

**SENATE CS FOR CS FOR HOUSE BILL NO. 106(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/24/02

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the authorizations for certain state financial institutions of certain**  
2   **powers and limitations; relating to confidential records of depositors and customers of**  
3   **certain financial institutions; relating to the examination of certain institutions subject**  
4   **to AS 06; relating to the Alaska Banking Code, Mutual Savings Bank Act, Alaska Small**  
5   **Loans Act, and Alaska Credit Union Act; amending Rule 45, Alaska Rules of Civil**  
6   **Procedure, Rules 17 and 37, Alaska Rules of Criminal Procedure, and Rule 24, Alaska**  
7   **Bar Rules; and providing for an effective date."**

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

9    \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
10 to read:

11       PURPOSE. The primary purpose of this Act is to implement banking and other  
12 financial institution reforms in AS 06 in response to P.L. 106-102 (Gramm-Leach-Bliley Act)  
13 in order to further this state as an attractive place for investment and other commerce

1 involving banking and other financial institutions.

2 \* **Sec. 2.** AS 06.01.015(a) is amended to read:

3 (a) Financial institutions regulated under this title are subject to at least one  
 4 examination every 18 months [EACH YEAR]. The department may conduct  
 5 additional examinations at its discretion.

6 \* **Sec. 3.** AS 06.01.020(a) is amended to read:

7 (a) Notwithstanding other provisions of this title, the department may by  
 8 order [REGULATION] authorize state financial institutions, except licensees subject  
 9 to AS 06.20 or AS 06.40, to exercise any of the powers conferred upon, or to be  
 10 subject to any of the limitations imposed upon, a federally chartered financial  
 11 institution doing business in this state with deposits insured by an agency of the  
 12 federal government [,] if the department finds that the exercise of the power or  
 13 imposition of the limitation both

14 (1) serves the public convenience and advantage; and

15 (2) equalizes and maintains the quality of competition between state  
 16 financial institutions and federally chartered financial institutions.

17 \* **Sec. 4.** AS 06.01 is amended by adding a new section to read:

18 **Sec. 06.01.028. Depositor and customer records confidential.** (a) The  
 19 records of financial institutions relating to their depositors and customers and the  
 20 information in the records are confidential. A financial institution may not disclose  
 21 the records and information to another person except when, and only to the extent that,  
 22 the disclosure is

23 (1) authorized in writing by the depositor or customer;

24 (2) required by federal or state statute or regulation or by an order  
 25 directed to the financial institution and issued by a court or administrative agency of  
 26 competent jurisdiction;

27 (3) made to the holder of a negotiable instrument drawn on the  
 28 financial institution as to whether the drawer has sufficient funds in the financial  
 29 institution to cover the instrument;

30 (4) made to a consumer reporting agency regulated under 15 U.S.C.  
 31 1681 - 1681u (Fair Credit Reporting Act); or

(5) made in connection with the maintenance or servicing of the depositor's or customer's account with the financial institution, or with another entity as part of a private label credit card or other extension of credit on behalf of the entity.

(b) When disclosure of financial institution records is compelled by a subpoena, a search warrant, or another court or administrative agency order under (a)(2) of this section, the court or administrative agency shall provide in the order for the reimbursement of the financial institution for the reasonable costs incurred in complying with the order. Nothing in this subsection imposes a reimbursement obligation on a government agency, or abrogates an otherwise established reimbursement obligation of a government agency, when the financial institution is the subject of an audit, examination, or investigation and disclosure is sought under a federal or state law or regulation.

(c) Unless otherwise provided in this subsection, when disclosure of financial institution records is required under a court or administrative agency order under (a)(2) of this section, the financial institution shall notify the depositor or customer of the disclosure before the disclosure is made. If notification before disclosure is not possible, the financial institution shall notify the customer or depositor of the disclosure as soon as practicable after the disclosure is made. However, notification either before or after disclosure may not be made if disclosure is made under a court or administrative agency order under (a)(2) of this section and the document requiring disclosure requires on its face that the financial institution not notify or inform the depositor or customer, or the document requiring disclosure is, or is accompanied by, a court order that expressly directs the financial institution not to notify or inform the depositor or customer.

(d) Nothing in (a) - (c) of this section prohibits a financial institution from disclosing information to a person if

(1) the disclosure is necessary to

(A) provide the services of the financial institution to a depositor or customer; or

(B) market financially related products or services of the financial institution and its marketing partners; and

(2) the person receiving the information has a written agreement with the financial institution to be bound by the requirements of (a) - (c) of this section.

(e) Nothing in this section authorizes the disclosure of information if disclosure is prohibited by 15 U.S.C. 6801 - 6827 or the regulations adopted under those sections.

