

Statutes and Regulations

Commercial Fishing Loan Act

General Provisions

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.

Sec. 16.10.345. Community quota entity revolving loan fund.

Sec. 16.10.350. Administration of fund.

(a) The commissioner shall administer the commercial fishing revolving loan fund.

(b) The commissioner shall annually prepare a report detailing the number and nature of reinstatements authorized by AS 16.10.335(a)(5) and notify the legislature that the report is available.

Sec. 16.10.353. Waiver of confidentiality.

(a) The commissioner may release information about a borrower's loan to any individual when release of the information has been authorized by the borrower.

(b) A person obtaining a loan under AS 16.10.300 — 16.10.370 after June 28, 1991 may, by signing a form prepared for the purpose, designate the names of persons and organizations to whom a copy of the notice required by AS 16.10.335 must be sent.

Sec. 16.10.355. Disposal of property acquired by default or foreclosure.

The department shall dispose of property acquired through default or foreclosure of a loan made under AS 16.10.300 — 16.10.370 or former AS 16.10.650 — 16.10.720. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years, but may not be by lease.

Sec. 16.10.360. Definitions.

In AS 16.10.300 — 16.10.370,

- (1) “commission” means the Alaska Commercial Fisheries Entry Commission;
- (2) “commissioner” means the commissioner of commerce, community, and economic development;
- (3) “debtor” means an individual commercial fisherman who either initially contracts for a loan under AS 16.10.333 — 16.10.337 or assumes a loan as provided in those sections;
- (4) “department” means the Department of Commerce, Community, and Economic Development;
- (5) “quota share” means a transferable license, permit, or right issued by the federal government that conveys a right to engage in a fishery in or off Alaska and to take a specified portion of the annual harvest quota for that fishery.

Sec. 16.10.370. Short title.

AS 16.10.300 — 16.10.370 may be cited as the Commercial Fishing Loan Act.

Sec. 16.10.500. Declaration of policy.

It is the policy of the state, under AS 16.10.500 — 16.10.560, to promote the enhancement of the state's fisheries by means of grants for organizational and planning purposes to regional associations described in AS 16.10.510 that have qualified under AS 16.10.380, and by means of long-term, low interest loans for hatchery planning, construction, and operation and for planning and implementation of enhancement and rehabilitation activities including, but not limited to, lake fertilization and habitat improvement.

Sec. 16.10.505. Fisheries enhancement revolving loan fund.

(a) There is created within the Department of Commerce, Community, and Economic Development a revolving fund to be known as the fisheries enhancement revolving loan fund. Except as provided in (b) and (c) of this section, the fund shall be used to carry out the purposes of AS 16.10.500 — 16.10.560 and for no other purpose. All principal and interest payments, and money chargeable to principal or interest that is collected through liquidation by foreclosure or other process on loans made under AS 16.10.500 — 16.10.560, shall be paid into the fisheries enhancement revolving loan fund.

(b) Money in the fund may be used by the legislature to make appropriations for costs of administering AS 16.10.500 — 16.10.560.

(c) Money in the fund that the commissioner determines to be excess to that needed to carry out the purpose of AS 16.10.500 — 16.10.560 may be used to carry out the purpose of AS 16.10.300 — 16.10.370.

Sec. 16.10.507. Foreclosure expense account.

(a) There is established as a special account within the fisheries enhancement revolving loan fund the foreclosure expense account. This account is established as a reserve from fund equity.

(b) The commissioner may expend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans made under AS 16.10.520 or to defray expenses incurred during foreclosure proceedings after a default by an obligor.

Sec. 16.10.510. Powers and duties of the commissioner.

The commissioner may

- (1) make loans to permit holders, under AS 16.10.400 — 16.10.470, including those holders issued permits before June 24, 1977, for the planning, construction, and operation of hatchery facilities;
- (2) make loans to qualified regional associations that have formed a nonprofit corporation or a local nonprofit corporation approved by a qualified regional association, for preconstruction activities necessary to obtain a permit;

