

Statutes and Regulations

Commercial Fishing Revolving Loan Fund

October 2025



DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF INVESTMENTS

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Sec. 16.10.300. Declaration of policy.

It is the policy of the state, under AS 16.10.300 — 16.10.370, 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.

Sec. 16.10.310. Powers of the department.

(a) The department may

(1) make loans

(A) to individual commercial fishermen who have been state residents for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 — 16.10.370, who have had an annual 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 of the past five years, and who actively participated in the fishery during those periods

(i) for the purchase of entry permits;

(ii) to upgrade existing vessels and gear for the purpose of improving the quality of Alaska seafood products; or

(iii) for propulsion engine or generator engine replacements on existing vessels for the purpose of improving fuel efficiency;

(B) to an individual 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, if the individual has been a state resident for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 — 16.10.370, is not eligible for financing from a state financial institution as defined in AS 06.01.050, a federally chartered financial institution, or the Commercial Fishing and Agricultural Bank, and

(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 for whom commercial fishing has been a traditional way of life in Alaska;

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

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

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

(iii) qualify as transferees for quota shares under applicable law; and

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

(D) to an individual commercial fisherman to satisfy past due federal tax obligations, if the fisherman has been a state resident for a continuous period of two years immediately preceding the date of application for the loan, has filed past and current federal tax returns with the federal government, has executed an agreement with the federal government for repayment of past due federal tax obligations, and either

(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 for whom commercial fishing has been a traditional way of life in Alaska;

(E) for the purchase of fishing quota shares by a community quota entity eligible under federal statute or regulation to purchase the fishing quota shares if the community quota entity is not eligible or qualified for financing from other recognized commercial lending institutions to purchase the fishing quota shares;

(F) to an individual for the upgrade of existing tender vessels and gear to improve the quality of Alaska seafood products, if the individual has been a state resident for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 — 16.10.370;

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

(3) adopt regulations necessary to carry out the provisions of AS 16.10.300 — 16.10.370, including regulations to establish reasonable fees for services provided;

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

(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;

(7) allow an assumption of a loan if

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

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

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

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

(10) refinance a debt obligation incurred by a borrower or borrowers under this section if the borrower or borrowers otherwise qualify for a loan under AS 16.10.300 — 16.10.370;

(11) [See delayed amendment note.] refinance debt obligations, not to exceed \$400,000, incurred by a borrower or borrowers for the purchase of a commercial fishing vessel or gear if the borrower or borrowers otherwise qualify for a loan under AS 16.10.300 — 16.10.370; the department may collect a refinancing loan origination charge as provided by regulation.

(b) [Repealed, § 34 ch 79 SLA 1985.]

(c) In determining whether an individual commercial fisherman is reasonably likely to be able to repay a loan made under AS 16.10.300 — 16.10.370, the commissioner shall consider the individual commercial fisherman's income from commercial fishing and from all other sources.

(d) [Repealed, § 9 ch 62 SLA 1994.]

(e) [Repealed, § 4 ch 12 SLA 2000.]

Sec. 16.10.315. Allocation of loans. [Repealed, § 4 ch 100 SLA 2006.]

Sec. 16.10.320. Limitations on loans.

(a) [See delayed amendment note.] Except as permitted in (h) and (l) of this section, a loan under AS 16.10.300 — 16.10.370

(1) may not exceed a term of 15 years, except for extensions under AS 16.10.310(a)(4);

(2) may not bear interest

(A) exceeding the prime rate, as defined by AS 44.88.599, plus two percentage points; or

(B) at a rate of more than 5.25 percent a year;

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

(4) may not exceed 80 percent of the appraised value of the collateral used to secure the loan; and

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

(b) A lien in favor of the state is not required for loans guaranteed fully by the federal government under 46 U.S.C. 1271 — 1279b (Federal Ship Financing Act of 1972), 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 46 U.S.C. 911-984 (Ship Mortgage Act, 1920) as amended, and 46 U.S.C. 801-842 (Shipping Act, 1916), 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 46 U.S.C. 911-984, and by perfection of a security interest under AS 45.29 (Uniform Commercial Code — Secured Transactions), if the approval of the Secretary of Transportation is obtained under 46 U.S.C. 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 46 U.S.C. 911 — 984, and the approval of the Secretary of Transportation is obtained under 46 U.S.C. 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 Transportation under 46 U.S.C. 808, 835, and 961.

(c) [Repealed, § 72 ch 113 SLA 1982.]

