



LAWS OF ALASKA

1977

Source

Chapter No.

SCS CSHB 264 (Resources) am S

154

AN ACT

Relating to fisheries enhancement; and providing for an effective date.

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

* Section 1. AS 16.10.320 is amended to read:

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 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.

* Sec. 2. AS 16.10.375 is repealed and re-enacted to read:

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 formed under sec. 380 of this chapter.

* Sec. 3. AS 16.10.400(a) and (e) are amended to read:

(a) The commissioner or his designee may issue a permit, subject to the restrictions imposed by statute or regulation under secs. 400 - 470 of this chapter, to a nonprofit corporation organized under AS 10.20, after the permit application has been reviewed by the regional planning team, for the construction and operation of a salmon hatchery.

(e) A qualified regional association formed under sec. 380 of this chapter, if it has become a nonprofit corporation under AS 10.20, has a preference right to a permit if its proposed hatchery is provided for in the comprehensive plan for that region developed under sec. 375 of this chapter and the fresh water source exceeds one cubic foot per second minimum flow. Any other local nonprofit hatchery corporation approved by a qualified regional association has an identical preference right.

* Sec. 4. AS 16.10.430(a) is amended to read:

(a) If a permit holder fails to comply with the conditions and terms of the permit issued under secs. 400 - 470 of this chapter within a reasonable period after notification of his noncompliance by the department, his permit may be suspended or revoked, in the discretion of the commissioner after the regional planning team for the area in which the hatchery is located is notified and granted an opportunity to comment upon the proposed suspension or revocation.

* Sec. 5. AS 16.10.450 is amended to read:

Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A hatchery operator who sells salmon returning from the natural waters of the state, or sells salmon eggs to another hatchery operating under secs. 400 - 470 of this

chapter, after utilizing the funds for reasonable operating costs, including debt retirement, expanding its facilities, salmon rehabilitation projects, fisheries research, or for costs of operating the qualified regional association for the area in which the hatchery is located, shall expend the remaining funds on other fisheries activities of the qualified regional association. Fish returning to hatcheries and sold for human consumption shall be of comparable quality to fish harvested by commercial fisheries in the area, and shall be sold at prices commensurate with the current market.

- * Sec. 6. AS 16.10.470 is repealed and re-enacted to read:

Sec. 16.10.470. ANNUAL REPORT. (a) A person who holds a permit for the operation of a salmon hatchery under secs. 400 - 470 of this chapter shall submit an annual report no later than December 15 to the department and to the qualified regional association for the area in which the hatchery is located, to include but not be limited to information pertaining to species; brood stock source; number, age, weight, and length of spawners; number of eggs taken and fry fingerling produced; and the number, age, weight, and length of adult returns attributable to hatchery releases, on a form to be provided by the Department of Fish and Game.

(b) A person who holds a permit for the operation of a salmon hatchery under secs. 400 - 470 of this chapter shall submit an annual financial report to the Department of Commerce and Economic Development on a form to be provided by the Department of Commerce and Economic Development.

- * Sec. 7. AS 16.10.500 is amended to read:

Sec. 16.10.500. DECLARATION OF POLICY. It is the policy of the state, under secs. 500 - 550 of this chapter, to promote the enhancement of the state's fisheries by means of grants for organizational and planning purposes to regional associations which have qualified under sec. 380 of this chapter, and by means of long-term, low interest loans for hatchery planning, construction, and operation.

- * Sec. 8. AS 16.10 is amended by adding a new section to read:

Sec. 16.10.505. FISHERIES ENHANCEMENT REVOLVING LOAN FUND. There is created within the Department of Commerce and Economic Development a revolving fund to be known as the fisheries enhancement revolving loan fund. The fund shall be used to carry out the purposes of secs. 500 - 550 of this chapter and for no other purpose.