- (3) designate agents and delegate powers to them as necessary;
- (4) adopt regulations necessary to carry out the provisions of AS 16.10.500 — 16.10.560, including regulations to establish reasonable fees for services provided;
- (5) establish amortization plans for repayment of loans, not to exceed 30 years unless the commissioner has extended the term of the loan beyond 30 years under (11) of this section;
- (6) establish the rate of interest for loans not to exceed nine and one-half percent a year;
- (7) establish regional and local offices and advisory groups to carry out, or assist in carrying out, the duties and authority of the commissioner;
- (8) make grants for organizational and planning purposes to qualified regional associations that 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 that have an authorized royalty assessment under AS 16.10.540; the state portion of the matching share shall be available when a final vote for assessments is made under AS 16.10.540; this provision also applies to qualified regional associations that have formed a nonprofit corporation before June 24, 1977;
- (9) make loans to qualified regional associations that have formed a nonprofit corporation or to local nonprofit corporations approved by qualified regional associations for planning and implementation of fisheries enhancement and rehabilitation activities including, but not limited to, lake fertilization and habitat improvement;
- (10) refinance a debt obligation incurred by a borrower under this section if the borrower otherwise qualifies for a loan under AS 16.10.500 — 16.10.560; the interest rate for a loan to refinance a debt obligation incurred under this section may not exceed the interest rate that is in effect for new loans under this section at the time that the loan commitment for the refinancing loan is made; a loan made under this paragraph is not subject to AS 16.10.525;
- (11) extend the term of a loan made under this section if the commissioner finds that extension of the term of the loan would alleviate an undue financial hardship on the borrower; the commissioner shall submit annually a report to the legislature summarizing the commissioner's decisions during the prior calendar year to approve or deny requests to extend loans under this paragraph and the reasons for the decisions;
- (12) charge and collect the fees established under this section.

Sec. 16.10.520. Limitation on loans.

- (a) A single fisheries enhancement loan may not exceed \$10,000,000 for a hatchery or other enhancement or rehabilitation activity conducted under a permit granted to a qualified regional association that 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 \$1,000,000.
- (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 percent of the loan within 10 years or less, either through a royalty assessment levied under AS 16.10.540 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 10 years. The costs for operations shall be loaned on an annual basis.
- (c) All loans shall be secured by collateral satisfactory to the commissioner, including but not limited to a first deed of trust, assignment of lease and leasehold improvements, sale of surplus fish from the hatchery, or royalty assessments from fishermen levied under AS 16.10.540.
- (d) The commissioner may require adequate evidence of performance in utilizing loan funds approved for an initial or preliminary project before approving a subsequent loan application.

(e) The total amount of loans made or purchased in any fiscal year may not exceed the amount specifically authorized by statute.

(f) The commissioner may not make a loan under AS 16.10.500 — 16.10.550 from funds available under AS 16.10.340(c), unless the commissioner determines, in consultation with the appropriate regional planning team established under AS 16.10.375, that the hatchery or other enhancement or rehabilitation activity for which the loan is requested will provide a significant contribution to common property fisheries, be operated in a manner beneficial to the public interest, and be managed in a financially viable manner that is reasonably expected to result in repayment of the loan.

Sec. 16.10.525. Repayment of principal and interest on loans.

The commissioner may not require the repayment of principal on a loan made under AS 16.10.510 for the initial period of the loan. Interest on the principal of a loan made under AS 16.10.510 does not accrue during the initial period of the loan. In this subsection, the “initial period of the loan” means a period of time determined by the commissioner that is not less than six years or more than 10 years from the date the loan is made.

Sec. 16.10.530. Royalty assessment on sale of salmon. [Repealed, § 67 ch 6 SLA 1984.]

Sec. 16.10.540. Voluntary assessment on sale of salmon.

(a) An association of persons who hold entry permits under AS 16.43, that consists of at least 51 percent of the persons holding entry permits and actively participating in a fishery to be benefited by a hatchery program, may levy and collect an assessment from among its members for the purpose of securing and repaying a loan made under AS 16.10.510.

(b) Upon satisfactory demonstration to the commissioner that an assessment levied under this section may reasonably be relied upon to secure and repay a loan to be made under AS 16.10.510, the commissioner may make the loan.

(c) [Repealed, § 33 ch 14 SLA 1987.]

Sec. 16.10.550. Sale or transfer of mortgages and notes. [Repealed, § 14 ch 122 SLA 1980.]

Sec. 16.10.555. Disposal of property acquired by default or foreclosure.

The Department of Commerce, Community, and Economic Development shall dispose of property acquired through default or foreclosure of a loan made under AS 16.10.500 — 16.10.560. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years.

Sec. 16.10.560. Definitions.

In AS 16.10.500 — 16.10.560,

(1) “commissioner” means the commissioner of commerce, community, and economic development;

(2) “hatchery” means a facility for the artificial incubation of salmon eggs, which may include means for the rearing of juvenile salmon.

Sec. 16.10.801. Commercial charter fisheries revolving loan fund.