(d) [See delayed amendment note.] The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(A) may not exceed \$400,000. The total of balances outstanding on loans made to a borrower

under AS 16.10.310(a)(1)(B) may not exceed \$400,000 . The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(C) may not exceed \$400,000. The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(D) to satisfy past due federal tax obligations may not exceed \$35,000. The total of balances outstanding on loans made under AS 16.10.310(a)(1)(E) may not exceed \$2,000,000 for each community eligible under federal statute or regulation to establish or participate in the establishment of a community quota entity. The total of balances outstanding on loans made to a borrower under AS 16.10.310(a)(1)(F) may not exceed \$400,000. Excluding loans made under AS 16.10.310(a)(1)(E), the total of balances outstanding on all loans, including debt refinancing under AS 16.10.310(a), made to a borrower under AS 16.10.300 — 16.10.370 may not exceed \$400,000.

(e) Two or more individual commercial fishermen who each satisfy the requirements specified in AS 16.10.310(a)(1)(B) may jointly, whether operating as a corporation, partnership, joint venture, or otherwise, obtain a commercial fishing loan for the repair, restoration, or upgrading of an existing vessel and gear, for the purchase of gear, and for the construction or the purchase of a fishing vessel. Loans granted under this subsection may not exceed the amount specified in (d) of this section multiplied by the number of qualified commercial fishermen applying for the loan.

(f) [Repealed, § 34 ch 79 SLA 1985.]

(g) [Repealed, § 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 under AS 16.10.310(a)(1)(B), unless the loan requested under AS 16.10.310(a)(1) is for propulsion engine or generator engine replacement on an existing vessel for the purpose of improving fuel efficiency or is for the purchase of an entry permit. 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) does not exceed \$400,000.

(j) All principal and interest payments, and any money chargeable to principal or interest that is collected through liquidation by foreclosure or other process, on loans made under AS 16.10.300 — 16.10.370, shall be paid into the commercial fishing revolving loan fund.

(k) Two or more individuals who each satisfy the requirement specified in AS 16.10.310(a)(1)(F) may jointly, whether operating as a corporation, partnership, joint venture, or otherwise, obtain a commercial fishing loan, not to exceed \$300,000, for the upgrade of existing tender vessels and gear to improve the quality of Alaska seafood products.

(l) Until a community quota entity has used loans under this subsection to purchase fishing quota shares cumulatively authorizing a total take of 50,000 pounds, a loan or a portion of a loan made to that community quota entity under AS 16.10.310(a)(1)(E) may not exceed 95 percent of the appraised value of the collateral used to secure the loan or a portion of the loan. A loan to a community quota entity under AS 16.10.310(a)(1)(E)

(1) may not exceed a term of 25 years, except for extensions under AS 16.10.310(a)(4);

(2) may not, alone or in combination with other loans to the community quota entity under AS 16.10.310(a)(4), exceed \$1,000,000 in loans to one community quota entity;

(3) may have terms that allow for a community quota entity to defer interest payments for up to two years; and

(4) is not eligible for refinancing by the department.

(m) In this section, “cost of funds” means the true interest cost expressed as a rate based on the prime rate plus one percentage point plus an additional percentage determined by the department to represent risk of loss, term of credit facility, the allocable expense of operation, cost of issuance, and loan servicing costs.

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. 16.10.330. Sale or transfer of mortgages, bonds and notes. [Repealed, § 14 ch 122 SLA 1980.]

Sec. 16.10.333. Loans for purchase of Alaska limited entry permits.

(a) Loans under AS 16.10.310(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 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 the commissioner's title to the permit or the commissioner's 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) [Repealed, § 34 ch 79 SLA 1985.]

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 16.10.338, the commissioner shall provide the debtor, by both certified and first class mail sent to the debtor's last known address on file with the commissioner, with a notice of default that 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 the debtor's outstanding principal and interest as of the date of the default 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 after the postmark date of the notice, request a hearing to submit evidence showing the debtor has not defaulted;

(5) a statement that the note may be reinstated if it is brought current within 120 days after the postmark date of the notice;

(6) a statement that, under AS 16.10.310(a)(4), the debtor may reinstate the note by submitting to the commissioner a plan of repayment if the commissioner accepts the debtor's plan of repayment;

(7) the place where reinstatement of the note 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) In each case of a limited entry permit being pledged as security under AS 16.10.333 or 16.10.338, the debtor shall maintain on file with the department an address where notice of default is to be sent, if necessary, and where that notice will be timely received by the debtor.

(c) Upon presentation of evidence of mailing in accordance with (a) of this section, the receipt of the notice of default by the debtor will be presumed for all purposes. This presumption is rebuttable by presentation of evidence sufficient to demonstrate lack of receipt of notice through no fault of the debtor. Upon presentation of evidence sufficient to prove lack of receipt of notice through no fault of the debtor, the notice is a nullity.

(d) If requested by the debtor, the commissioner may waive any of the time limits in (a) of this section for a period not to exceed 60 days if

(1) the debtor demonstrates good cause for the waiver; and

(2) the commissioner sets out in writing the reasons for approving the waiver.

