



LAWS OF ALASKA

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Source

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Chapter No.

73

AN ACT

Relating to loans for the purchase of individual fishery quota shares; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 6, 1994

Actual Effective Date: June 7, 1994

AN ACT

1 Relating to loans for the purchase of individual fishery quota shares; and providing for an
2 effective date.

3

4 * **Section 1.** PURPOSE AND LEGISLATIVE INTENT. It is the purpose of this Act to
5 provide an opportunity for resident fishermen to participate in the sablefish and halibut
6 fisheries and other fisheries in and off Alaska by authorizing loans for the purchase of quota
7 shares for those fisheries. It is the intent of the legislature that the authority granted by this
8 Act be implemented without adversely affecting the availability of funds in the commercial
9 fishing revolving loan fund for loans to purchase entry permits and to purchase, repair, restore,
10 or upgrade vessels and gear.

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

12 (a) The department may

13 (1) make loans [TO]

14 (A) to individual commercial fishermen who have been state

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1 residents for a continuous period of two years immediately preceding the date
2 of application for a loan under AS 16.10.300 - 16.10.370 and have had a
3 crewmember or commercial fishing license under AS 16.05.480 or a permit
4 under AS 16.43 for the year immediately preceding the date of application and
5 any other two of the past five years, and who actively participated in the
6 fishery during those periods, for the purchase of entry permits;

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

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

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

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

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

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

27 (iii) qualify as a transferee for quota shares under
28 applicable law; and

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

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1 (2) designate agents and delegate its powers to them as necessary;
2 (3) adopt regulations necessary to carry out the provisions of
3 AS 16.10.300 - 16.10.370, including regulations to establish reasonable fees for
4 services provided;

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

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

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

14 (7) allow an assumption of a loan if

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

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

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

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

25 (10) refinance a debt obligation incurred by a borrower or borrowers
26 under this section if the borrower or borrowers otherwise qualify for a loan under
27 AS 16.10.300 - 16.10.370; the department shall collect a refinancing loan origination
28 charge of one-half percent of the amount of the debt obligation that has been
29 refinanced when the first refinancing payment is due.

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

31 (d) The total of balances outstanding on loans made to a borrower under

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AS 16.10.310(a)(1)(A) may not exceed \$300,000. The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(B) may not exceed \$100,000.

The total balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(C) may not exceed \$300,000.

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

(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 under AS 16.10.310(a)(1)(B). If a loan is made to a borrower under AS 16.10.310(a)(1)(B), a subsequent loan may be made to the borrower under AS 16.10.310(a)(1)(A) if the total of the balance outstanding on loans received by the borrower under AS 16.10.310(a)(1)(A) and (B) [AS 16.10.310] does not exceed \$300,000.

* Sec. 5. AS 16.10.325 is amended to read:

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) or (C). 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 or quota shares, the guaranty by the guarantor may not constitute a lien, mortgage, or encumbrance on or pledge of the entry permit or quota shares.

* Sec. 6. AS 16.10.338 is amended by adding a new subsection to read:

(c) If a limited entry permit is pledged for security for a loan made under AS 16.10.310(a)(1)(C) for the purchase of quota shares and the borrower thereafter fails to make a payment or defaults, the commissioner shall, in addition to the notice provided under AS 16.10.335(a), notify the borrower that subject to the commissioner's acceptance the borrower may sell the quota shares, apply the sales proceeds to the debt, and renegotiate payment of the balance due on the loan to avoid the immediate loss of the limited entry permit that has been pledged for security for the loan.

* Sec. 7. AS 16.10.360 is amended by adding a new paragraph to read:

(5) "quota share" means a transferable license, permit, or right issued

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- 1** by the federal government that conveys a right to engage in a fishery in or off Alaska
2 and to take a specified portion of the annual harvest quota for that fishery.
3 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).