(a) The commercial charter fisheries revolving loan fund is created in the Department of Commerce, Community, and Economic Development to carry out the purposes of AS 16.10.801 — 16.10.840.

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

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

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

(3) money chargeable to principal or interest that is collected through liquidation by foreclosure or other process on loans made under AS 16.10.801 — 16.10.840.

(c) Money in the fund may be used by the legislature to make appropriations for costs of administering AS 16.10.801 — 16.10.840.

Sec. 16.10.805. Powers and duties of the department.

The department may

(1) make loans to eligible applicants under AS 16.10.801 — 16.10.840

(A) for the purchase of charter halibut permits;

(B) to refinance debt obligations made by other lenders more than 12 months before the department received the loan application and incurred by an applicant for the purchase of charter halibut fishing vessels or gear if the applicant otherwise qualifies for a loan under AS 16.10.801 — 16.10.840; the department may collect a refinancing loan origination charge as provided by regulation;

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

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

(4) allow an assumption of a loan if

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

(B) approval of the assumption would be consistent with the purposes of AS 16.10.801 — 16.10.840;

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

(6) charge and collect fees for services provided under AS 16.10.801 — 16.10.840;

(7) adopt regulations under AS 44.62 necessary to carry out the provisions of AS 16.10.801 — 16.10.840, including regulations to establish reasonable fees for services provided; and

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

Sec. 16.10.810. Eligibility.

(a) For an applicant to be eligible for a loan under AS 16.10.801 — 16.10.840, the applicant shall be a resident of the state, as determined under (c) of this section, and shall

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

(2) qualify as a transferee for a charter halibut permit under applicable law.

(b) In addition to the requirements set out in (a) of this section, the applicant must provide to the department a document from a state financial institution stating that

(1) the applicant has been denied a loan for the same purpose; or

(2) a loan from the financial institution is contingent on the applicant also receiving a loan from the fund.

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

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

(2) may not have

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

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

Sec. 16.10.815. Limitations on loans.

(a) Except as provided in (b) of this section, a loan under AS 16.10.801 — 16.10.840

(1) for a charter halibut permit may not exceed the permit value determined by a 12-month rolling average set quarterly by the department for like permits;

(2) for a loan other than a loan for a charter halibut permit may not exceed \$100,000 a year;

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

(4) may not bear interest at a rate greater than the prime rate, as defined in AS 44.88.599, plus two percentage points, but which may not be less than six percent a year or more than 10 1/2 percent a year;

(5) must be secured by a first priority lien on collateral acceptable to the commissioner, which may include collateral other than a charter halibut permit; and

(6) 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) The total balances outstanding on loans made to a borrower under AS 16.10.805 may not exceed \$200,000.

Sec. 16.10.820. Default.

If the borrower defaults on a note, the department shall notify the borrower of the default and the consequences of default by mailing a notice to the borrower's most recent address provided to the department by the borrower or obtained by the department.

Sec. 16.10.825. Special account established.

(a) The foreclosure expense account is established as a special account within the commercial charter fisheries revolving loan fund.

(b) The department 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 16.10.815 or to defray expenses incurred during foreclosure proceedings after an obligor defaults.

Sec. 16.10.830. Disposal of property acquired after default.

The department shall dispose of property acquired through default of a loan made under AS 16.10.801 — 16.10.840. Disposal must be made in a manner that serves the best interest of the state and may include the amortization of payments over a period of years.

Sec. 16.10.835. Waiver of confidentiality.

The commissioner may release information about the borrower's loan to any individual if release of the information has been authorized by the borrower.

Sec. 16.10.840. Definitions.

In AS 16.10.801 — 16.10.840,

(1) “commissioner” means the commissioner of commerce, community, and economic development;

(2) “department” means the Department of Commerce, Community, and Economic Development.

Sec. 16.10.890. Declaration of policy.

It is the policy of the state, under AS 16.10.890 — 16.10.945, to promote mariculture and the enhancement of the state's shellfish fisheries by means of long-term, low-interest loans.

Sec. 16.10.900. Mariculture revolving loan fund.

(a) The mariculture revolving loan fund is created in the Department of Commerce, Community, and Economic Development to carry out the purposes of AS 16.10.890 — 16.10.945.

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

- (1) money appropriated to, transferred to, or received by gift, grant, devise, bequest, or donation to the fund;
- (2) principal and interest payments or other income earned on loans or investments of the fund; and
- (3) money chargeable to principal or interest that is collected through liquidation by foreclosure or other process on loans made under AS 16.10.890 — 16.10.945.