(e) Except as otherwise provided in (c) and (d) of this section, if the debtor fails to reinstate or satisfy the note within the time specified in (a)(5) of this section, the debtor's interest in the permit is terminated by operation of law without further notice.

(f) Notwithstanding (a) of this section, when a debtor files bankruptcy, the debtor's interest in the limited entry permit is terminated by operation of law without further notice as of the date that the automatic stay issued in the bankruptcy is no longer in effect, unless the debtor has reaffirmed the debt.

(g) If a limited entry permit that has been pledged as security under AS 16.10.333 or 16.10.338 is revoked under AS 16.43.970, the debtor's interest in the permit is terminated by operation of law without further notice as of the date that the revocation takes effect.

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 or the termination of a debtor's interest in an entry permit under AS 16.10.335(g), 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 advertise and sell the permit. If the proceeds of the sale of a permit exceed the amount necessary to pay the note in full, plus penalties, costs of administration of the note, attorney fees, and child support liens of which the department has notice, the excess shall be transferred by the commissioner to the debtor. At any time until the permit has been sold under this subsection, the debtor may repurchase the permit by paying the department the amount necessary

to pay the note in full, plus penalties, costs of administration of the note, and attorney fees, as determined by the commissioner.

(c) [Repealed, § 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.

Sec. 16.10.338. Entry permits as collateral.

(a) 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.

(b) If a limited entry permit is pledged for security for a loan made under AS 16.10.310(a)(1)(B) for the repair, restoration, upgrading, construction, or purchase of a vessel 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 vessel, 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.

(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. 16.10.339. Regulations.

The department shall adopt regulations to implement AS 16.10.333 — 16.10.337.

Sec. 16.10.340. Commercial fishing revolving loan fund.

(a) There is a commercial fishing revolving loan fund to carry out the purpose of AS 16.10.300 — 16.10.370.

(b) Money in the fund may be used by the legislature to make appropriations for costs of administering AS 16.10.300 — 16.10.370.

(c) If the commissioner determines that the fund contains money that is excess to that needed to carry out the purpose of AS 16.10.300 — 16.10.370, then the commissioner may use the excess money to carry out the purpose of AS 16.10.500 — 16.10.560.

Sec. 16.10.342. Foreclosure expense account.

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

(b) [Repealed, § 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.

CHAPTER 80 COMMERCIAL FISHING LOANS

Article

- 1. Community Fishing Revolving Loan Fund (3 AAC 80.010 – 3 AAC 80.180)**
- 2. Community Quota Entity Revolving Loan Fund (3 AAC 80.200 – 3 AAC 80.265)**
- 3. Community Charter Fisheries Revolving Loan Fund (3 AAC 80.310 – 3 AAC 80.380)**
- 4. Mariculture Revolving Loan Fund (3 AAC 80.410 – 3 AAC 80.480)**
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ARTICLE 1 COMMUNITY FISHING REVOLVING LOAN FUND

Section

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3 AAC 80.010. Application process.

- (a) To apply for a loan the applicant shall file with the department
- (1) a completed application for a commercial fishing loan, on a form provided by the department;
 - (2) a completed residency questionnaire, on a form provided by the department;
 - (3) a letter of intent stating the amount requested and intended use of the proposed loan money, on a form provided by the department;
 - (4) a schedule of acceptable collateral, including collateral now owned and other collateral to be acquired with the loan proceeds, on a form provided by the department;
 - (5) an individual financial statement consisting of a current balance sheet and a profit and loss statement, on a form provided by the department;
 - (6) a statement of projected income and expenses for the following year's operating plan, on a form provided by the department;
 - (7) a signed credit authorization, on a form provided by the department;

- (8) copies of the applicant's federal income tax returns for the preceding three years, and for additional years if necessary to establish eligibility;
 - (9) a commercial fishing resume identifying all permits and licenses held by the applicant, summarizing the applicant's experience as a commercial fisher in Alaska for each year, on a form provided by the department;
 - (10) consent to release information, on a form provided by the department;
 - (11) copies of the purchase agreement or cost estimates and down-payment receipt, with signatures by all parties;
 - (12) if a vessel is used for collateral, a marine survey less than 90 days old, acceptable to the department, including pictures of the vessel;
 - (13) a \$100 nonrefundable application fee; and
 - (14) any other information that might be helpful to the applicant in demonstrating eligibility for a loan, as requested by the department.
- (b) To prequalify for a loan for the purchase of a limited entry permit or quota shares, an applicant shall file with the department
- (1) the materials listed in (a) of this section, except the materials listed in paragraphs (11) and (13); and
 - (2) a \$200 nonrefundable prequalification application fee.
- (c) If the department determines an applicant previously submitted a false sworn or unsworn statement on or in support of a loan application, the department may deny any future loan application submitted by the applicant. An applicant who submits a false sworn or unsworn statement on or in support of a loan application is subject to AS 11.56.200 - 11.56.210.
- (d) A request for prequalification will be processed in the same manner as a loan request. A prequalification commitment shall not exceed 60 days.
- (e) The department will, in its discretion, process loan requests without the information described in (a) of this section in cases where it determines that the information is not necessary in order for the department to make the lending decision.
- (f) To receive preauthorization to purchase a commercial fishing vessel, the applicant must file with the department the materials listed in (a) of this section, except the items in paragraph (11).
- (g) A request for preauthorization will be processed in the same manner as a loan request. A preauthorization shall not exceed 90 days.
- (h) The department will process a loan application without the application fee required in (a)(13) of this section, if the department determines that the payment of costs of processing the application would be an undue hardship to the applicant.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.015. Examination.

