the provisions of paragraph (1) of subsection (a) as present subparagraph (A) of that paragraph, and added subparagraph (B).

The 1976 amendment in subsection (a), repealed paragraph (1)(F), which read "permit holders under §§ 400 — 470 of this chapter, for the construction of hatchery facilities."

Editor's note. — Section 13, ch. 105, SLA 1977, effective January 1, 1978, amended paragraph (1)(A) of subsection (a) to read as follows: "(A) individual commercial fishermen who have been state residents for a continuous period of five years and have been state residents for a continuous period of five years and have had a crewmember or commercial fishing license under AS 16.05.480 or a permit under ch. 43 of this title for three years, 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; and".

Sec. 16.10.320. Limitations on loans. A commercial fishing loan may not exceed \$150,000. A loan may not run longer than 15 years or bear interest exceeding seven per cent, and it shall be secured by a first lien and appropriate security agreements, except that a lien in favor of the state is not required for loans guaranteed fully by the federal government under the Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271 — 1279b; 86 Stat. 909), as amended. In the case of a security agreement given to secure a loan made under secs. 300 — 370 of this chapter and covering a vessel documented under the laws of the United States and so long as the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911 — 984; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801 — 842; 39 Stat. 728), as amended, remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those Acts, the first lien requirement of this section may be satisfied by the recordation and endorsement of a first preferred ship mortgage under the Ship Mortgage Act of 1920, and by perfection of a security interest under the Uniform Commercial Code — Secured Transactions (AS 45.05.690 — 45.05.794), if the approval of the Secretary of Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the department of the interest in a vessel documented under the laws of the United States. In the case of a security agreement given to secure a loan made under secs. 300 — 370 of this chapter and covering a vessel documented under the laws of the United States, the first lien requirement of this section may also be satisfied by use of a trust deed and bond issue under it, if the trustee is a citizen of the United States and obtains a first preferred ship mortgage on the vessel under the Ship Mortgage Act of 1920, and the approval of the Secretary of Commerce is obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the department if the trustee is not a trustee approved by the Secretary of Commerce

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under 46 U.S.C. secs. 808, 835 and 961. Loans may not exceed 75 per cent of the appraised value of the collateral used to secure the loan. (§ 1 ch 134 SLA 1972; am § 3 ch 54 SLA 1973; am § 3 ch 128 SLA 1975; am § 1 ch 154 SLA 1977)

Effect of amendments. — The 1973 amendment added the language beginning "except that" to the end of the second sentence and added the present third and fourth sentences.

The 1975 amendment added the language beginning "and loans granted under § 310(a)(1)(B)" to the end of the second sentence and "Except for loans granted under § 310(a)(1)(B) of this chapter" to the beginning of the fifth sentence.

The 1977 amendment substituted "\$150,000" for "\$100,000" in the first sentence, deleted language relating to collateral for loans granted under § 310(a)(1)(B) of this chapter from the end of the second sentence, and deleted "Except for loans granted under § 310(a)(1)(B) of this chapter" from the beginning of the last sentence.

Sec. 16.10.330. Sale or transfer of mortgages, bonds and notes. (a) The commissioner of commerce may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages, bonds and notes held by the Department of Commerce as security for loans made under this chapter.

(b) The commissioner of commerce and economic development may sell or transfer at par value to the Department of Revenue the mortgages, bonds and notes held by the Department of Commerce and Economic Development as security for loans made under this chapter. However, the commissioner of commerce and economic development may not transfer an interest in a vessel documented under the laws of the United States to the Department of Revenue, except as permitted by the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911 — 984; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801 — 842; 39 Stat. 728), as amended, so long as those two Acts remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those two Acts. The Department of Revenue, for the fiscal year ending June 30, 1976, shall purchase all the mortgages, bonds and notes offered until the current principal amount of all the mortgages, bonds and notes purchased and held by the Department of Revenue equals \$7,000,000. The Department of Revenue, for the fiscal year ending June 30, 1977, shall purchase all the mortgages, bonds and notes offered until the current principal amount of all the mortgages, bonds and notes purchased and held by the Department of Revenue equals \$9,000,000. After June 30, 1977, the Department of Revenue shall purchase all the mortgages, bonds and notes offered. (§ 1 ch 134 SLA 1972; am § 4 ch 54 SLA 1973; am § 1 ch 177 SLA 1976)

Effect of amendments. — The 1973 amendment inserted "bonds" in subsection (a) and in the first sentence of subsection (b), added the present second and third

sentences of that subsection, and deleted the former second sentence of that subsection.