(c) Money in the fund may be used by the legislature to make appropriations for costs of administering AS 16.10.890 — 16.10.945.

(d) Of the total amount available annually to the department to carry out the purposes of AS 16.10.890 — 16.10.945, less any funds appropriated under (c) of this section, 60 percent shall be available solely for making loans under AS 16.10.910(a)(1) and the remainder shall be available solely for making loans under AS 16.10.910(a)(2).

Sec. 16.10.905. Powers and duties of the department.

The department may

(1) make loans to eligible applicants under AS 16.10.890 — 16.10.945 for the planning, construction, and operation of a

- (A) mariculture business;
- (B) hatchery that artificially propagates marine aquatic plants or shellfish; or
- (C) a shellfish enhancement project;

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

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

(4) allow an assumption of a loan if

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

(B) approval of the assumption would be consistent with the purposes of AS 16.10.890 — 16.10.945;

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

(6) charge and collect fees for services provided under AS 16.10.890 — 16.10.945;

(7) adopt regulations under AS 44.62 necessary to carry out the provisions of AS 16.10.890 — 16.10.945, including regulations to establish reasonable fees for services provided; and

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

Sec. 16.10.910. Eligibility.

(a) For an applicant to be eligible for a loan under AS 16.10.890 — 16.10.945, the applicant shall be

(1) a resident of the state who has

(A) a permitted mariculture farm location in this state; and

(B) experience or training in the mariculture industry; or

(2) a resident of the state or entity organized under the laws of this state that

(A) holds a permit under AS 16.40.100 to operate a hatchery for the purpose of producing aquatic plants or shellfish; or

(B) conducts shellfish enhancement projects.

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

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

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

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

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

(2) may not have

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

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

Sec. 16.10.915. Limitations on loans.

(a) Except as provided in (b) and (c) of this section, a loan under AS 16.10.890 — 16.10.945

(1) may not exceed

(A) \$100,000 a year for an applicant under AS 16.10.910(a)(1); or

(B) \$1,000,000 a year for an applicant under AS 16.10.910(a)(2);

(2) may not, unless extended under AS 16.10.905, exceed a term of

(A) 20 years for an applicant under AS 16.10.910(a)(1); or

(B) 30 years for an applicant under AS 16.10.910(a)(2);

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

(4) must be secured by a first priority lien on collateral acceptable to the department; 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) Subsequent loans may be made to a borrower under

(1) AS 16.10.910(a)(1), if the total of the balances outstanding on the loans received by the borrower does not exceed \$300,000; or

(2) AS 16.10.910(a)(2), if the total of the balances outstanding on the loans received by the borrower does not exceed \$1,000,000.

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

(d) For a loan made under AS 16.10.890 — 16.10.945, the department may provide a reduction of the interest rate of not more than two percent if at least 50 percent of the loan proceeds are used by the borrower for purchasing products manufactured or produced in the state. When the department offers a reduction under this subsection, the department shall provide the reduction to all loan applicants who meet the criterion described in this subsection. In this subsection, “manufactured or produced” means processing, developing, or making an item into a new item with a distinct character and use.

(e) The department may not make a loan to an applicant under AS 16.10.910(a)(2) for a hatchery or shellfish enhancement project unless the department determines that the hatchery or enhancement project will

(1) be managed in a financially viable manner that is reasonably expected to result in repayment of the loan; and

(2) provide a significant contribution to common property fisheries or otherwise benefit the public interest.

Sec. 16.10.920. Repayment of principal of and interest on loans.

The department may not require the repayment of the principal of and interest on a loan made under AS 16.10.910 during the first six years of the loan. However, for a loan made under AS 16.10.910(a)(2), the department may defer repayment of the principal of and interest on the loan for an additional period not to exceed the first 11 years of the loan. The department may provide that interest on the principal of a loan made under AS 16.10.910(a)(1) does not accrue during a period not to exceed the first six years of the loan. For a loan made under AS 16.10.910(a)(2), the department shall provide that interest on the principal of the loan does not accrue during the first six years of the loan, and the department may provide that interest on the principal of the loan does not accrue during an additional period not to exceed the first 11 years of the loan.

Sec. 16.10.923. Voluntary assessment on sale of shellfish.

(a) An association of persons who hold entry permits under AS 16.43 comprising at least 51 percent of the persons holding entry permits and actively participating in a fishery to be benefited by a hatchery program may levy and collect an assessment from among its members for the purpose of securing and repaying a loan made under AS 16.10.890 — 16.10.945.

