

# Alaska State Legislature

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## REPRESENTATIVE BART LEBON

### Sectional Summary

#### House Bill 257 – Financial Institutions; Liability (31-LS0955\K)

Section & Statute Referenced	Summary
Sec. 1. <a href="#">AS 06.05.005(a)</a>	Conforming language to changes made under Section 10 to provide Alaska chartered banks parity with credit unions when establishing a bank branch.
Sec. 2. <a href="#">AS 06.05.005</a>	<p>Prohibits the Department from placing a regulatory limitation on a credit card that a state bank issues to an officer of a state bank, the statutory authority for which is amended in Section 5 and the regulation (<a href="#">3 AAC 02.121</a>) annulled in Section 24.</p> <p>Prohibits the Department from adopting regulations relating to the setting of time limits on the disposal of real and personal property, the statutory authority for which is amended in Section 6 and the regulation (<a href="#">3 AAC 02.135</a>) annulled in Section 24.</p>
Sec. 3. <a href="#">AS 06.05.050</a>	<i>Publication of reports:</i> Adds the option for posting notices of publication of bank reports on a bank's internet website vs. physical posting in the bank lobby.
Sec. 4. <a href="#">AS 06.05.166(c)</a>	Defines the timeframe – not later than 15 days – for which a bank must notify the Department after an emergency nonopening or closing of the bank.
Sec. 5. <a href="#">AS 06.05.210(a)</a>	Increases the amount a director or executive officer of a state bank may borrow to \$500,000 (from \$100K or \$250K for a primary residence).
Sec. 6. <a href="#">AS 06.05.245</a>	<i>Disposition of property not needed in the conduct of a banking business:</i> Removes the Department's authority to set a time limit on the disposal of real and personal property. Instead, the carrying value and write-down will be dictated by Generally Accepted Accounting Principles (GAAP).
Sec. 7. <a href="#">AS 06.05.260</a>	Allows a state bank to pledge bank assets as collateral security to secure funds deposited by consortiums of federally recognized tribes.
Sec. 8. <a href="#">AS 06.05.260</a>	<p>Adds a new subsection to replace the Division of Banking's <a href="#">Parity Orders 12-B (3-6)</a> regarding the pledging of assets for interest rate swaps.</p> <p>Adds a new subsection to define:</p> <ul style="list-style-type: none"><li>• “federally recognized tribe” as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994; and</li><li>• “interest rate swap agreement” as a stream of future interest payments that are exchanged for another stream of future interest payments.</li></ul>