The 1976 amendment inserted "for the fiscal year ending June 30, 1976" in the third sentence of subsection (b), substituted "\$7,000,000" for "\$5,000,000" at the end of that sentence, and added the fourth and fifth sentences of that subsection.

Sec. 16.10.340. Creation of fund. There is a commercial fishing revolving loan fund to carry out the purpose of §§ 300 — 370 of this chapter. (§ 1 ch 134 SLA 1972; am § 2 ch 177 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "which shall not exceed \$1,000,000" following "revolving loan fund."

Sec. 16.10.350. Administration of fund. The commissioner shall administer the loan fund. (§ 1 ch 134 SLA 1972)

Sec. 16.10.360. Definitions. In §§ 300 — 370 of this chapter
 (1) "commissioner" means the commissioner of commerce;
 (2) "department" means the Department of Commerce. (§ 1 ch 134 SLA 1972)

Sec. 16.10.370. Short title. Sections 300 — 370 of this chapter may be cited as the Commercial Fishing Loan Act. (§ 1 ch 134 SLA 1972)

Article 8. Salmon Hatcheries.

Section	Section
375. Regional salmon plan	443. Department assistance and cooperation
380. Regional associations	445. Egg sources
400. Permits for salmon hatcheries	450. Sale of salmon and salmon eggs by hatchery
410. Hearings before permit issuance	460. Inspection of hatchery
420. Conditions of a permit	470. Annual report
430. Alteration, suspension or revocation of permit	475. Definitions
440. Regulation	

Editor's note. — Section 1, ch. 111, SLA 1974, provides: "It is the intent of this Act to authorize the private ownership of salmon hatcheries by qualified nonprofit corporations for the purpose of contributing, by artificial means, to the rehabilitation of the state's depleted and depressed salmon fishery. The program shall be operated without adversely affecting natural stocks of fish in the state and under a policy of management which allows reasonable segregation of returning hatchery-reared salmon from naturally occurring stocks."

Sec. 16.10.375. Regional salmon plan. The commissioner shall designate regions of the state for the purpose of salmon production and have developed and amend as necessary a comprehensive salmon plan for each region, including provisions for both public and private nonprofit hatchery systems. Subject to plan approval by the commissioner, comprehensive salmon plans shall be developed by regional planning teams consisting of department personnel and representatives of the appropriate qualified regional associations

SENATE AMENDMENT

By Labor & Commerce

To: _____ SENATE BILL No. _____

To: _____ CS HOUSE BILL No. 15 (Loans) an

PAGE: 3 LINE: 3

AMEND *SEC. 2 TO READ:

*Sec. 2. AS 16.10 is amended by adding a new section to read:

Sec. 16.10.315. ALLOCATION OF LOANS. The department shall allocate at least ten percent of the money that is appropriated for a state fiscal year to make loans under AS 16.10.310 for loans of \$35,000 or less made under AS 16.10.310(a)(1)(B) and (C). An allocation made under this section terminates on April 15 of the state fiscal year for which the allocation has been made.

AMENDMENTS TO CSHB 15 (LOANS) AM
REQUESTED BY SENATOR ELIASON AT
MARCH 29 SENATE LABOR AND COMMERCE
COMMITTEE HEARING

Add a new sec. 4 to read:

* Sec. 4. AS 16.10.335(a)(6) is amended to read:

(6) a statement that the note may be paid in full less unearned interest within 120 [90] days from the post-mark date of the notice;

Add a new sec. 5 to read:

* Sec. 5. AS 16.10.335(b) is amended to read:

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

Add a new sec. 6 to read:

* Sec. 6. AS 16.10.337(b) is amended to read:

(b) If the commission does not exercise its right of first refusal within 30 days after it receives the offer, or if the permit is not subject to a buy-back program under AS 16.43.290 -- 16.43.330, the department shall promptly advertise and sell the permit. If the proceeds of the sale of a permit which was not purchased with any proceeds of a loan under AS 16.10.310 -- 16.10.360 exceed the amount necessary to pay the note, in full plus penalties, cost of administering the note and costs and attorney fees, the excess will be transferred by the commissioner to the debtor [NOTIFY THE DEBTOR OF THIS FACT. THE DEBTOR HAS 30 DAYS FROM THE POST-MARK DATE OF THE NOTICE TO NOMINATE A PERSON QUALIFIED TO ASSUME THE NOTE. THE PERSON NOMINATED MUST QUALIFY UNDER THE REQUIREMENTS OF AS 16.10.333(a). IF QUALIFIED, HE MAY ASSUME ALL RIGHTS AND LIABILITIES OF THE ORIGINAL DEBTOR].