- (a) The materials described in 3 AAC 80.010 will be processed and evaluated by a loan officer. The loan officer will evaluate the applicant's eligibility, financial and credit history, operating plan, ability to repay, and proposed collateral.
- (b) On the basis of the evaluation, the loan officer will either inactivate the application, due to lack of information required under 3 AAC 80.010 or ineligibility of the applicant, or recommend proposed action on the loan request to the appropriate loan committee. However, the recommendation of a loan officer is not binding on a loan committee.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.020. Loan committee.

- (a) A loan committee consists of one or more persons appointed by the director to act on a loan request.
- (b) A loan committee may approve, deny, or modify and approve a loan request, or may table a loan request subject to obtaining additional information.
- (c) A loan committee may impose reasonable conditions on the approval of a loan, including
 - (1) additional collateral to secure the loan;
 - (2) additional guarantors; and
 - (3) subordination of prior lienholders' rights to the interests of the state.
- (d) A loan committee shall consider the applicant's eligibility for a loan, financial and credit record, ability to repay, operating plan, and the adequacy of collateral offered to secure the loan. A loan committee may also

consider the recommendations of the loan officer assigned to process the application and any other relevant information.

(e) A loan committee may fix, within the limitations set by AS 16.10.320, the term of a loan and repayment schedule.

(f) If a loan request is denied or significantly modified by a loan committee, the loan committee shall provide the applicant with a statement of the reasons for the action and the information relied on.

(g) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.030. Residency requirements.

(a) In determining if an applicant fulfills the two-year residency requirements under AS 16.10.310, the loan committee may consider any information that would indicate the applicant's residency, including where the applicant

- (1) is registered to vote;
- (2) maintains a permanent place of abode;
- (3) files tax returns, and the address that is listed on the returns;
- (4) registers or licenses personal property, including but not limited to cars, boats, trucks and trailers;
- (5) is licensed to drive;
- (6) maintains bank accounts, savings accounts, lines of credit, and other financial relationships;
- (7) has claimed or received benefits as a resident;
- (8) has received permanent fund dividends; and
- (9) owns real property.

(b) If two or more individuals apply jointly or as a partnership or corporation, all parties to the application must establish residency.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.035. Eligibility.

(a) To have "actively participated in the fishery" under AS 16.10.310(a)(1)(A) or (a)(1)(C) an applicant must have fished in Alaskan waters during the qualifying years.

(b) The department may rely on the following documents to verify that an applicant has actively participated in the fishery:

- (1) tax returns;
- (2) verified affidavits from the applicant and other individuals certifying the applicant's commercial fishing experience;
- (3) fishing and gear licenses;
- (4) commercial fish tickets;
- (5) wage receipts;
- (6) cannery statements.

(c) For a loan under AS 16.10.310(a)(1)(B)(i), the applicant must establish that

(1) there are no employment opportunities in the area of the applicant's residence, other than commercial fishing; or

(2) the applicant does not have training sufficient to qualify for employment opportunities in the area of the applicant's residence, other than commercial fishing.

(d) For purposes of AS 16.10.310(a)(1)(B)(ii), an applicant is "economically dependent on commercial fishing for a livelihood" if at least 25 percent of the applicant's total gross income during the previous two years was derived from commercial fishing.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.040. Financial and credit record.

(a) The department may consider the following factors in evaluating an applicant's financial and credit record:

- (1) existing and prior debts;
- (2) credit reports obtained from creditors and private credit reporting services;

- (3) prior loan history with the department;
- (4) timeliness in making payments on loans and other debts;
- (5) existence of tax liens;
- (6) judgments and foreclosures;
- (7) financial and credit reputation.

(b) Information establishing unacceptable credit will be more heavily weighed by the department if it has occurred within the past 10 years.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.045. Ability to repay.

(a) The department may consider the following factors in evaluating an applicant's ability to repay:

- (1) income history, including present income;
- (2) prospects for future income;
- (3) assets and their liquidity;
- (4) liabilities;
- (5) reasonableness of the projected profit and loss statement;
- (6) other relevant experience.

