

## ACT 159

H.B. NO. 1485

A Bill for an Act Relating to Aquaculture Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 219-2, Hawaii Revised Statutes, is amended by:

1. Adding two new definitions to be appropriately inserted and to read as follows:

““Department” means the department of agriculture.

“Chairperson” means the chairperson of the board of agriculture.”

2. Amending the definition of “aquaculture” to read:

““Aquaculture” means the production of aquatic plants and animal life [for food and fiber within the ponds and other bodies of water that are] in a controlled salt, brackish, or freshwater environment within the real property for which real property taxes are assessed and paid by the owner or producer.”

SECTION 2. Section 219-5, Hawaii Revised Statutes, is amended to read as follows:

“**§219-5 [Rules.] Powers; rules.** (a) The department [of agriculture] shall have the necessary powers to carry out the purposes of this chapter, including the following:

- (1) Prescribe the qualifications for eligibility of applicants for loans[.];
- (2) Establish preferences and priorities in determining eligibility for loans and loan repayment requirements[.];
- (3) Establish the conditions, consistent with the purpose of this chapter, for the granting or for the continuance of a grant of a loan[.];
- (4) Provide for inspection at reasonable hours of the plant facilities, books, and records of an enterprise that has applied for or has been granted a loan and require the submission of progress and final reports[.];
- (5) [To make] Make loans for aquacultural products development, such as financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials or for the supplying of working capital, consistent with section 219-6[.];

- (6) [To authorize the department to secure] Secure loans by duly recorded first mortgages upon the following property within the State:
  - (A) Fee simple farm land;
  - (B) Leaseholds of farm land where the lease has an unexpired term at least two years longer than the term of the loan;
  - (C) Aquaculture products;
  - (D) Other chattels;
  - (E) A second mortgage when any prior mortgage does not contain provisions that might jeopardize the security position of the department or the borrower's ability to repay; and
  - (F) Written agreements, such as assignments of income[.];
- (7) [To administer] Administer the Hawaii aquaculture loan revolving fund and [to] deposit into the fund all moneys received on account of principal[.];
- (8) [To include] Include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this chapter[.];
- (9) Insure loans made to qualified aquaculturalists by private lenders under sections 219-7 and 219-8; provided that at no time shall the aggregate amount of the State's liability, contingent or otherwise, on these loans exceed \$1,000,000[.];
- (10) Participate in loans made to qualified aquaculturalists by private lenders under section 219-8[.];
- (11) Make direct loans to qualified aquaculturalists as provided under section 219-9[.];
- (12) Establish interest rates chargeable by the State for direct loans and by private lenders for insured and participation loans[.]; and
- (13) Maintain a proper reserve in the aquaculture loan revolving fund to guarantee payment of loans insured under sections 219-7 and 219-8.

(b) The chairperson may approve loans, where the requested amount, plus any principal balance on existing loans to the applicant, does not exceed \$25,000 of state funds.

(c) The department shall adopt rules pursuant to chapter 91 to effectuate this section."

SECTION 3. Section 219-6, Hawaii Revised Statutes, is amended to read as follows:

**"§219-6 Loan; limitation and terms.** Loans made under this chapter shall be for the purposes and in accordance with the terms specified in classes "A", "B" [and], "C", and "D" in paragraph (1), (2) [and], (3), and (4) following and shall be made only to applicants who meet the eligibility requirements specified therein[.];

- (1) Class A: Aquaculture farm ownership and improvement loans. To provide for:
  - (A) The purchase or improvement of aquaculture farm land and waters;
  - (B) The purchase, construction, or improvement of adequate aquaculture farm dwellings, and other essential aquaculture farm facilities; and
  - (C) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$100,000 and for a term not to exceed forty years. To be eligible the applicant shall [(i) derive,];

- (i) Derive, or present an acceptable plan to derive, a major portion of the applicant's income from and devote, or intend

to devote, most of the applicant's time to aquaculture farming operations; [(ii) have] and

- (ii) Have or be able to obtain the operating capital, including fishstock and equipment, needed to successfully operate the applicant's aquaculture farm[.];
- (2) Class B: Aquaculture operating loans. To carry on and improve an aquaculture operation, including:
- (A) The purchase of aquaculture equipment and fishstock;
  - (B) The payment of production and marketing expenses including materials, labor, and services;
  - (C) The payment of living expenses; and
  - (D) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$75,000 and for a term not to exceed ten years. To be eligible, an applicant shall derive or present an acceptable plan to derive a major portion of the applicant's income from and devote, or intend to devote, most of the applicant's time to aquaculture operations[.];

- (3) Class C: Aquaculture cooperative and corporation loans. To provide credit to aquaculturalists' cooperative associations and corporations engaged in marketing, purchasing, and processing, and providing farm business services, including:
- (A) Facility loans to purchase or improve land, building, and equipment for an amount not to exceed \$250,000 and a term not to exceed twenty years; and
  - (B) Operating loans to finance inventories of supplies, warehousing, and shipping commodities, extension of consumer credit to justified farmer-members, and other normal operating expenses for an amount not to exceed \$150,000 and a term not to exceed three years.

To be eligible, a cooperative or corporation shall have at least seventy-five per cent of its board of directors and seventy-five per cent of its membership as shareholders who meet the eligibility requirements prescribed by the board and who devote most of their time to aquaculture operations[.]; and

- (4) Class D: Emergency loans. To provide relief and rehabilitation to qualified aquaculturalists without limit as to purpose:
- (A) In areas stricken by extraordinary rainstorms, windstorms, droughts, tidal waves, earthquakes, volcanic eruptions, and other natural catastrophies;
  - (B) On farms stricken by aquatic diseases;
  - (C) On farms seriously affected by prolonged shipping and dock strikes;
  - (D) During economic emergencies such as those caused by overproduction and excessive imports; and
  - (E) During other emergencies as determined by the board.
- The maximum amounts and period for the loans shall be determined by the board; provided that the board shall require that any settlement or moneys received by qualified aquaculturalists as a result of an emergency declared under this section shall first be applied to the repayment of an emergency loan made under this chapter."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

**ACT 159**

SECTION 5. This Act shall take effect upon its approval.

(Approved June 16, 1997.)