(f) A financial institution or any other person who violates this section is liable to a depositor or customer for damages caused by the disclosure of the confidential records or information of the financial institution pertaining to the depositor or customer. A financial institution or other person who takes an action under this section while relying in good faith on any provision of this section is not liable under this section to any person for the action.

(g) In this section, "financial institution" means a person subject to the regulation of the department under this title, including a BIDCO licensed under AS 10.13 (Alaska BIDCO Act).

\* **Sec. 5.** AS 06.01.040 is amended to read:

**Sec. 06.01.040. Examination policy.** It shall be the policy of the department to conduct, whenever reasonably possible, joint examinations with the Federal Deposit Insurance Corporation **or with the National Credit Union Administration** of those institutions subject to this title whose accounts are insured through **those agencies** [THAT CORPORATION].

\* **Sec. 6.** AS 06.01.050(3) is amended to read:

(3) "financial institution" means an institution subject to the regulation of the department under this title; in this paragraph, "institution" includes a commercial bank, savings bank, credit union, premium finance company, small loan company, bank holding company, financial holding company, trust company and savings and loan association.

\* **Sec. 7.** AS 06.01.050 is amended by adding a new paragraph to read:

(4) "state financial institution" means a financial institution that is organized under this title or that is subject to examination by the department under this title.

\* **Sec. 8.** AS 06.05.005(a) is amended to read:

(a) The department shall

(1) exercise general supervision over all state financial institutions and their subsidiaries and affiliated corporations;

(2) adopt regulations necessary to implement this chapter, including regulations providing for the retention and preservation of **state** bank records;

(3) review and approve or disapprove applications for new state banks under AS 06.05.344, new bank branches under AS 06.05.399, and international bank branches or interstate state bank branches [BRANCH BANKS] under AS 06.05.555;

(4) issue permits authorizing certain acquisitions by bank holding companies [TO DO BUSINESS IN THIS STATE] under AS 06.05.235 and 06.05.570;

(5) determine for each state bank the amount of paid-in capital necessary to operate under AS 06.05.305(a);

(6) review and approve transfers of state bank ownership under AS 06.05.327;

(7) perform examinations of state banks, branch banks, and subsidiaries under AS 06.01.015.

\* **Sec. 9.** AS 06.05.050 is repealed and reenacted to read:

**Sec. 06.05.050. Publication of reports.** (a) Condensed forms of all reports of condition required by AS 06.05.045(a) shall be immediately

(1) published by the state bank in a newspaper of general circulation published in the place where the state bank is located; if a newspaper of general circulation is not published in that place, the report shall be published in the newspaper of general circulation published nearest to that place; or

(2) posted

(A) at the primary Internet website of the state bank; and

(B) in the lobby of the principal office and all branches of the

(b) Notice of the publication or posting of the reports of condition under (a) of this section shall be posted in the lobby of the principal office and all branches of the

1 state bank. Upon request, a copy of a report of condition shall be supplied to any  
 2 person at no cost.

3 \* **Sec. 10.** AS 06.05.065(a) is amended to read:

4 (a) A bank examiner of the department who deals with the regulation of  
 5 financial institutions, a special agent selected by the department to do work relating to  
 6 financial institutions, the commissioner or deputy commissioner, or the director of  
 7 banking may not be an officer, employee, director, trustee, attorney, shareholder, or  
 8 partner of a financial institution, or receive, directly or indirectly, a payment or  
 9 gratuity from a financial institution. A person subject to this section may not borrow  
 10 money from a **state** financial institution [THAT HAS A CERTIFICATE OF  
 11 AUTHORITY UNDER THIS TITLE], except as provided in this section.

12 \* **Sec. 11.** AS 06.05.065(b) is amended to read:

13 (b) A person subject to this section may  
 14 (1) be a depositor in a financial institution;  
 15 (2) purchase shares of a savings and loan association on the same  
 16 terms available to the public;  
 17 (3) be a member of an employee credit union;  
 18 (4) be indebted to a state financial institution upon an installment debt  
 19 incurred by the employee in the purchase of goods for personal use only and  
 20 transferred to the financial institution in the regular course of business, including debts  
 21 for household goods, mobile homes, motor vehicles, or boats; or  
 22 (5) **retain a preexisting extension of credit that was incurred before**  
 23 **commencement of the employment that subjected the person to this section; any**  
 24 **renegotiation of a preexisting extension of credit shall be treated as a new**  
 25 **extension of credit that is subject to the prohibitions of this section** [BE  
 26 INDEBTED TO A STATE FINANCIAL INSTITUTION FOR A MORTGAGE  
 27 LOAN SECURED BY THE PERSON'S PRIMARY RESIDENCE, IF THE LOAN  
 28 CLOSED BEFORE THE PERSON BECAME AN EMPLOYEE SUBJECT TO THIS  
 29 SECTION].