(b) Upon satisfactory demonstration to the department that an assessment levied under this section may reasonably be relied on to secure and repay a loan to be made under AS 16.10.890 — 16.10.945, the department may make the loan.

Sec. 16.10.925. Default.

If the borrower defaults on a note, the department shall notify the borrower of the default and the consequences of default by mailing a notice to the borrower's most recent address provided to the department by the borrower or obtained by the department.

Sec. 16.10.930. Special account established.

(a) The foreclosure expense account is established as a special account in the mariculture revolving loan fund.

(b) The department 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 16.10.910 or to defray expenses incurred during foreclosure proceedings after an obligor defaults.

Sec. 16.10.935. Disposal of property acquired after default.

The department shall dispose of property acquired through default of a loan made under AS 16.10.890 — 16.10.945. Disposal must be made in a manner that serves the best interest of the state and may include the amortization of payments over a period of years.

Sec. 16.10.940. Waiver of confidentiality.

The commissioner may release information about the borrower's loan to any individual if release of the information has been authorized by the borrower.

Sec. 16.10.945. Definitions.

In AS 16.10.890 — 16.10.945,

(1) “commissioner” means the commissioner of commerce, community, and economic development;

(2) “department” means the Department of Commerce, Community, and Economic Development;

(3) “hatchery” has the meaning given in AS 16.40.199;

(4) “mariculture” means the farming of shellfish and aquatic plants as defined in AS 16.40.199;

(5) “shellfish enhancement project” means a project to

(A) augment the yield or harvest of shellfish above naturally occurring levels using a natural, artificial, or semiartificial production system; or

(B) rehabilitate a shellfish stock by restoring it to its naturally occurring levels of productivity.

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)**
- 5. General Provisions (3 AAC 80.900)**

ARTICLE 5 GENERAL PROVISIONS

Section

900. Definitions

3 AAC 80.900. Definitions.

Unless the context requires otherwise in 3 AAC 80.010 - 3 AAC 80.480:

- (1) "affidavit" means a sworn statement in writing and signed before a notary public;
- (2) "commercial fishery" or "commercial fisheries" means those fisheries in Alaska requiring that a participant hold a commercial fishing permit or license issued by the State of Alaska;
- (3) "commercial fishing" means the actual catching of fish, shellfish, crab or other fishery resources with the intent of disposing of those resources for profit by sale in commercial channels, while holding all required licenses and permits; for purposes of this paragraph, "actual catching" means having gear in the water with the intent to catch fish;
- (4) "commissioner" means the commissioner of the Department of Commerce, Community, and Economic Development;
- (5) repealed 10/16/2012;
- (6) "default" includes a violation of any provision of this chapter, AS 16.10.300 - 16.10.370, or the loan documents, failure to make the necessary payment within 15 days after it is due, or failure to maintain the insurance required by the department;
- (7) "department" means the Department of Commerce, Community, and Economic Development;
- (8) "documented vessel" means a vessel permanently or temporarily registered, enrolled, or licensed by the United States Coast Guard and that has been issued an official number by the United States Coast Guard;
- (9) "extension package" means such forms as the department may require in order to make a decision on an extension request;
- (10) "guarantor" means a person who legally assures that the loan requirements will be met if the borrower fails to pay or perform as contracted;
- (11) "resident" means an individual who, except for brief intervals of military service, attendance at an educational institution, or absence for good cause, has been physically present in Alaska with the intent to remain indefinitely and make a primary and permanent home in the state;
- (12) "total gross income" means income from all sources, including wages, rental income, business income, dividends, and interest payments;
- (13) "wraparound financing" means a contract that includes the balance due on an existing debt and an additional amount to cover the difference between the selling price and the existing debt;
- (14) "director" means the director of the division assigned economic development functions or its successor agency in the department;
- (15) "charter halibut fishing vessel" means a vessel primarily used for commercial charter fishing that requires halibut charter permits;
- (16) "charter halibut permit" means a permit issued by the National Marine Fisheries Service under 50 C.F.R. 300.67;

(17) "community quota entity" means a nonprofit organization approved by the National Marine Fisheries Service or its successors to hold and lease a quota share on behalf of an eligible community;

(18) "quota share" means a permit issued by the National Marine Fisheries Service or its successors used for the annual calculation of the allowable catch of halibut or sablefish in this state.

Authority: AS 16.10.310 AS 16.10.335 AS 16.10.339
AS 16.10.345 AS 16.10.805 AS 16.10.905