

SENATE BILL NO. 67

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/24/11

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the commercial charter fisheries revolving loan fund, the
2 mariculture revolving loan fund, and the Alaska microloan revolving loan fund and
3 relating to those funds and loans from those funds; and providing for an effective date."

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

5 * **Section 1.** AS 16.10 is amended by adding new sections to read:

6 **Article 13. Commercial Charter Fisheries Revolving Loan Fund.**

7 **Sec. 16.10.801. Commercial charter fisheries revolving loan fund.** (a) There
8 is created within the Department of Commerce, Community, and Economic
9 Development a revolving loan fund to be known as the commercial charter fisheries
10 revolving loan fund to carry out the purposes of AS 16.10.801 - 16.10.890.

11 (b) The commercial charter fisheries revolving loan fund consists of the
12 following:

13 (1) money appropriated to, transferred to, or received by gift, devise,
14 bequest, or donation to the fund;

1 (2) principal and interest payments or other income earned on loans or
2 investments of the fund;

3 (3) money chargeable to principal or interest that is collected through
4 liquidation by foreclosure or other process on loans made under AS 16.10.801 -
5 16.10.890.

6 (c) Money in the fund may be used by the legislature to make appropriations
7 for costs of administering AS 16.10.801 - 16.10.890.

8 **Sec. 16.10.805. Powers and duties of the department.** The department may

9 (1) make loans to eligible applicants under AS 16.10.801 - 16.10.890

10 (A) for the purchase of charter halibut permits;

11 (B) for the purchase or construction of a charter halibut fishing
12 vessel;

13 (C) to upgrade existing charter halibut fishing vessels and gear
14 for the purpose of improving engine fuel efficiency;

15 (D) to refinance debt obligations, made by other lenders more
16 than 12 months before receipt by the department of the loan application,
17 incurred by an applicant for the purchase of charter halibut fishing vessels or
18 gear if the applicant otherwise qualifies for a loan under AS 16.10.801 -
19 16.10.890; the department may collect a refinancing loan origination charge as
20 provided by regulation;

21 (2) receive, take, hold, and administer any appropriation, gift, grant,
22 bequest, devise, or donation of money for the fund;

23 (3) establish amortization plans for repayment of loans, including
24 extensions of the terms of loans;

25 (4) allow an assumption of a loan if

26 (A) the applicant meets the requirements established under this
27 section; and

28 (B) approval of the assumption would be consistent with the
29 purposes of this section;

30 (5) establish the rate of interest for loans consistent with law;

31 (6) charge and collect fees for services provided under AS 16.10.801 -

1 16.10.890;

2 (7) adopt regulations, under AS 44.62, necessary to carry out the
3 provisions of AS 16.10.801 - 16.10.890, including regulations to establish reasonable
4 fees for services provided; and

5 (8) designate agents and delegate powers as necessary to the agents.

6 **Sec. 16.10.810. Eligibility.** (a) For an applicant to be eligible for a loan under
7 AS 16.10.801 - 16.10.890, the applicant must be a resident of the state as determined
8 under (c) of this section and must

9 (1) qualify for the purchase of a charter halibut permit under applicable
10 law;

11 (2) qualify as a transferee for a charter halibut permit under applicable
12 law;

13 (3) purchase or construct a charter halibut fishing vessel; or

14 (4) upgrade an existing charter halibut fishing vessel or gear for the
15 purpose of improving engine fuel efficiency.

16 (b) In addition to the requirements set out in (a) of this section, the applicant

17 (1) must not be eligible for financing from other recognized
18 commercial lending institutions; or

19 (2) is able to obtain only a portion of the total loan request from a
20 recognized commercial lending institution.

21 (c) To meet the residency requirements of (a) of this section, the applicant

22 (1) must physically reside in this state and maintain a domicile in this
23 state during the 24 consecutive months before the date of application for the program;
24 and

25 (2) may not have

26 (A) declared or established residency in another state; or

27 (B) received residency or a benefit based on residency from
28 another state.

