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SENATE CS FOR CS FOR HOUSE BILL NO. 12(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVE HUGHES

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mortgage lending, mortgage loan originators, and depository
2 institutions; and providing for an effective date."

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

4 * **Section 1.** AS 06.60.012(b) is amended to read:

5 (b) An individual required to be licensed as a mortgage loan originator shall
6 (1) register with the registry and maintain a valid unique identifier
7 issued by the registry;

8 (2) work under

9 (A) an exclusive contract for, or as an employee of, a mortgage
10 licensee; or

11 (B) an exclusive contract for a registered depository
12 institution; and

13 (3) be sponsored in the registry by a mortgage licensee under a
14 sponsorship approved in the registry by the department or be sponsored by a

1 **registered depository institution under AS 06.60.014;** in this paragraph,
2 "-sponsored" means authorized to conduct business as a mortgage loan originator under
3 the supervision of a mortgage licensee **or a registered depository institution.**

4 * **Sec. 2.** AS 06.60 is amended by adding a new section to read:

5 **Sec. 06.60.014. Registered depository institutions.** (a) A depository
6 institution may sponsor a mortgage loan originator under AS 06.60.012(b) if the
7 depository institution is registered with the department under this section, has an
8 exclusive written contract to sponsor a mortgage loan originator licensed under this
9 chapter, is otherwise in compliance with this chapter, and satisfies the other
10 requirements of this section. Registration under this section does not affect the
11 exemption of the depository institution under AS 06.60.015(a).

12 (b) To register under (a) of this section, a depository institution shall

13 (1) complete a registration form established by the department; the
14 form must identify the mortgage loan originator to be sponsored by the depository
15 institution and each mortgage lending location of the registered depository institution;
16 and

17 (2) pay a registration fee established by the department.

18 (c) Registration under (b) of this section expires after one year. To renew a
19 registration, the depository institution shall file a renewal application with the
20 department and pay a renewal fee established by the department.

21 (d) The department may deny an initial or renewal registration under this
22 section, or may suspend or revoke the registration of a depository institution that is
23 registered under (b) of this section, if the department determines that the depository
24 institution

25 (1) failed to satisfy a requirement of this section;
26 (2) failed to supervise its sponsored mortgage loan originator
27 adequately; or

28 (3) made a material misstatement or withheld information on the
29 application for registration, on an application for the renewal of the registration, or on
30 another document required to be filed with the department.

31 * **Sec. 3.** AS 06.60.015(a) is amended to read:

(a) The following persons are exempt from the mortgage lender or mortgage broker licensing requirements of this chapter:

(1) a depository institution;

(2) a subsidiary that is

(A) owned and controlled by a depository institution; and

(B) regulated by a federal banking agency; [OR]

(3) an institution regulated by the Farm Credit Administration; or

(4) a federal, state, or local government agency, including an

agency that arranges or provides financing for mortgage loans.

* **Sec. 4.** AS 06.60.045(a) is amended to read:

(a) An applicant for a mortgage license shall file with the application submitted to the department under AS 06.60.020, **and an applicant for registration under AS 06.60.014 shall file with the application filed under AS 06.60.014**, a bond with one or more sureties. The department shall establish by regulation the amount of the required bond and the standards and procedures for recovery on the bond. The bond must be satisfactory to the department.

* **Sec. 5.** AS 06.60.045(c) is amended to read:

(c) An applicant for a mortgage license that covers more than one location **or**
an applicant for registration that covers more than one location is not required to
file more than one bond.

* **Sec. 6.** AS 06.60.045(d) is amended to read:

(d) The bond required under (a) of this section must be continuous until three years after the department revokes or otherwise terminates the license **or registration**.

* **Sec. 7.** AS 06.60.045(e) is amended to read:

(e) If the department determines that the bond required under (a) of this section is unsatisfactory for any reason, the department may require the mortgage licensee **or the registered depository institution** to file with the department, within 10 days after the receipt of a written demand from the department, an additional bond that complies with the provisions of this section.

* **Sec. 8.** AS 06.60.100 is amended to read:

Sec. 06.60.100. Annual report. (a) Annually, on or before a date established

1 by the department by regulation, a mortgage licensee **and a registered depository**
2 **institution** shall file a report with the department providing relevant information that
3 the department requires concerning the business and operations of the mortgage
4 licensee **or registered depository institution**. The mortgage licensee **and the**
5 **registered depository institution** shall make the report under oath or on affirmation.
6 The content and form of the report shall be established by the department by
7 regulation.

8 (b) A mortgage licensee who **or registered depository institution that** fails
9 to file a report as required by this section is subject to a civil penalty of \$25 for each
10 day's failure to file the report.

11 (c) A mortgage licensee **and a registered depository institution** shall submit
12 to the registry, as required by the registry, reports of the condition of the licensee **or**
13 **registered depository institution**, which must be in the form and contain the
14 information that the registry may require.

15 * **Sec. 9.** AS 06.60.135(a) is amended to read:

16 (a) The requirements of this section apply to the business transactions of a
17 mortgage licensee **or registered depository institution** that occur entirely or partially
18 in this state.

19 * **Sec. 10.** AS 06.60.135(b) is amended to read:

20 (b) A mortgage licensee **or registered depository institution** shall keep and
21 use in the [MORTGAGE LICENSEE'S] business **of the mortgage licensee or**
22 **registered depository institution** the accounting records that are in accord with
23 generally accepted accounting principles.

24 * **Sec. 11.** AS 06.60.135(c) is amended to read:

25 (c) A mortgage licensee **and a registered depository institution** shall
26 maintain a record of the account of each borrower and for each mortgage loan or
27 mortgage loan application that is related to the purchase or refinancing of an existing
28 mortgage loan. This record must contain all documents, work papers, electronic
29 correspondence, and forms that are produced or prepared for the mortgage loan by the
30 mortgage licensee **or registered depository institution**, and the mortgage licensee
31 **and registered depository institution** shall retain each document, work paper,

1 electronic correspondence, and form for 36 months from the date they were created.

