

**CS FOR SENATE BILL NO. 67(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/16/11

Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing the commercial charter fisheries revolving loan fund and the  
2 mariculture revolving loan fund, and relating to those funds and loans from those funds;  
3 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) The  
8 commercial charter fisheries revolving loan fund is created in the Department of  
9 Commerce, Community, and Economic Development to carry out the purposes of  
10 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, grant,  
14 devise, 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 the department received the loan application and  
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, transfer, gift,  
22 grant, 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 AS 16.10.801 - 16.10.890;

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 shall be a resident of the state, as determined  
8 under (c) of this section, and shall

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) may not be eligible for financing from other recognized  
18 commercial lending institutions; or

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

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

22 (1) shall physically reside in this state and maintain a domicile in this  
23 state during the 24 consecutive months preceding the date of application for the  
24 program; 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) may not bear interest at a rate greater than the prime rate, as  
4 defined in AS 44.88.599, plus two percentage points, but which may not be less than  
5 three percent a year and not more than 10 1/2 percent a 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 in AS 44.88.599, but  
13 may not be less than three percent a year and not more than 10 1/2 percent a 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 on 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) The foreclosure expense  
21 account is established as a special account within the commercial charter fisheries  
22 revolving loan fund.

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 an obligor defaults.

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 if release of the information  
2 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 **Article 14. Mariculture Revolving Loan Fund.**

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

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

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

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

17 (3) money chargeable to principal or interest that is collected through  
18 liquidation by foreclosure or other process on loans made under AS 16.10.900 -  
19 16.10.945.

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

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

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

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

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

29 (4) allow an assumption of a loan if

30 (A) the applicant meets the requirements established under this  
31 section; and

1 (B) approval of the assumption would be consistent with the  
2 purposes of AS 16.10.900 - 16.10.945;

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

4 (6) charge and collect fees for services provided under AS 16.10.900 -  
5 16.10.945;

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

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

10 **Sec. 16.10.910. Eligibility.** (a) For an applicant to be eligible for a loan under  
11 AS 16.10.900 - 16.10.945, the applicant shall

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

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

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

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

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

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

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

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

24 (2) may not have

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

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

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

30 (1) may not exceed \$100,000 a year;

31 (2) may not exceed a term of 20 years, except for extensions under

1 AS 16.10.905;

2 (3) may not bear interest at a rate greater than the prime rate, as  
3 defined in AS 44.88.599, plus one percentage point, but which may not be less than  
4 five percent a year and not more than nine percent a year;

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

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

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

13 (c) A loan under AS 16.10.910 may be made for the purchase of boats or  
14 vessels determined to be integral to the operation of the farm.

15 **Sec. 16.10.920. Repayment of principal of and interest on loans.** The  
16 department may not require the repayment of principal on a loan made under  
17 AS 16.10.910 during the first six years of the loan. Interest on the principal of a loan  
18 made under AS 16.10.910 does not accrue during the first six years of the loan.

19 **Sec. 16.10.925. Default.** If the borrower defaults on a note, the department  
20 shall notify the borrower of the default and the consequences of default by mailing a  
21 notice to the borrower's most recent address provided to the department by the  
22 borrower or obtained by the department.

23 **Sec. 16.10.930. Special account established.** (a) The foreclosure expense  
24 account is established as a special account in the mariculture revolving loan fund.

25 (b) The department may expend money credited to the foreclosure expense  
26 account when necessary to protect the state's security interest in collateral on loans  
27 granted under AS 16.10.910 or to defray expenses incurred during foreclosure  
28 proceedings after an obligor defaults.

29 **Sec. 16.10.935. Disposal of property acquired after default.** The department  
30 shall dispose of property acquired through default of a loan made under AS 16.10.900  
31 - 16.10.945. 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. 16.10.940. Waiver of confidentiality.** The commissioner may release  
3 information about the borrower's loan to any individual if release of the information  
4 has been authorized by the borrower.

5 **Sec. 16.10.945. Definitions.** In AS 16.10.900 - 16.10.945,

6 (1) "commissioner" means the commissioner of commerce,  
7 community, and economic development;

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

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

12 \* **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).