Renumber current sec. 4, the effective date, to be sec. 7.

A M E N D M E N T

TO: SCS CSHB 15(L&C)

By Mulcahy

Page 4, between line 8 and 9, insert the following:

"* Sec. 6. SAVING PROVISION. If an application for a loan under AS 16.-10.310 - 16.10.370 is filed with the department before the effective date of this Act, eligibility for the loan shall be determined by the law in effect at the time of the filing of the application if the applicant is eligible under the terms of that law."

HOUSE JOURNAL SUPPLEMENT

March 9, 1963

No. 22

FISCAL NOTE

HB
15

I. REQUEST
 Bill/Resolution No. HR 15 No. 1
 Title An Act relating to eligibility for commercial fishing loans.
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Department of Commerce and Economic Development
 Program Category Affected Economic Development
 BRU, Program, Or Subprogram(s) Affected Division of Loans & Veterans' Affairs
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		63.7	61.3	64.4		

FUNDING (Thousands of Dollars)

		63.7	61.3	64.4		
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Increased fund is required for the following reasons:

- Five-year residents have a longer track record in Alaska, which makes their residency indicators much more obvious and more easily obtainable. A one-year residency requirement would require more investigative work into the residency background of the applicant.
- During certain times of the year, many one-year residents do not have a prepared tax return, which is one of the main documents used in determining residency.
- Contact with other states will be necessary in cases which involve prepared term residency to determine the actual dates of residence.

IV. DATE _____ PREPARED BY N. A. Hovak, Director
 AGENCY Department of Commerce & Economic Development
 PHONE 464-2555 Division of Loans & Veterans' Affairs

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/62)

OMB Reviewed by: Guv Roll *BR*

Page 2 of 2

Personal Services	Location	Monthly Salary	Yearly Salary	Yearly Benefits	Total Salary & Benefits
1 Investigator III	AWA	\$ 2838	\$ 34,056		\$ 34,056
<u>Benefits</u>	SBS Benefits			\$ 2,088	
	Monthly Benefits			2,880	
	Variable Benefits			5,279	10,247
Total Personal Services					44,303
TRAVEL - One trip per month					
Airfare \$486 X 12 trips plus 2 days per diem @ \$85 per trip					
					7,872
CONTRACTUAL					
Postage				\$ 311	
Telephone @ \$2500 for long distance				2,500	
Xerox				157	2,961
COMMODITIES					
Calculator @ \$280				\$ 280	
Setup costs for Desk				40	
Average yearly supplies				200	520
EQUIPMENT					
New Position Modular Furniture Setup Costs				\$ 5,300	5,300
ASHA					
Space Rental				\$ 2,700	2,700
Total Estimated Expenses					\$ 63,656

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

March 21, 1983

The Honorable Rick Uehling
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Uehling:

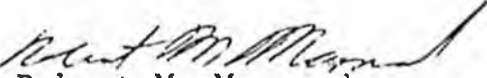
This letter is in response to your request for a brief written summary of the Department of Law's testimony before your committee on the subject of the constitutionality of a two-year residency requirement for commercial fishing loans.

Simply, we believe that the two-year requirement is very defensible under either the state or federal constitution. On the other hand, the law in this area is uncertain; any length of time beyond one year is past the present boundaries of judicially approved requirements and therefore carries a substantial risk of being found unconstitutional. If, however, any program can sustain a two-year residency requirement, both the student loan program and the commercial fishing loan program present the most compelling circumstances for such an extension. Both programs must address the very real problems of mobility of loan recipients coupled with an extremely generous loan program. Consequently, the normal superficial indicia of a subjective intent to consider oneself a citizen of the State of Alaska, such as voter registration, drivers license, and even the one-year residency requirement, are not as valid as they would be in other programs. As a result, we believe that a court could readily find that there is a rationale basis for choosing a two-year residency requirement over either a one-year residency requirement or any of the other objective standards normally used by the legislature.

If you have any questions, or if you wish further testimony on this or any other residency requirement, please do not hesitate to call.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Robert M. Maynard
Assistant Attorney General

RMI:mr

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 28, 1983

SUBJECT: Commercial fishing loans
(CSHB 15 (Loans))

TO: Senator Richard I. Eliason
Chairman, Senate Labor and
Commerce Committee

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked whether the provision in Sec. 3 of CSHB 15 (Loans) which provides that a loan shall be accelerated if the borrower terminates state residency creates a constitutional question.