- * Sec. 9. AS 16.10.510(1) and (2) are amended to read:

(1) make loans to permit holders, under secs. 400 - 470 of this chapter, including those holders issued permits before the effective date of this Act, for the planning, construction, and operation of hatchery facilities;

Chapter 154

(2) make loans to qualified regional associations which have formed a nonprofit corporation or a local nonprofit corporation approved by a qualified regional association, for preconstruction activities necessary to obtain a permit;

* Sec. 10. AS 16.10.510(8) is repealed and re-enacted to read:

(8) no repayment of principal is required for an initial period of six years, and no interest on the principal shall accrue during that period. This provision also applies to loans made under this chapter before the effective date of this Act.

* Sec. 11. AS 16.10.510 is amended by adding a new paragraph to read:

(9) make grants for organizational and planning purposes to qualified regional associations which have formed a nonprofit corporation, in amounts not exceeding \$100,000 per region and up to an additional \$100,000 on a 50/50 cash matching basis with the regional associations which have an authorized assessment under sec. 530 or 540 of this chapter. The state portion of the matching share shall be available when a final vote for assessments is made under sec. 530 or 540 of this chapter. This provision also applies to qualified regional associations which have formed a nonprofit corporation before the effective date of this Act.

* Sec. 12. AS 16.10.520(a) is amended to read:

(a) A single fisheries enhancement loan may not exceed \$3,000,000 for a hatchery constructed under a permit granted to a qualified regional association which has formed a nonprofit corporation, or to a local nonprofit corporation approved by a qualified regional association. A loan for any other nonprofit hatchery corporation project may not exceed \$300,000.

* Sec. 13. AS 16.10.520(b) is repealed and re-enacted to read:

(b) Loans for the total project costs may be made if the commissioner determines that the applicant has sufficient financial resources to insure the establishment of an equity position in the project equal to 10 per cent of the loan within six years or less, either through an assessment levied under secs. 530 or 540 of this chapter or other means approved by the commissioner. For purposes of this subsection, "total project costs" includes planning and construction costs for the facility and the cost of operations for not more than the first six years. The costs for operations shall be loaned on an annual basis.

* Sec. 14. AS 16.10.530(a) is repealed and re-enacted to read:

(a) The commissioner, on request of the qualified regional association for the area in which the assessment is to be levied, and after consultation with the commis-

sioner of fish and game, shall establish areas in which an assessment shall be levied on the sale of one or more species of salmon caught by persons licensed under AS 16.05.540 - 16.05.600, in the area in which the assessment is to be levied. A request by the qualified regional association shall include a description of compliance with (e) of this section. The commissioner shall determine whether the procedural requirements under (e) of this section were followed and whether the proposed assessment is reasonable. An assessment levied under this section shall be for the purpose of providing revenue for the qualified regional association for the area in which the assessment is made. The rate and conditions of assessments, including species to be involved, shall be stated by the appropriate qualified regional association in conjunction with the request to the commissioner under this subsection.

* Sec. 15. AS 16.10.530(c) and (d) are amended to read:

(c) The commissioner and the appropriate qualified regional association must agree on a means of collection of the assessment and the commissioner may, by regulation, require its collection by buyers of the salmon upon the sale of which an assessment is levied.

(d) The assessment shall terminate upon request of the qualified regional corporation when all financial obligations relating to the assessments have been met.

* Sec. 16. AS 16.10.530 is amended by adding new subsections to read:

(e) Before an assessment is made under this section, the qualified regional association for the area in which the assessment is to be levied shall hold an initial public meeting to explain and discuss the necessity for the assessment and to explain the registration procedure established under (f) of this section. Reasonable public notice of the meeting shall be sent to all limited entry permit holders actively participating in a fishery in the area, posted in at least three centrally located public places in the area, and published in at least one newspaper of general circulation at least one time a week for three consecutive weeks in the area, if one exists. The notice shall briefly state the amount of the assessment and a short general description of the purposes for which the assessment money will be used. A ballot shall be mailed to all limited entry permit holders actively participating in a fishery in the area at least 20 days before the initial public meeting and contain a copy of the notice and ask the question whether an assessment shall be imposed. At the public meeting the returned ballots shall be counted by a special committee appointed by the regional association for that purpose, and a vote by written ballot shall be taken on the question from among the limited entry permit holders present at the initial public meeting. After the vote is taken at the initial meeting a second public meeting shall be held, upon the limited notice of publication in a newspaper of general circulation, each day for five consecutive days and the mailing of personal notice to all limited entry permit holders who actively participate in a fishery