29 **Sec. 16.10.815. Limitations on loans.** (a) Except as provided in (b) of this
30 section, a loan under AS 16.10.801 - 16.10.890

31 (1) may not exceed \$100,000;

1 (2) may not exceed a term of 15 years, except for extensions under
2 AS 16.10.805;

3 (3) must not bear interest exceeding the prime rate, as defined by
4 AS 44.88.599, plus two percentage points, but which may not be less than three
5 percent per year and not more than 10 1/2 percent per year;

6 (4) must be secured by a first priority lien on collateral acceptable to
7 the commissioner; and

8 (5) may not be made to a person who has a past due child support
9 obligation established by court order or by the child support services agency under
10 AS 25.27.160 - 25.27.220 at the time of application.

11 (b) The interest rate for loans for the improvement of engine fuel efficiency
12 must be two percentage points below the prime rate, as defined by AS 44.88.599, but
13 may not be less than three percent per year and not more than 10 1/2 percent per year.

14 (c) The total balances outstanding on loans made to a borrower under
15 AS 16.10.805 may not exceed \$300,000.

16 **Sec. 16.10.820. Default.** If the borrower defaults upon a note, the department
17 shall notify the borrower of the default and the consequences of default by mailing a
18 notice to the borrower's most recent address provided to the department by the
19 borrower or obtained by the department.

20 **Sec. 16.10.825. Special account established.** (a) There is established as a
21 special account within the commercial charter fisheries revolving loan fund the
22 foreclosure expense account.

23 (b) The department may expend money credited to the foreclosure expense
24 account when necessary to protect the state's security interest in collateral on loans
25 granted under AS 16.10.815 or to defray expenses incurred during foreclosure
26 proceedings after a default by an obligor.

27 **Sec. 16.10.830. Disposal of property acquired after default.** The department
28 shall dispose of property acquired through default of a loan made under AS 16.10.801
29 - 16.10.890. Disposal must be made in a manner that serves the best interest of the
30 state, and may include the amortization of payments over a period of years.

31 **Sec. 16.10.835. Waiver of confidentiality.** The commissioner may release

1 information about the borrower's loan to any individual when release of the
2 information has been authorized by the borrower.

3 **Sec. 16.10.890. Definitions.** In AS 16.10.801 - 16.10.890

4 (1) "commissioner" means the commissioner of commerce,
5 community, and economic development;

6 (2) "department" means the Department of Commerce, Community,
7 and Economic Development.

8 * **Sec. 2.** AS 16.10 is amended by adding new sections to read:

9 **Article 14. Mariculture Revolving Loan Fund.**

10 **Sec. 16.10.900. Mariculture revolving loan fund.** (a) There is created within
11 the Department of Commerce, Community, and Economic Development a revolving
12 loan fund to be known as the mariculture revolving loan fund to carry out the purposes
13 of AS 16.10.900 - 16.10.945.

14 (b) The mariculture revolving loan fund consists of the following:

15 (1) money appropriated to, transferred to, or received by gift, devise,
16 bequest, or donation to the fund;

17 (2) principal and interest payments or other income earned on loans or
18 investments of the fund;

19 (3) money chargeable to principal or interest that is collected through
20 liquidation by foreclosure or other process on loans made under AS 16.10.901 -
21 16.10.990.

22 (c) Money in the fund may be used by the legislature to make appropriations
23 for costs of administering AS 16.10.900 - 16.10.945.

24 **Sec. 16.10.905. Powers and duties of the department.** The department may

25 (1) make loans to eligible applicants under AS 16.10.900 - 16.10.945
26 for the planning, construction, and operation of a mariculture business;

27 (2) receive, take, hold, and administer any appropriation, gift, grant,
28 bequest, devise, or donation of money for the fund;

29 (3) establish amortization plans for repayment of loans, including
30 extensions of the terms of loans;

31 (4) allow an assumption of a loan if

1 (A) the applicant meets the requirements established under this
2 section; and

3 (B) approval of the assumption would be consistent with the
4 purposes of this section;

5 (5) establish the rate of interest for loans consistent with law;

6 (6) charge and collect fees for services provided under AS 16.10.900 -
7 16.10.945;

8 (7) adopt regulations, under AS 44.62, necessary to carry out the
9 provisions of AS 16.10.900 - 16.10.945, including regulations to establish reasonable
10 fees for services provided; and

11 (8) designate agents and delegate powers as necessary to the agents.