If the requirement is addressed to a purpose independent of residency and is rationally related to that purpose, in my opinion it would be sustained as constitutional. The supporting reason offered for the clause is that termination of residency by the borrower lessens the security of the loan since collection is more difficult when the borrower is a nonresident and the underlying security may not be as well cared for.

Repayment of state loans is a valid objective. Whether the requirement furthers this purpose and is rationally related to it is a question of fact. In my opinion the requirement would be sustained if a court finds the legislature reasonably determined there was a significant correlation between loan repayment and residency.

BGB:ljb
12/017

Box 203
Petersburg, Ak 99833
April 9, 1983

LJC

Governor Bill Sheffield
Governor for Alaska
Juneau, Alaska 99801

Dear Governor Sheffield:

I was recently reading about HB15 and the rush to get this bill approved through the Senate and House to extend the fishing loan program for gear, vessels and limited entry permits.

I have recently been made aware of the sport fishing industry - that is lodges and outfitters in the more remote areas of the State that have visitors to Alaska from all over the world for sport fishing. This is really commercial fishing in that it is a large industry that perhaps alot of us were not aware of.

Is there any way that the fishing loan program could be extended to help those types of operation for development. I would like to see the State be more involved with that segment of the commercial market as well.

This is new information for me so I am very interested in finding out everything that the State has available and is doing for this economic development.

Thank you for any information and help you can supply.

Sincerely,



Karen Hofstad

cc: Rep. Ron Wendte
Rep. Jack McBride
Rep. Jerry Ward
Sen Robert Ziegler
Sen Richard Eliason

*Hi! Haven't
it's going to be
busy & not
follows mistakes
close enough
D.*

3/28/84

KCM

Senator Eliason has requested an analysis of several proposed amendments to CSSH 16(Fin). These are set forth below with the requested comment.

Proposed amendment #1.

Page 1, line 16. After "unless" delete "the insured or another person who resides in the insured's household and is covered by the policy" and add "the person charged".

We would urge that this amendment not be adopted. The effect of the change is to permit the insurer to charge a premium surcharge or increase the premium for the violations of a person who is not normally an insured under the policy. The extension of this provision to persons not living in the household will result in a hit or miss situation as far as charging the additional for the violation. The insurer will not have reasonable access to the name and drivers license number of an incidental driver. The logic behind allowing an insurer to make a charge of this kind is that it is a measure of the increased propensity of the driver with violations to have accidents. This logic does not readily extend to the incidental driver who is not a member of the household. That driver may never again produce a driving exposure under that particular policy. If that were true it would be unreasonable to charge for an exposure that does not exist under that policy.

Proposed amendment #2.

Page 1, line 18. After "been" delete "convicted" and add a word that covers the situation of an individual pleading guilty without trial or who merely pays a fine.

This situation is already handled by insurers in the way described. If clarity is still further desired, we would suggest that the language be left as it is with an additional sentence to subsection (b) on line 18 to read: "In this subsection, 'convicted' includes a plea of guilty without trial, and the uncontested payment of a fine for the charged violation."

Proposed amendment #3.

Page 1, line 25. After "right" delete "of appeal" and add "to a hearing and to appeal".

Under AS 21.39.090, an insured does not have an automatic right to a hearing before the insurer or its rating organization. The insurer has a "right" to reject or fail to grant a hearing. This is not unreasonable as some requests are going to be frivolous and should not be heard. Still the insured denied a hearing has a right to an appeal of that action before the director. The proposed amendment tends to suggest a right to a hearing before the insurer and that is not precisely the way AS 21.39.090 is structured. An insured is still entitled to "his day in court", so abuses by an insurer will be detected. An alternative change on line 25 would be to change the words "right of appeal" to read "rights".

RENDED TITLE: SCS CSHB 15(FIN)

ACT RELATING TO COMMERCIAL FISHING LOANS (AS 16.10.300
16.10.370); AND PROVIDING FOR AN EFFECTIVE DATE

GENERAL DOLLARS: \$0 (F. NOTE)

PRIME SPONSOR: HAYES.

OTHER DOLLARS: \$0

CO-SPONSORS: FLOOD, LINDAUER, SZYMANSKI, TISCHER, PESTINGER, BUSSELL.