in the area at least 14 days before the second public meeting, to give those who did not vote by written ballot at the initial public meeting an opportunity to vote. These votes shall be counted with the votes counted at the initial meeting. A majority vote for the assessment is required from the combined total of the returned ballots and the votes by ballot cast at both public meetings, before an assessment may be imposed. No person may vote twice.

(f) The qualified regional association shall establish standard registration procedures for voting on assessments under this section.

* Sec. 17. AS 16.10 is amended by adding new sections to read:

Sec. 16.10.600. CREATION OF AUTHORITIES. (a) An association qualified under sec. 380 of this chapter as a regional association is given the authority to form a regional salmon enhancement authority. There is created with respect to each of the associations qualified under sec. 380 of this chapter a public body corporate and politic as a political subdivision of the state to function in the operating areas of the individual associations. Each authority may exercise all powers conferred by secs. 600 - 620 of this chapter.

(b) A regional salmon enhancement authority may not transact business or exercise powers granted to it until the governing body of the association has, by resolution, declared there is a need for the authority to function, given it the authority to function and appointed persons to serve as the board of commissioners of the authority. The number of members of the board of commissioners, their terms of office and the filling of vacancies in office shall be determined by resolution of the governing body of the association.

(c) The regional salmon enhancement authority has jurisdiction to operate in all or part of the operating area of the individual association as determined by resolution of the governing body of the association.

Sec. 16.10.610. TAX EXEMPTION. (a) A salmon enhancement authority is exempt from payment of taxes or assessments for a period of 20 years from the effective date of this Act on property owned by the authority which is used for salmon enhancement purposes.

(b) All obligations or liabilities of a regional salmon enhancement authority remain its own and are not obligations or liabilities of the state.

Sec. 16.10.620. POWERS OF THE AUTHORITY. A salmon enhancement authority has the general power to

- (1) adopt, alter and use a corporate seal;
- (2) prescribe, adopt, amend and repeal bylaws;
- (3) sue and be sued in its own name;

(4) appoint officers, agents and employees and vest them with powers and duties and to fix, change and pay compensation for their services as the authority may determine;

(5) borrow money, make and issue notes and other evidences of indebtedness of the authority for any of its corporate purposes and to secure payment of its obligations by pledge of or lien on all or any of its assets, contracts, revenue and income;

(6) make and execute agreements, contracts and other instruments necessary or convenient in the exercise of its powers and functions, including contracts with any person, firm, corporation, government agency or other entity;

(7) receive, administer and comply with the conditions and requirements of an appropriation, gift, grant or donation of property or money;

(8) invest or reinvest money or funds held by the authority in obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or funds not required for immediate disbursement, and in certificates of deposits or time deposits;

(9) acquire, hold, use, lease, sell or otherwise dispose of property of any kind, real, personal or mixed or any interest in it;

(10) do all acts and things necessary, convenient or desirable to carry out the powers granted or implied in secs. 600 - 690 of this chapter;

(11) adopt, amend and repeal rules and regulations necessary.

* Sec. 18. Notification, public meeting and voting procedures instituted before the effective date of this Act that are substantially in compliance with AS 16.10.530(e) shall be considered to constitute compliance with this Act, and are ratified upon the effective date of this Act.

* Sec. 19. AS 16.10.400(d) and 16.10.530(b) are repealed.

* Sec. 20. This Act takes effect immediately in accordance with AS 01.10.070(c).