12 **Sec. 16.10.910. Eligibility.** (a) For an applicant to be eligible for a loan under
13 AS 16.10.900 - 16.10.945, the applicant must

14 (1) be a resident of the state as determined under (c) of this section;

15 (2) have a permitted mariculture farm location in this state; and

16 (3) have experience or training in the mariculture industry.

17 (b) In addition to the requirements set out in (a) of this section, the applicant

18 (1) must not be eligible for financing from other recognized
19 commercial lending institutions; or

20 (2) is able to obtain only a portion of the total loan request from a
21 recognized commercial lending institution.

22 (c) To meet the residency requirements of (a) of this section, the applicant

23 (1) must physically reside in this state and maintain a domicile in this
24 state during the 24 consecutive months before the date of application for the program;
25 and

26 (2) may not have

27 (A) declared or established residency in another state; or

28 (B) received residency or a benefit based on residency from
29 another state.

30 **Sec. 16.10.915. Limitations on loans.** (a) Except as provided in (b) and (c) of
31 this section, a loan under AS 16.10.900 - 16.10.945

- 1 (1) may not exceed \$100,000 per year;
- 2 (2) may not exceed a term of 20 years, except for extensions under
3 AS 16.10.905;
- 4 (3) must not bear interest exceeding the prime rate, as defined by
5 AS 44.88.599, plus one percentage point, but which may not be less than five percent
6 per year and not more than nine percent per year;
- 7 (4) must be secured by a first priority lien on collateral acceptable to
8 the department; and
- 9 (5) may not be made to a person who has a past due child support
10 obligation established by court order or by the child support services agency under
11 AS 25.27.160 - 25.27.220 at the time of application.

12 (b) Subsequent loans may be made to the borrower under AS 16.10.910 if the
13 total of the balances outstanding on the loans received by the borrower does not
14 exceed \$300,000.

15 (c) A loan under AS 16.10.910 may not be made for the purchase of boats or
16 vessels.

17 **Sec. 16.10.920. Repayment of principal and interest on loans.** The
18 department may not require the repayment of principal on a loan made under
19 AS 16.10.910 for the initial period of the loan. Interest on the principal of a loan made
20 under AS 16.10.910 does not accrue during the initial period of the loan. In this
21 subsection, the "initial period of the loan" means a period of six years from the date
22 the loan is made.

23 **Sec. 16.10.925. Default.** If the borrower defaults upon a note, the department
24 shall notify the borrower of the default and the consequences of default by mailing a
25 notice to the borrower's most recent address provided to the department by the
26 borrower or obtained by the department.

27 **Sec. 16.10.930. Special account established.** (a) There is established as a
28 special account within the mariculture revolving loan fund the foreclosure expense
29 account.

30 (b) The department may expend money credited to the foreclosure expense
31 account when necessary to protect the state's security interest in collateral on loans

1 granted under AS 16.10.910 or to defray expenses incurred during foreclosure
2 proceedings after a default by an obligor.

3 **Sec. 16.10.935. Disposal of property acquired after default.** The department
4 shall dispose of property acquired through default of a loan made under AS 16.10.900
5 - 16.10.990. Disposal must be made in a manner that serves the best interest of the
6 state, and may include the amortization of payments over a period of years.

7 **Sec. 16.10.940. Waiver of confidentiality.** The commissioner may release
8 information about the borrower's loan to any individual when release of the
9 information has been authorized by the borrower.

10 **Sec. 16.10.945. Definitions.** In AS 16.10.900 - 16.10.945

11 (1) "commissioner" means the commissioner of commerce,
12 community, and economic development;

13 (2) "department" means the Department of Commerce, Community,
14 and Economic Development;

15 (3) "mariculture" means the farming of shellfish and aquatic plants as
16 defined in AS 16.40.199.

17 * **Sec. 3.** AS 44.33 is amended by adding new sections to read:

18 **Article 15. Alaska Microloan Revolving Loan Fund.**

19 **Sec. 44.33.950. Alaska microloan revolving loan fund.** (a) There is created
20 within the Department of Commerce, Community, and Economic Development a
21 revolving loan fund to be known as the Alaska microloan revolving loan fund to carry
22 out the purposes of AS 44.33.950 - 44.33.990.