CURRENT STATUS: 4/16/83 CHAPTER 0007 SLA 83

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/17/83	01	0020	FIRST READING -- COMMITTEE REPORTS
01/24/83	02	0100	CMTE REFERRALS CHANGED
03/09/83	03	0431	LOAN -- CS05
03/09/83	04	0431	LOAN F/NOTES USE SUPPL #22
03/09/83	05	0432	LOAN LETTER OF INTENT
03/09/83	06	0440	MOVED FROM RES TO FIN BY UNAN CONSENT
03/19/83	07	0533	FIN -- CS08, NR01
03/19/83	08	0533	FIN F/NOTE USE SUPPL #26
03/21/83	09	0574	SECOND READING
03/21/83	10	0574	LOAN CS ADOPTED BY UNAN CONSENT
03/21/83	11	0574	AM01 ADOPTED BY UNAN CONSENT
03/21/83	12	0575	AM02 ADOPTED BY UNAN CONSENT
03/21/83	13	0575	ADVANCED TO 3RD READING BY UNAN CONSENT
03/21/83	14	0575	THIRD READING
03/21/83	15	0575	AM 03(TITLE) ADOPTED BY UNAN CONSENT
03/21/83	16	0575	PASSED BY DIV 32-00-01
03/21/83	17	0576	EFFECTIVE DATE VOTE SAME AS PASSAGE
03/21/83	18	0576	LETTER OF INTENT ADOPTED
03/21/83	19	0576	NOTICE OF RECONSIDERATION/LTR OF INTEN
03/23/83	21	0615	LETTER OF INTENT ADOPTED ON RECON

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/11/83	34	0814	CONCURRED IN SENATE AMS BY DIV 36-00-04
04/11/83	35	0814	EFFECTIVE DATE VOTE SAME AS PASSAGE
04/11/83	36	0814	LETTER OF INTENT ADOPTED BY UNAN CONSENT
04/12/83	37	0834	TRANSMITTED TO GOVERNOR
04/16/83	39	0912	SIGNED BY GOVERNOR-CH0007, EFF 04/17/83

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/22/83	20	0456	FIRST READING -- COMMITTEE REPORTS
03/31/83	22	0519	FIN CSHB REFERRAL ADDED BY UNAN CONSENT
05/31/83	23	0549	LAC -- CS03
03/31/83	24	0549	LAC F/NOTE SEN SUPPL #13
4/06/83	25	0591	FIN -- CS07
4/06/83	26	0591	FIN F/NOTE EQUALS ZERO
4/07/83	27	0621	SECOND READING
4/07/83	28	0621	FIN 07 ADOPTED BY UNAN CONSENT
4/07/83	29	0621	ADVANCED TO 3RD READING BY UNAN CONSENT
4/07/83	30	0621	THIRD READING
4/07/83	31	0621	LETTER OF INTENT ADOPTED BY UNAN CONSENT
4/07/83	32	0624	PASSED BY DIV 19-01-00
4/07/83	33	0624	EFFECTIVE DATE VOTE SAME AS PASSAGE

COMMITTEE REPORT

SENATE

FURTHER:

3/22/53

Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 15 (Loans) am

Relating to commercial fishing loans: eff. date

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

McLester

MEMBERS HAVING
OTHER RECOMMENDATIONS:

McLester

 CHAIRMAN

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
March 29, 1983
1:00 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: *Senator John Sackett
Senator Don Bennett

*Senator Sackett arrived within the first twelve minutes of the meeting.

COMMITTEE CALENDAR

CSHB 15(Loans)am

"An Act relating to commercial fishing loans (AS 16.10.300-
AS 16.10.370); and providing for an effective date."

SB 66

"An Act relating to municipal self insurance for workers' compensation."

1:30 TELECONFERENCE--Alaska Transportation Commission Sunset Review

SB 184

"An Act extending the termination date of the Alaska Transportation
Commission; and providing for an effective date."

WITNESS REGISTER

(CSHB 15)

Rep. Rick Uehling, Chair
House Loans Committee
Pouch V
Juneau, Alaska 99811
465-4821

Position statement: Discussed Letter of Intent

Rep. Peter Goll
Pouch V
Juneau, Alaska 99811
465-4925

Position statement: Discussed legal aspects of collection provisions
and residency.

Rep. Adelheid Hermann
Pouch V
Juneau, Alaska 99811
465-4942

Position statement: Expressed support for specific provision of HB 15.

Don Hostack, Director, Div. of Business Loans and Veterans' Affairs
Pouch D
Juneau, Alaska 99811
465-2510
Position statement: Provided specific information from Loan Division perspective.