2 * **Sec. 12.** AS 06.60.135(d) is amended to read:

3 (d) A mortgage licensee and a registered depository institution shall retain,
4 for at least three years after final payment is made on a mortgage loan, or three years
5 after a mortgage loan is sold, whichever occurs first, the original contract for the
6 [MORTGAGE LICENSEE'S] compensation of the mortgage licensee or registered
7 depository institution, copies of the note, settlement statement, and truth-in-lending
8 disclosure, an account of fees received in connection with the loan, and other papers or
9 records relating to the loan that may be required by department order or regulation.

10 * **Sec. 13.** AS 06.60.135(e) is amended to read:

11 (e) If a mortgage licensee or registered depository institution conducts
12 business as a mortgage loan servicing agent for mortgage loans that the mortgage
13 licensee or registered depository institution owns, or as an agent for other mortgage
14 lenders or investors, the mortgage licensee shall, in addition to complying with (b) and
15 (c) of this section, maintain a record for each mortgage loan. The record of each
16 mortgage loan must include the amount of the mortgage loan, the total amount of
17 interest and finance charges on the mortgage loan, the interest rate on the mortgage
18 loan, the amount of each payment to be made on the mortgage loan, a description of
19 the collateral taken for the mortgage loan, a history of all payments received by the
20 mortgage licensee or registered depository institution on the mortgage loan, a
21 detailed history of the amount of each payment that is applied to the reduction of the
22 mortgage loan principal, the interest that accrues on the mortgage loan, and any other
23 fees and charges that are related to the mortgage loan, as well as other papers required
24 by law, department order, or regulation. The mortgage licensee or registered
25 depository institution shall retain the record required by this subsection for three
26 years after the loan is sold to another mortgage loan servicing agent or after the
27 mortgage loan is satisfied, whichever occurs first.

28 * **Sec. 14.** AS 06.60.140 is amended to read:

29 **Sec. 06.60.140. Availability of out-of-state records.** A mortgage licensee
30 who or registered depository institution that operates an office or other place of
31 business outside this state shall, at the request of the department,

(1) make the records of the office or place of business available to the department at a location within this state; or

(2) reimburse the department its reasonable costs, as provided in AS 06.60.250(k), that are incurred by the department in conjunction with an investigation or examination conducted at the office or place of business.

* **Sec. 15.** AS 06.60.250(a) is amended to read:

(a) For the purpose of initial licensing, license renewal, license suspension, license conditioning, license revocation, license termination, or general or specific inquiry or investigation to determine compliance with this chapter, **including compliance by a registered depository institution**, the department may access, receive, use, and copy any books, accounts, records, files, documents, information, or evidence, including

(1) criminal, civil, and administrative history information, including nonconviction information; in this paragraph, "nonconviction information" has the meaning given in AS 12.62.900;

(2) personal history and experience information, including independent credit reports obtained from a consumer reporting agency; and

(3) other documents, information, and evidence the department considers relevant to the inquiry or investigation, regardless of the location, possession, or custody of the documents, information, or evidence.

* **Sec. 16.** AS 06.60.250 is amended by adding a new subsection to read:

(l) In this section, "person" and "person subject to this chapter" include a registered depository institution.

* **Sec. 17.** AS 06.60.410 is amended to read:

Sec. 06.60.410. Censure, suspension, or bar. (a) In addition to any other remedy provided under this chapter, the department may, by order after appropriate notice and opportunity for a hearing, censure a person, suspend the license of a person for a period not to exceed 12 months, or bar a person from a position of employment, management, or control of a licensee **or registered depository institution** if the department finds that

(1) the censure, suspension, or bar is in the public interest;

(2) the person has knowingly committed or caused a violation of this chapter or a regulation adopted under this chapter; and

(3) the violation has caused material damage to the licensee, to the registered depository institution, or to the public.

(b) When a person who is the subject of a proposed order under this section receives a notice of the department's intention to issue an order under this section, the person is immediately prohibited from engaging in any activities for which a license is required under this chapter **or for which registration is required under AS 06.60.014.**

(c) A person who is suspended or barred under this section is prohibited from participating in a business activity of a licensee or registered depository institution and from engaging in a business activity on the premises where a licensee or registered depository institution is conducting the [LICENSEE'S] business of a licensee or registered depository institution. This subsection may not be construed to prohibit a suspended or barred person from having the person's personal transactions processed by a licensee or registered depository institution.

* **Sec. 18.** AS 06.60.900 is amended to read:

Sec. 06.60.900. Applicability of administrative procedures. Notwithstanding AS 06.01.030(f), the provisions of AS 44.62 (Administrative Procedure Act) apply to an action of the department to deny, revoke, or suspend a license **or registration** under this chapter, to censure, suspend, or bar a person under AS 06.60.410, to take other disciplinary action under this chapter, to hold disciplinary hearings, and to issue disciplinary orders. **In this section, "registration" means the registration of a depository institution under AS 06.60.014.**

* **Sec. 19.** AS 06.60.990 is amended by adding a new paragraph to read:

(35) "registered depository institution" means a depository institution that is registered under AS 06.60.014.

* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Commerce, Community, and Economic Development may proceed under AS 06.60.910 to adopt regulations necessary to

1 implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure
2 Act), but not before January 1, 2017.

3 * **Sec. 21.** Section 20 of this Act takes effect immediately under AS 01.10.070(c).

4 * **Sec. 22.** Except as provided in sec. 21 of this Act, this Act takes effect January 1, 2017.