(b) The department may compare revenue projections contained in an applicant's profit and loss statement with information it acquires through its own efforts or from the Department of Fish and Game, the Commercial Fisheries Entry Commission, or the Alaska Commercial Fishing and Agriculture Bank on the success of other fishermen in similar circumstances to determine the reasonableness of the applicant's projections.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.050. Collateral.

(a) A loan must be secured by collateral acceptable to the department, such as a mortgage or other security instrument in real property, limited entry permits, quota shares, or commercial fishing vessels with gear.

(b) A vessel that can be documented must be documented to be acceptable collateral. If a vessel is offered as collateral for a loan, the department or its designee shall be permitted to inspect the vessel or vessel construction project before making the loan.

(c) A loan for the purchase of a limited entry permit, quota shares, or a vessel will be made only if the permit, quota shares, or vessel is placed in the name of the applicant and the permit, quota shares, or vessel is offered as security for the loan.

Authority: AS 16.10.310 AS 16.10.320 AS 16.10.339

3 AAC 80.055. Lending practices.

(a) If the balance of the commercial fishing revolving loan fund is not adequate to meet the anticipated loan demand for the remainder of the fiscal year, the department will process loan applications in the following order according to the purpose of the loan:

- (1) first, the purchase of limited entry permits;
- (2) second, satisfaction of federal tax obligations;
- (3) third, vessel upgrade or purchase;
- (4) fourth, the purchase of gear;
- (5) fifth, the purchase of fishing quota shares;
- (6) sixth, refinancing as permitted under AS 16.10.310(a)(11).

(b) An applicant will be considered eligible for a loan to purchase a limited entry permit, vessel, or gear under AS 16.10.310(a)(1)(B) or purchase quota shares under AS 16.10.310(a)(1)(C) if the department determines that the applicant is not eligible for an alternative source of financing. An applicant's ability to provide a guarantor for a loan does not make the applicant ineligible for a loan under AS 16.10.310(a)(1)(B) or (a)(1)(C).

(c) A loan will not be approved if its primary purpose would be to

- (1) speculate in the acquisition and sale of limited entry permits, quota shares, vessels, or gear;
- (2) lease out a limited entry permit; or
- (3) purchase a commercial fishing vessel, gear, a limited entry permit, or quota shares that will not be put

to use in the fishing season immediately following the loan approval date.

(d) Except as provided in AS 16.10.310(a)(10) and (11), a loan will not be approved for refinancing long-term debt. Interim or construction financing is not considered long-term debt if the term is 24 months or less and the promissory note or the original agreement was executed less than 12 months before receipt of the application by the department, except that the department may waive these restrictions if

(1) the applicant shows that the application of these restrictions would result in undue hardship for the applicant;

(2) the applicant is a good financial risk; and

(3) the state's investment is preserved.

(e) In determining the maximum loan amount that may be approved for the purchase of a limited entry permit, the department will rely on the value established by the Alaska Commercial Fisheries Entry Commission or other appropriate sources as determined by the department.

(f) Repealed 7/30/2000.

(g) Repealed 7/30/2000.

(h) A loan for the purchase of a vessel for use in a limited entry fishery will not be approved unless the applicant has access to a limited entry permit for that fishery and the primary use of the vessel will be commercial fishing by the borrower.

(i) A vessel that is being purchased under this chapter cannot be leased unless the vessel is primarily used by the borrower for commercial fishing. All lease agreements must have prior approval by the department.

(j) Except as provided in AS 16.10.310(a)(11), loan proceeds may not be used to reimburse an applicant for expenses paid more than one year before receipt of the application by the department. The department may waive this restriction if

(1) the applicant shows that the application of this restriction would result in undue hardship for the applicant;

(2) the applicant is a good financial risk; and

(3) the state's investment is preserved.

(k) The department will quarterly set the interest rate for loans under 3 AAC 80.010 - 3 AAC 80.180 on the first day of each calendar quarter. The interest rate set for a quarter remains in effect until the department changes the rate, will not exceed the maximum or minimum interest allowed under AS 16.10.320(a)(2), and will be established at the nearest one-quarter point, before any credits are applied by the department. The interest rate will be based on the bank prime rate, as defined in AS 44.88.599, during the previous quarter as follows:

(1) the interest rate is based on the cost of funds to the state as defined in AS 16.10.320(m) for loans made

(A) to upgrade existing vessels and gear for the purpose of improving the quality of Alaska seafood products; or

(B) for engine efficiency upgrades;

(2) for all other loans under 3 AAC 80.010 - 3 AAC 80.180, the interest rate is based on the bank prime rate plus two percentage points.

(l) The interest rate for a loan is the quarterly interest rate in effect at the time the loan commitment is made. The interest rate for a loan will be at a fixed rate for the term of the loan.