(SB 184--ATC SUNSET REVIEW)

Bill Schneider, Associated General Contractors
Box 4-2500
Anchorage, Alaska 99501
276-5354
Position statement: Testified in opposition to SB 35 (not on calendar, but relates to SB 184).

Andy Hoge, Attorney representing Alaska Truckers Association
437 E, Suite 500
Anchorage, Alaska 99501
276-1726
Position statement: Supports continuation of ATC.

John Ulsher
6901 Dickerson Drive
Anchorage, Alaska 99501
337-7876
Position statement: Supports sunset of ATC.

Ja Bynum
Cordova, Alaska
(No address provided by teleconference network.)

Joe Gilbertson
Fairbanks, Alaska
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

James Bishop, Bishop Brothers Inc.
Box 2989
Kenai, Alaska
262-4245
Position statement: Does not support ATC as functions now.

Arthur Robinson
Box 3519
Soldotna, Alaska
262-9164
Position statement: Supports sunset of ATC.

Tim Gunderson
Fairbanks, Alaska 99701
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

George Carter
Fairbanks, Alaska 99701
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

Lois Cook, Director, Div. of Administrative Services
Dept. of Commerce and Economic Development
Pouch D
Juneau, Alaska 99811
465-2505
Position statement: Department favors extension of ATC for one year.

The testimony of the following witnesses was not teleconferenced.

Charles Cole, Attorney (represents Alaska Interior Airways)
Fairbanks, Alaska
Position statement: Supports continuation of ATC.

Jim Wilson
P. O. Box 629
Juneau, Alaska 99802
586-3420, 586-6358
Position statement: Supports sunset of ATC.

PREVIOUS ACTION

(Senate Labor and Commerce only.)

SB 66: Please refer to Labor and Commerce Committee Minutes for Feb. 10 and March 24, 1983.

ACTION NARRATIVE

Tape #15
Side 1
Number 010

Senator Eliason called the meeting to order with members Senator Mulcahy and Senator Rodey in attendance. The first item on the agenda was CSHB 15(Loans)an, relating to fishing loans. The committee members considered a work draft of a Labor and Commerce Committee substitute.

Rep. Rick Uehling, Chair of the House Committee on Loans, testified on HB 15, dwelling on the Letter of Intent which was added as the bill passed out of the House. Because the fishery is seasonal, they feel that a two year residency requirement is legally defensible. At the request of the Chair, he also touched on the letter of intent as it relates to severability of that requirement should it be struck down in the courts, and he addressed the acceleration clause providing for immediate payback of the loan upon the borrower's ceasing to reside in the state. Rep. Uehling cited supportive documents from Attorney General Norm Gorsuch and from the Department of Law.

Number 238

Senator Sackett's presence was noted for the record.

Number 256

Rep. Peter Goll testified on CSHB 15, concentrating his testimony on the requirements outlined in the bill. He stated that chances of loan repayment are increased by the requirement that the loan recipient have three years of active fishing experience. He also discussed the continuing residency requirement (and accelerated repayment provision), the intent of which is that Alaska subsidized loans be directed to Alaska residents; he defended this aspect of the legislation with regard to legal questions which have been suggested, using documents from Legal Services and the Attorney General.

Number 464

Rep. Adelheid Hermann testified on CSHB 15, stating support for the remarks made by Rep. Goll, including his remarks on the severability clause. She had asked that House Research Agency staff to research whether or not California, Oregon or Washington had fishing loan programs now or in the past, and the result was that none of them had. She also posed a question, which she would like answered by the department administering the loan program, concerning whether or not they were actively engaged, or intended to engage in, an outreach program for the fishing loan program as discussed in the past.

Number 505

Don Hostack, Director of DCED's Division of Business Loans and Veterans Affairs, testified on CSHB 15, asked what residency requirement the Division would use to make loan determinations if the two year requirement were severed from the legislation. Senator Rodey responded that the Attorney General would offer guidance as the legal counsel for the Division, and that the existing two year requirement would be followed until ruled out by a court of competent jurisdiction. Mr. Hostack responded to questions from committee members about the fishing loan program concerning loans to rural area residents, termination of Alaska residency, and fraud investigation.

Number 647

(Senator Sackett left the meeting.)

Number 652

The committee took up Senate Bill 66, which had received previous hearings, and for which a Labor and Commerce Committee substitute had been prepared.

Number 705

Senator Eliason recessed the meeting in order to recover a quorum to do business on SB 66.