30 \* **Sec. 12.** AS 06.05.205 is repealed and reenacted to read:

31 **Sec. 06.05.205. Loans and extensions of credit.** (a) The total loans and

1 extensions of credit by a state bank to a person outstanding at one time and not fully  
2 secured, as determined in a manner consistent with (b) of this section, by collateral  
3 having a market value at least equal to the amount of the loan or extension of credit  
4 may not exceed 15 percent of the unimpaired capital and unimpaired surplus of the  
5 state bank.

6 (b) The total loans and extensions of credit by a state bank to a person  
7 outstanding at one time and fully secured by readily marketable collateral having a  
8 market value, as determined by reliable and continuously available price quotations, at  
9 least equal to the amount of the money outstanding, may not exceed 10 percent of the  
10 unimpaired capital and unimpaired surplus of the state bank. The limitation in this  
11 subsection is separate from and in addition to the limitation contained in (a) of this  
12 section.

13 (c) The limitations contained in (a) and (b) of this section are subject to the  
14 following exceptions:

15 (1) loans or extensions of credit arising from the discount of  
16 commercial or business paper evidencing an obligation to the person negotiating it  
17 with recourse are not subject to a limitation based on unimpaired capital and  
18 unimpaired surplus;

19 (2) the purchase of bankers' acceptances described in AS 06.05.275  
20 and issued by other banks are not subject to a limitation based on unimpaired capital  
21 and unimpaired surplus;

22 (3) loans or extensions of credit secured by bills of lading, warehouse  
23 receipts, or similar documents transferring or securing title to readily marketable  
24 staples are subject to a limitation of 35 percent of unimpaired capital and unimpaired  
25 surplus in addition to the general limitations if the market value of the staples securing  
26 each additional loan or extension of credit at all times equals or exceeds 115 percent of  
27 the outstanding amount of the loan or extension of credit; in order to be considered  
28 under this paragraph, the staples must be fully covered by insurance whenever it is  
29 customary to insure those staples;

30 (4) loans or extensions of credit secured by bonds, notes, certificates of  
31 indebtedness, or treasury bills of the United States or by other such obligations fully

1 guaranteed as to principal and interest by the United States are not subject to a  
2 limitation based on unimpaired capital and unimpaired surplus;

3 (5) loans or extensions of credit to, or secured by unconditional takeout  
4 commitments or guarantees of, any department, agency, bureau, board, commission,  
5 or establishment of the United States or a corporation wholly owned directly or  
6 indirectly by the United States are not subject to a limitation based on unimpaired  
7 capital and unimpaired surplus;

8 (6) loans or extensions of credit secured by a segregated deposit  
9 account in the lending state bank are not subject to a limitation based on unimpaired  
10 capital and unimpaired surplus;

11 (7) loans or extensions of credit to a bank or to a receiver, conservator,  
12 superintendent of banks, or other agent in charge of the business and property of that  
13 bank, if approved by the department, are not subject to a limitation based on  
14 unimpaired capital and unimpaired surplus;

15 (8) loans or extensions of credit arising from the discount of negotiable  
16 or non-negotiable installment consumer paper that carries a full recourse endorsement  
17 or unconditional guarantee by the person transferring the paper are subject under this  
18 section to a maximum limitation equal to 25 percent of unimpaired capital and  
19 unimpaired surplus, notwithstanding the collateral requirements set out in (b) of this  
20 section; however, if the state bank's files or the knowledge of its officers of the  
21 financial condition of each maker of that consumer paper is reasonably adequate, and  
22 an officer of the state bank designated for that purpose by the board of directors of the  
23 state bank certifies in writing that the state bank is relying primarily upon the  
24 responsibility of each maker for payment of the loans or extensions of credit and not  
25 upon any full or partial recourse endorsement or guarantee by the transferor, the  
26 limitations of (a) and (b) of this section as to the loans or extensions of credit of each  
27 such maker are the sole applicable loan limitations;

28 (9) loans or extensions of credit secured by shipping documents or  
29 instruments transferring or securing title covering livestock or giving a lien on  
30 livestock when the market value of the livestock securing the obligation is not at any  
31 time less than 115 percent of the face amount of the note covered are subject under

1 this section, notwithstanding the collateral requirements set out in (b) of this section,  
 2 to a maximum limitation equal to 25 percent of unimpaired capital and unimpaired  
 3 surplus;

4 (10) loans or extensions of credit, arising from the discount by dealers  
 5 in dairy cattle or paper given in payment for dairy cattle and carrying a full recourse  
 6 endorsement or unconditional guarantee of the seller, that are secured by the cattle  
 7 being sold are subject under this section, notwithstanding the collateral requirements  
 8 set out in (b) of this section, to a maximum limitation equal to 25 percent of  
 9 unimpaired capital and unimpaired surplus.