(m) Repealed 7/30/2000.

(n) If refinancing funds are limited, the department will process refinancing requests in the following order:

(1) first, applicants who have existing loans made under AS 16.10.300 - 16.10.370;

(2) second, applicants who are under-collateralized on their existing loan, but who would meet the collateral requirements of AS 16.10.310 - 16.10.370 by the addition of a limited entry permit;

(3) third, applicants who could significantly improve their loan terms by receiving a loan under AS 16.10.310(a)(11);

(4) fourth, applicants in default on their existing loan who otherwise meet the requirements of AS 16.10.310 - 16.10.370.

(o) To be eligible for a lower interest loan under (k) of this section for

(1) an upgrade to an existing vessel or gear for the purpose of improving the quality of Alaska seafood products, an applicant must establish to the satisfaction of the department that the upgrade to be financed with the loan will enhance product quality; types of acceptable upgrades include refrigeration, hold insulation, and slider reels;

(2) an engine efficiency upgrade or replacement, an applicant must establish to the satisfaction of the department that the upgrade or replacement to be financed with the loan will reduce emissions or improve fuel productivity.

(p) Beginning July 30, 2000, the department will grant a credit on an existing loan with payments due annually if, before the late fee date as described in 3 AAC 80.075(c), the borrower paid in full the amount due for the current calendar year. Beginning July 30, 2000, the department will grant a credit on an existing loan with payments due monthly, quarterly, or semi-annually if, for each payment due within a 12-month period, the borrower paid in full the amount due before the late fee date for that payment as described in 3 AAC 80.075(c). The amount due includes principal, interest due, deferred interest due, fees, costs, and other accounts receivable due. If the department grants a credit under this subsection, the department will apply that credit beginning from the late fee date, as described in 3 AAC 80.075(c), for the payment that qualified the borrower for the credit. Every 12 months after that date, the department will review the borrower's loan payment history, and will discontinue a credit granted under this subsection if during that 12-month period the borrower failed to make in full a payment due by the late fee date for that payment as described in 3 AAC 80.075(c). The maximum credit that will be granted under this subsection is one percentage point of the annual interest rate.

Authority: AS 16.10.310 AS 16.10.320 AS 16.10.325
AS 16.10.339

3 AAC 80.065. Disbursement of loan money.

Loan money will be disbursed when

- (1) a security interest in the collateral on behalf of the State has been perfected, except that, in the case of a mortgage on a documented vessel, this requirement may be satisfied by the establishment of the mortgage as a preferred mortgage under the provisions of the Ship Mortgage Act of 1920, (46 U.S.C. 911 - 984);
- (2) the borrower has complied with the marine insurance requirements contained in an instrument signed by the borrower;
- (3) requirements of the loan committee have been met; and
- (4) the borrower is in compliance with all other provisions of the loan documents and this chapter.

Authority: AS 16.10.310 AS 16.10.320

3 AAC 80.070. Supervision of loans.

Repealed.

3 AAC 80.075. Costs.

- (a) All expenses incurred by the department in processing an application must be paid by the applicant. These expenses include the cost of title reports and insurance, recording fees, appraisals, surveys, travel, and other direct costs.
- (b) Except as provided in AS 16.10.310(a)(10), an origination fee of one percent of the total loan amount or an assumption fee of one percent of the loan balance is due from the borrower when all provisions of 3 AAC 80.065 have been met.
- (c) A late fee not to exceed five percent of the payment amount will be charged to a borrower for each loan payment that is received more than 15 days after the due date. If requested by the borrower and the borrower has not previously received a partial or full waiver of a late fee, the department will waive up to all of the late fee as follows:
- (1) 100 percent if the loan payment was received no more than 18 days after the due date;
 - (2) 90 percent if the loan payment was received no more than 29 days after the due date.
- (d) A fee not to exceed \$100 will be charged to a borrower to process a loan extension application.
- (e) The department will not charge the late fee described in (c) of this section if
- (1) the department receives from the borrower a loan extension application or a payment plan no more than 15 days after the due date;
 - (2) the department approves the loan extension application or payment plan; and
 - (3) one or more of the following occurs:
 - (A) the borrower meets all conditions for the loan extension or the payment plan;
 - (B) the department receives payment during its review of the loan extension application or payment plan.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.080. Assumptions.

- (a) A request for permission to assume the obligations and benefits of a loan made under AS 16.10.300 - 16.10.370 and this chapter will be processed in the same manner as a loan request.
- (b) A loan committee may permit an assumption if the applicant meets residency requirements as outlined in this chapter, is a good financial risk, and the security of the state's investment is preserved.
- (c) Wraparound financing that includes a loan made under AS 16.10.300 - 16.10.370 and this chapter is prohibited and constitutes a default on the loan.