Number 707

Senator Eliason called the meeting to order to begin the teleconference on the Sunset Review of the Alaska Transportation Commission.

Bill Schneider (Anch), with the Associated General Contractors, testified in opposition to Senate Bill 35, a measure merging the APUC and the ATC. Senator Eliason pointed out that SB 35 was not calendered for discussion. (Teleconference network had accidently sent SB 35 as part of package pertinent to the teleconference.)

Andy Hoge, attorney who represents Alaska Truckers Association, testified in favor of SB 184 and continuation of the Alaska Transportation Commission. He believes that the legislature should look closely at the performance review done by Legislative Audit, and said that as written testimony had already been submitted he would not read his statement. The Alaska Trucker's Association maintains that the ATC should be extended for four years and should concentrate effort in problem areas. The ATC should receive the money required to do their job.

Tape 15
Side 2
Number 6

Senator Rodey asked if Andy Hoge would favor an interim look at ATC by the Legislative Budget and Audit Committee, to which Hoge responded that a one or two year "sunset" disrupts the activity of the agency.

Number 62

Members of the committee reverted to SB 66, concerning municipal self-insurance for workers' compensation. Senator Rodey moved that the Labor and Commerce Committee Substitute for SB 66 be passed out of committee with individual recommendations. There being no objection it was so moved.

Number 81

John Ulsher (Anch) testified on the Alaska Transportation Commission, stating that he did not own a truck, but that it seemed that the trucking regulations were written for one reason, and accomplish another. He feels that the Commission has failed totally to accomplish the purpose for which they were created (among other things, to prevent cutthroat competition and protect the public). He touched on the subject of safety ("the responsibility of the owner") and stated that the Alaska Truckers' Association should sell its services to members (who would join Trucking Association) in a form of cooperative shipping; this would best serve the consumer. Does not support continuation of ATC as now functioning.

Jay Bynam (Cordova), owner of Bynam and Sons Towing, concurs with ATA (Alaska Truckers Association) in that a four year extension of ATC benefits all. To discontinue the ATC would open the way for cutthroat competition. Some regulation and control, he believes, is necessary.

Joe Gilbertson (Fairbanks) began his testimony with a brief history of transportation in Alaska, stating that Alaska always had a stable trucking industry. He favors termination of the ATC. Watching "what they were set up to do and what they actually do" he finds their activity "counterproductive all the way around" and believes they participate in restraint of trade. There are already too many state agencies, and he sees better ways to spend the money. He feels we can control and regulate better in a free-market society.

Number 370

J. Bishop (Soldotna), Chairman of the Board of Bishop Brothers, Inc., (primarily involved in seafood transport), does not support ATC as it is currently functioning. The theory of ATC is that it should protect a fragile Alaskan economy, and it seems necessary for someone to protect the public need for year-round transportation capability. That same mechanism should insure against industry practices which are contrary to the public interest. And it is in practice, and specifically regarding that last element, "which I feel that the ATC has failed miserably in its responsibility to protect the people of Alaska from monopolistic practices within air transportation in the state." Mr. Bishop further stated that the ATC should continue to operate only under circumstances where "they are moving against an entity with too much power in the state".

Number 530

Arthur Robinson (Soldotna), an attorney from the Kenai Peninsula, testified in support of allowing the ATC to terminate, as they are more concerned with the protection of established economic interests, like the air carriers, without regard to public needs. He suggested the creation of a public agency just to handle safety matters now handled by ATC, and to provide a protest forum in Alaska for what is basically a monopoly in the state.

Tim Gunderson (Fairbanks) is a twelve year resident involved in the trucking industry. He has been a Teamster for carriers in the state, and has been an owner-operator, and shareholder in an Interstate trucking company. At one time he might have supported continuation of the ATC, but, having been involved, he is today opposed to extending their ability to operate. Transportation should be on a competitive basis: the public is the best judge. A person who is insured and can show competency should be allowed to go into business. He urged the committee not to extend the termination date of the ATC.

Number 728

Richard Asay (Anchorage) testified in support of continuation of the ATC, which is helpful in keeping a vital transportation industry in the state. He has been in the trucking industry in Alaska for more than twenty years, and does not feel that deregulation is the answer.

Number 746

George Carter (Fairbanks), an 8½ year resident involved in trucking since 1968, does not support extension of the ATC, and would like to see it done away with.