23 (b) The Alaska microloan revolving loan fund consists of the following:

24 (1) money appropriated to, transferred to, or received by gift, devise,
25 bequest, or donation to the fund;

26 (2) principal and interest payments or other income earned on loans or
27 investments of the fund;

28 (3) money chargeable to principal or interest that is collected through
29 liquidation by foreclosure or other process on loans made under AS 44.33.950 -
30 44.33.990.

31 (c) Money in the fund may be used by the legislature to make appropriations

1 for costs of administering AS 44.33.950 - 44.33.990.

2 **Sec. 44.33.955. Powers and duties of the department.** The department may

3 (1) make loans to eligible applicants under AS 44.33.950 - 44.33.990
4 to be used for working capital, equipment, construction, or other commercial purposes
5 by a business located in the state;

6 (2) receive, take, hold, and administer any appropriation, gift, grant,
7 bequest, devise, or donation of money for the fund;

8 (3) establish amortization plans for repayment of loans, including
9 extensions of the terms of loans;

10 (4) allow an assumption of a loan if

11 (A) the applicant meets the requirements established under this
12 section; and

13 (B) approval of the assumption would be consistent with the
14 purposes of this section;

15 (5) establish the rate of interest for loans consistent with law;

16 (6) charge and collect fees for services provided under AS 44.33.950 -
17 44.33.990; and

18 (7) adopt regulations, under AS 44.62, necessary to carry out the
19 provisions of AS 44.33.950 - 44.33.990, including regulations to establish reasonable
20 fees for services provided; and

21 (8) designate agents and delegate powers as necessary to the agents.

22 **Sec. 44.33.960. Eligibility.** (a) For an applicant to be eligible for a loan under
23 AS 44.33.950 - 44.33.990, the applicant must

24 (1) be a resident of the state as determined under (b) of this section;
25 and

26 (2) provide a reasonable amount of money from other nonstate sources
27 for use on any project or enterprise for which money from a loan will be used.

28 (b) To meet the residency requirements of (a) of this section, the applicant

29 (1) must physically reside in this state and maintain a domicile in this
30 state during the 12 consecutive months before the date of application for the program;
31 and

1 (2) may not have

2 (A) declared or established residency in another state; or

3 (B) received residency or a benefit based on residency from
4 another state.

5 **Sec. 44.33.965. Limitations on loans.** (a) The department may use money
6 from the Alaska microloan revolving loan fund to make loans of up to \$35,000 to a
7 person, or loans of up to \$70,000 to two or more persons.

8 (b) A loan established under AS 44.33.950 - 44.33.990

9 (1) may not exceed a term of six years, except for extensions under
10 AS 44.33.955;

11 (2) must not bear interest exceeding the prime rate, as defined by
12 AS 44.88.599, plus one percentage point but which may not be less than six percent
13 per year and not more than eight percent per year;

14 (3) must be secured by collateral acceptable to the commissioner; and

15 (4) may not be made to a person who has a past due child support
16 obligation established by court order or by the child support services agency under
17 AS 25.27.160 - 25.27.220 at the time of application.

18 **Sec. 44.33.970. Special account established.** (a) There is established as a
19 special account within the Alaska microloan revolving loan fund the foreclosure
20 expense account.

21 (b) The department may expend money credited to the foreclosure expense
22 account when necessary to protect the state's security interest in collateral on loans
23 granted under AS 44.33.960 or to defray expenses incurred during foreclosure
24 proceedings after a default by an obligor.

25 **Sec. 44.33.975. Default.** If the borrower defaults upon a note, the department
26 shall notify the borrower of the default and the consequences of default by mailing a
27 notice to the borrower's most recent address provided to the department by the
28 borrower or obtained by the department.

29 **Sec. 44.33.980. Disposal of property acquired after default.** The department
30 shall dispose of property acquired through default of a loan made under AS 44.33.950
31 - 44.33.990. Disposal must be made in a manner that serves the best interest of the

1 state, and may include the amortization of payments over a period of years.

2 **Sec. 44.33.990. Definitions.** In AS AS 44.33.950 - 44.33.990

3 (1) "commissioner" means the commissioner of commerce,
4 community, and economic development;

5 (2) "department" means the Department of Commerce, Community,
6 and Economic Development.

7 * **Sec. 4.** The uncoded law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
10 Economic Development may proceed to adopt regulations to implement this Act. The
11 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
12 effective date of the law implemented by the regulation.

13 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).