Authority: AS 16.10.310

3 AAC 80.082. Modifications.

- (a) A request for a modification to a loan made under AS 16.10.300 - 16.10.370 and this chapter will be processed in the same manner as a loan application. The department will require the applicant to file one or more of the items specified in 3 AAC 80.010 if information on those items has changed since they were previously filed, or if the department needs additional information not appearing in the previously filed items in order to review the request for modification.
- (b) A loan committee may permit a loan modification only if the security of the state and its investment is preserved.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.085. Reconsideration of loan request.

- (a) If a loan request is denied, inactivated, or significantly modified by the department, an applicant may file a written request for reconsideration within 30 days after receipt of notice of the department's decision.
- (b) The department will reconsider a request upon a showing by the applicant that
 - (1) there has been a substantial change in the circumstances leading to the department decision;
 - (2) additional relevant information can be provided to the department that was not initially available; or
 - (3) administrative errors were made by the department.

Authority: AS 16.10.310 AS 16.10.339

3 AAC 80.090. Confidentiality of loan information.

- (a) The following information is not confidential and is available for public inspection upon request:
 - (1) a document that is already a public record, including a deed of trust, financing statement, limited entry permit, quota share, warranty deed, bill of sale, mortgage, lien, vehicle title, or vessel documentation;
 - (2) general information regarding loans, including the original loan amount, loan terms, personal guarantees, and disbursement and repayment schedules;
 - (3) insurance matters, including title insurance policies and correspondence with insurance companies or borrowers regarding losses, accident reports, and nonpayment of premiums; and
 - (4) foreclosure and default proceedings.
- (b) The following information is confidential and is not subject to public disclosure:
 - (1) personal and financial information, including income tax returns, financial statements, business income statements, pro forma profit and loss statements, credit information obtained from banks and other creditors, reports from consumer reporting agencies, cannery statements, and commercial fishing pink slips (fish tickets);
 - (2) loan committee memoranda and minutes containing information relating to creditworthiness of an applicant; and
 - (3) the payment history on a loan, unless the loan is in default.
- (c) Information not described in (a) or (b) of this section may be subject to public disclosure. Requests for disclosure must be made, and will be determined, in accordance with 2 AAC 96. Upon receipt of a request for disclosure, the department will notify the loan applicant and other persons with a privacy interest in the request, to permit them to present reasons why the requested information should not be disclosed.

Authority: Ak Const. Art. I AS 16.10.310
AS 40.25.110 AS 40.25.120

3 AAC 80.105. Request for a hearing.

- (a) A request for a hearing under AS 16.10.335 must be made in writing to the address of the Department of Commerce, Community, and Economic Development as set out in the notice of default and final demand for payment. The request must include a statement explaining why the debtor believes default has not occurred. The request must be postmarked within 15 days after the postmark date on the notice of default and final demand for payment. The request should include copies of any documentary evidence in the debtor's possession showing that the debtor has not defaulted.
- (b) The debtor, a person on behalf of a debtor, or the debtor's estate may request a hearing.
- (c) The time within which the debtor may reinstate or pay off in full a loan under AS 16.10.335, as specified in the notice of default and final demand for payment, will stop running as of the day the request for a hearing is received by the department.
- (d) The commissioner may extend the 15-day period to request a hearing if good cause is shown. Good cause is defined as
- (1) an illness that prevents the debtor from timely requesting a hearing;
 - (2) circumstances beyond the debtor's control that prevent the debtor from timely requesting a hearing; or
 - (3) other circumstances that the commissioner considers to constitute good cause.
- (e) If the commissioner grants a request for a hearing, the time periods specified in the notice of default and final demand for payment will not resume until a final decision has been issued in accordance with 3 AAC 80.150.
- (f) If the commissioner denies a request for a hearing, the time periods specified in the notice of default and final demand for payment will resume as of the day the denial is mailed.

Authority: AS 16.10.335 AS 16.10.339

3 AAC 80.110. Appointment of hearing officer.

A hearing officer will be appointed by the commissioner. The commissioner may appoint

- (1) a hearing officer by contract with another agency;
- (2) an attorney by contract;
- (3) an impartial individual within the department; or
- (4) any other qualified individual.

Authority: AS 16.10.335 AS 16.10.339

3 AAC 80.120. Notice of hearing, location, and time.

- (a) Hearings will be held in Anchorage, Fairbanks, or Juneau, which ever is closest to the debtor's place of residence. If the debtor resides outside Alaska, the hearing will be held in Juneau.
- (b) If all parties agree, or upon order of the hearing officer, the hearing may be scheduled in a different location than those listed in (a) of this section.
- (c) If, because of the distance involved or for other substantial reasons, it is impractical for the debtor to appear at the place of hearing, the hearing officer may schedule and conduct a telephonic hearing.
- (d) The hearing officer shall notify the department and the debtor in writing of the time and place of hearing at least 30 days before the hearing date.