Number 760

Lois Cook (Juneau), Director of the Dept. of Commerce and Economic Development's Division of Administrative Services, presented the department's position on the Alaska Transportation Commission. The department recommends the ATC be extended for a one year period in order to allow the department the opportunity to conduct a performance review. The review would assess the effect of deregulation which would take place if the ATC were allowed to terminate. The review would assess and provide for a motor safety program (including insurance) and would determine the effect of ATC termination on essential air service.

(NO FURTHER TESTIMONY WAS TELECONFERENCED.)

Charles Cole (Juneau), an attorney from Fairbanks, wished to testify on the ATC "but not necessarily teleconferencing". Therefore, the teleconference was concluded, and Mr. Cole, representing Alaska Interior Airways, testified in support of continuation of the ATC. He has, for twenty six years, been representing air carriers in Alaska. Prior to statehood the authorities consisted of the Civil Aeronautics Board and the International Commerce Commission. Those that called the shots were those who could afford to go to D.C. and woo the Federal authorities.

Number 8.1

Mr. Cole provided a historical sketch of air transportation in Alaska, from territorial days to the present, touching on the Alaska Air Commerce Act of 1960, which provided some state regulation of commerce and transportation. He strongly recommends perpetuation of the Alaska Transportation Commission for four years. He pointed out that air transportation in Alaska has developed technologically and commercially over the years.

Tape 2

Number 010

Mr. Cole described what he perceives as the negative aspects of deregulation, stating that bankers will not finance airplanes in the presence of the spectre of deregulation, and that if there was no state agency to grant regulatory authority, we would lose that authority. He feels that regulation of air commerce has been a good thing, by and large, given the developments of the last several years.

Number 146

Mr. Cole responded to a previous speaker's charges that AIA had received favored treatment by the ATC, and offered a rebuttal to allegations of favoritism resulting from AIA having a monopoly. He concluded his testimony by emphasizing the need for stability in air commerce in Alaska, and the need to chart our own destiny. "Somebody has to look

out for the little guy", and AIA favors continuing the Alaska Transportation Commission for four years.

Number 310

Jim Wilson provided final testimony on the Alaska Transportation Commission, describing himself as a "local little guy" trying to get into the business and having trouble doing it. He favors "allowing the sun to set on the ATC." Now that there is an Aeronautics Act, the ATC has outlived its usefulness. He stated that three years ago he "worked for the big guys" and would have testified on the other side of the issue. He cited problems with restrictions on contract carriers in Alaska. He cited various problems he perceives with regulation, and described the current ATC as "political". He does not favor continuation of the ATC (as it is). Mr. Cole and Mr. Wilson conducted a brief dialogue.

Number 560

There being no further testimony, Sen. Eliason adjourned the meeting.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99311
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 29, 1983

SUBJECT: Acceleration clause in HB 15
TO: Senator Richard I. Eliason
FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked how state residency would be determined for purposes of the acceleration clause in Sec. 3 of CSHB 15 (Loans) am. The usual definition of resident would apply. The crucial element is the intent of the person.

Since intent is a subjective matter the determination must be made from objective evidence which indicates intent. There has been substantial testimony in connection with this bill, that because of the nature of commercial fishing, it is difficult to determine residency in many instances.

While I am not familiar with the facts, it would appear these difficulties could also apply to the acceleration clause.

BGB:ljb

12/028

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JITTEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 28, 1983

SUBJECT: Commercial fishing loans
(CSHB 15 (Loans))

TO: Senator Richard I. Eliason
Chairman, Senate Labor and
Commerce Committee

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked whether the provision in Sec. 3 of CSHB 15 (Loans) which provides that a loan shall be accelerated if the borrower terminates state residency creates a constitutional question.

If the requirement is addressed to a purpose independent of residency and is rationally related to that purpose, in my opinion it would be sustained as constitutional. The supporting reason offered for the clause is that termination of residency by the borrower lessens the security of the loan since collection is more difficult when the borrower is a nonresident and the underlying security may not be as well cared for.

Repayment of state loans is a valid objective. Whether the requirement furthers this purpose and is rationally related to it is a question of fact. In my opinion the requirement would be sustained if a court finds the legislature reasonably determined there was a significant correlation between loan repayment and residency.

BGB:ljb
12/017

SUMMARY OF LOANS

	# of loans	Total Amount
Section A (permits only)	99	\$ 5,302,625
Section B (targeted rural loans)	81	4,495,102
TOTAL	180	\$ 9,797,727

Under \$ 35,000

Section A	\$ 575,465
Section B	547,554
TOTAL	\$ 1,123,019

(\$979,772.70 is 10% of total)