Sec. 9. <a href="#">AS 06.05.355(a)</a>	Requires all banks to become a member of the FDIC as a condition for receiving a Certificate of Authority; Intended to maintain trust and level the playing field for the banking industry.
Sec. 10. <a href="#">AS 06.05.399</a>	<i>Changes of location; branch banks.</i> Provides Alaska chartered banks parity with credit unions when establishing a bank branch. Banks are currently subject to stricter bank branch application requirements under <a href="#">3 AAC 02.215</a> . The Division would establish in regulations similar requirements of credit unions as in <a href="#">3 AAC 03.260</a> .
Sec. 11. <a href="#">AS 06.05.438(a)</a>	Reduces the number of required meetings of a bank’s board from 10 to 4 per calendar year.
Sec. 12. <a href="#">AS 06.05.555(a)</a>	Conforming language to changes made under Section 10 to provide Alaska chartered banks parity with credit unions when establishing a bank branch.
Sec. 13. <a href="#">AS 06.05.990(4)</a>	Removes “remote service unit” (ATM, etc.) from the definition of “branch bank” and defines “remote service unit” directly under this section.
Sec. 14. <a href="#">AS 06.15.180</a>	Allowing mutual banks to have similar borrowing options as state banks.
Sec. 15. <a href="#">AS 06.15.190</a>	Expands the deposits that mutual banks can accept.
Sec. 16. <a href="#">AS 06.15.220</a>	Allows trustees to delegate their authority to approve interest on deposits.
Sec. 17. <a href="#">AS 06.15.240</a>	Provides mutual banks with the same investment opportunities as state banks under <a href="#">AS 06.05.270</a> .
Sec. 18. <a href="#">AS 06.15.250</a>	Providing mutual banks with the same lending opportunities as state banks.
Sec. 19. <a href="#">AS 06.15.290</a>	<i>Changes of location; branch banks.</i> Provides mutual banks parity with state banks and credit unions when establishing a bank branch. Alaska chartered banks are currently subject to stricter bank branch application requirements under <a href="#">3 AAC 02.215</a> . The Division would establish in regulations similar requirements of credit unions as in <a href="#">3 AAC 03.260</a> .
Sec. 20. <a href="#">AS 43.70.105(a)</a>	Exempts depository institutions (banks and credit unions) from the requirement to obtain business licenses for all headquarter and branch locations. Currently, state-chartered institutions receive a <i>Certificate of Authority</i> through the Division of Banking and Securities. Until each institution receives this certificate, it may not transact business. This change would eliminate duplicate licensing, thus reducing regulatory burden.
Sec. 21. <a href="#">AS 46.03.822(a)</a>	Adds reference to the new language in section 22.
Sec. 22. <a href="#">AS 46.03.822</a>	Conforms state law to the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA) standard for lender liability. <a href="#">CERCLA Section 101(20)</a> contains a secured creditor exemption that eliminates owner or operator liability for lenders who hold ownership in a CERCLA facility primarily to protect their security interest in that facility, provided they do not “participate in the management of the facility.” Generally, participation in the management applies if a bank exercises decision-making control over a property’s environmental compliance, or exercises control at a level similar to a manager of the facility or property. Participation in management does not include actions such as conducting property inspections, requiring a response action to address contamination, providing financial advice or renegotiating or restructuring the terms of the security interest. The secured creditor exemption also provides that foreclosure on a property does not result in liability for a

	bank, provided the bank takes “reasonable steps” to divest itself of the property “at the earliest practicable, commercially reasonable time, on commercially reasonable terms.” Generally, a bank can maintain business activities and close down operations at a property as long as the property is listed for sale shortly after the foreclosure date or at the earliest practicable, commercially reasonable time.
Sec. 23. Repealed Sections	<ul style="list-style-type: none"> <li>• Repeals <a href="#">AS 06.05.265</a> Liability of directors for certain loans. Overbroad and unnecessary.</li> <li>• Repeals <a href="#">AS 06.10.010-050</a> Model Foreign Bank Loan Act. The Act exempts out-of-state banks from Alaska taxation for certain business types and became obsolete in 1984 due to other tax measures. The Act is an unnecessary administrative burden.</li> <li>• Repeals <a href="#">AS 06.15.150, 160 &amp; 170</a> Surplus requirements, additions and limitations. Repealing these statutes would provide parity and allow a mutual savings bank to follow <a href="#">AS 06.05.305</a> for capital requirements.</li> <li>• Repeals <a href="#">AS 06.15.230</a> Withdrawal of Deposits: Language no longer relevant after deregulation of Thrifts and Savings and Loans.</li> </ul>
Sec. 24. Annulled Regs.	<ul style="list-style-type: none"> <li>• Annuls <a href="#">3 AAC 02.121</a> Credit cards for officers: Removes the regulation limiting uncollateralized credit card balances up to \$10,000 for an officer of a state bank. See Sections 2 and 5.</li> <li>• Annuls <a href="#">3 AAC 02.135</a> Disposition of property not needed for banking business. The carrying value and right-down of property will instead be dictated by Generally Accepted Accounting Principles (GAAP). See Sections 2 and 6.</li> </ul>
Sec. 25. Applicability	<p>Sections 3, 4, 6, 9, 10, 12, 16, 18 and 19 to take effect on or after the effective date of this Act.</p> <p>Cites definition locations for “branch bank”, “department”, “international bank”, “interstate state bank”, “mutual bank” and “state bank”.</p>
Sec. 26. Transition	Sets an effective date of 1/1/2021 for sections 1, 10, 12 and 19; provides the Department time to promulgate regulations for changes of bank locations and establishing branch banks.
Sec. 27. Effective Date	Sets an immediate effective date except for sections 1, 10, 12 and 19, relating to changes of bank locations and establishing branch banks.