3 AAC 80.130. Hearing procedures.

- (a) Hearings will be conducted informally and in a manner that protects the rights of the parties.
- (b) Oral evidence may be taken only upon oath or affirmation.
- (c) The Alaska Rules of Evidence apply except when the hearing officer determines that their application is not required in order to assure fair treatment of a party and that the evidence offered is relevant and the sort on which responsible persons are accustomed to rely in the conduct of serious matters.
- (d) The debtor, any other party, or the hearing officer may
- (1) call and examine witnesses;
 - (2) introduce exhibits;
 - (3) cross-examine opposing witnesses on matters relevant to the issues even though the matter was not covered in the direct examination.
- (e) If the debtor or any other party does not testify, the party may be called and examined by the hearing officer.
- (f) The debtor bears the burden of proving by a preponderance of the evidence that a determination of the department is erroneous.

- (g) AS 44.62.590, relating to contempt during proceedings before a hearing officer, applies to hearings under this chapter.
- (h) If a debtor or any other party does not appear at a scheduled hearing, and good cause is not shown, the hearing officer may act upon the evidence of record without further notice to the debtor or other party.

Authority: AS 16.10.335 AS 16.10.339

3 AAC 80.130. Hearing procedures.

- (a) Hearings will be conducted informally and in a manner that protects the rights of the parties.
- (b) Oral evidence may be taken only upon oath or affirmation.
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- (1) call and examine witnesses;
 - (2) introduce exhibits;
 - (3) cross-examine opposing witnesses on matters relevant to the issues even though the matter was not covered in the direct examination.
- (e) If the debtor or any other party does not testify, the party may be called and examined by the hearing officer.
- (f) The debtor bears the burden of proving by a preponderance of the evidence that a determination of the department is erroneous.
- (g) AS 44.62.590, relating to contempt during proceedings before a hearing officer, applies to hearings under this chapter.
- (h) If a debtor or any other party does not appear at a scheduled hearing, and good cause is not shown, the hearing officer may act upon the evidence of record without further notice to the debtor or other party.

Authority: AS 16.10.335 AS 16.10.339

3 AAC 80.140. Subpoenas, depositions, affidavits, and documents.

- (a) At the request of the debtor or any other party, for good cause shown or upon the hearing officer's own motion, the hearing officer may issue subpoenas and subpoenas duces tecum to compel testimony or other evidence at a hearing. The issuance of subpoenas will be governed by AS 44.62.430.
- (b) The hearing officer may order that the testimony of a material witness be taken by deposition in accordance with AS 44.62.440.

Authority: AS 16.10.335 AS 16.10.339

3 AAC 80.150. Recommended and final decisions.

- (a) Upon conclusion of the hearing, the hearing officer shall prepare a proposed decision in writing, setting out findings of fact and conclusions of law.
- (b) The commissioner may accept or reject the written recommendation of the hearing officer in its entirety or in part. The commissioner's decision will be mailed or delivered to all parties of record and will constitute a final administrative decision in the case.

Authority: AS 16.10.335 AS 16.10.339

3 AAC 80.160. Reconsideration.

- (a) The commissioner may order reconsideration of the decision upon the commissioner's own motion or upon the written request of the debtor or any other party. A request for reconsideration by the debtor or another party must set out specifically the grounds upon which the requesting party believes the decision to be erroneous and, if new evidence is being offered, identify that evidence with particularity and explain how the inclusion of the new evidence in the record would change the decision.
- (b) The commissioner may reconsider a matter based on the original record, may accept additional evidence to supplement the original record, or may order the hearing officer to reopen the hearing for the taking of further evidence and issuance of a second proposed decision.

(c) The power to reconsider a decision expires 30 days after the date of the decision. If no action is taken on a request for reconsideration within the time allowed for ordering reconsideration, the request is considered denied.

Authority: AS 16.10.335 AS 16.10.339

3 AAC 80.170. Extension of notice of default and final demand for payment.

(a) Whether or not the debtor requests a hearing, the debtor may request an extension of time to reinstate the note or pay it in full beyond that specified in the notice of default and final demand for payment.

(b) The request for an extension and a completed extension package must be postmarked or delivered to the department no later than the 120th day after the notice of default and final demand for payment has been issued.

(c) If the department grants an extension to the debtor, the notice of default and final demand for payment will be extended in accordance with the terms of the extension.

Authority: AS 16.10.335 AS 16.10.339

3 AAC 80.180. Loans with collateral in addition to limited entry permits.

If a loan is secured by collateral in addition to a limited entry permit, foreclosure on the other collateral will be in accordance with the laws that govern that particular type of collateral.

Authority: AS 16.10.335 AS 16.10.339