10 (d) Except with the written prior approval of the department for an acquisition  
 11 or merger with another financial institution, or except with the written prior approval  
 12 of the department in order to prevent loss upon an indebtedness previously contracted  
 13 in good faith, a state bank may not

14 (1) accept as security for a loan the capital stock of the state bank;

15 (2) accept as security for a loan the capital stock of the state bank's  
 16 parent holding companies, unless the stock of the holding companies is publicly traded  
 17 on a nationally recognized exchange; or

18 (3) loan money that is to be used to purchase the capital stock of the  
 19 state bank or a parent holding company of the state bank.

20 (e) The department may adopt regulations to administer and carry out the  
 21 purposes of this section, including, notwithstanding any contrary provision of this  
 22 section, regulations to define or further define terms used in this section in order to  
 23 establish limits or requirements other than those specified in this section for particular  
 24 classes or categories of loans or extensions of credit.

25 (f) For purposes of this section, the department may determine when a loan  
 26 putatively made to a person shall be attributed to another person.

27 (g) In this section, "person" means an individual, sole proprietorship,  
 28 partnership, joint venture, association, trust, estate, business trust, corporation, or any  
 29 similar entity or organization.

30 \* **Sec. 13.** AS 06.05.209(b) is amended to read:

31 (b) A state bank may issue a credit card or other similar credit granting device

1 to a customer for obtaining money, goods, services, or anything else of value, and,   
 2 **notwithstanding AS 45.45.010**, the state bank, when credit is extended under this   
 3 section, may impose a service charge at a monthly rate **as agreed upon by contract**   
 4 **between the state bank and the customer receiving the credit granting device**   
 5 [THAT RESULTS IN AN ANNUAL RATE NOT IN EXCESS OF 17 PERCENT ON   
 6 THE OUTSTANDING BALANCE. HOWEVER, IN ADDITION, WHEN CASH IS   
 7 ADVANCED UNDER THIS SECTION, THE BANK MAY IMPOSE A SETUP   
 8 CHARGE THAT DOES NOT EXCEED THREE PERCENT OF THE FUNDS   
 9 ADVANCED, OR \$12, WHICHEVER IS LESS, EXCEPT THAT ON LOANS OF   
 10 UNDER \$100 A MINIMUM NOT EXCEEDING \$3 MAY BE CHARGED].

11 \* **Sec. 14.** AS 06.05.210(a) is amended to read:

12 (a) Subject to the same terms and conditions applicable to other loans, a   
 13 director **or executive** [,] officer [, OR EMPLOYEE] of a state bank may borrow up to   
 14 \$100,000, or up to \$250,000 for the director's **or executive** [,] officer's [, OR   
 15 EMPLOYEE'S] primary residence, from the state bank at the discretion of the chief   
 16 executive or managing officer of the state bank. A loan to a director **or executive** [,]   
 17 officer [, OR EMPLOYEE] that makes the total amount owed to the state bank by the   
 18 director **or executive** [,] officer [, OR EMPLOYEE] in excess of the limits in this   
 19 subsection, or loans of any amount to the chief executive or managing officer of the   
 20 state bank, shall have the prior approval of the board of directors, shall be reported to   
 21 the department within 30 days, and shall be secured by adequate collateral.

22 \* **Sec. 15.** AS 06.05.210 is amended by adding a new subsection to read:

23 (c) Notwithstanding (a) of this section, loans to directors, executive officers,   
 24 and other officers and employees of a state bank are subject to the lending limits   
 25 imposed by AS 06.05.205 and the regulations adopted under that section.

26 \* **Sec. 16.** AS 06.05 is amended by adding a new section to read:

27 **Sec. 06.05.237. Financial holding companies.** Notwithstanding the   
 28 provisions of AS 06.05.235 and regulations adopted under that section, a holding   
 29 company formed under this title may apply to the Federal Reserve System for status as   
 30 a financial holding company. If the status is granted, the financial holding company   
 31 has powers as a financial holding company authorized by the Federal Reserve System

1 if

2 (1) at the time of application, the holding company provides the  
3 department with a complete copy of the application;

4 (2) the holding company provides the department with copies of all  
5 correspondence concerning the application;

6 (3) the holding company provides the department with a copy of the  
7 approval by the Federal Reserve System within 10 days after the holding company  
8 receives the approval; and

9 (4) the department does not issue a letter denying financial holding  
10 company status within 30 days after the approval by the Federal Reserve System.

11 \* **Sec. 17.** AS 06.05.245 is amended to read:

12 **Sec. 06.05.245. Disposition of property not needed in the conduct of a**  
13 **banking business.** All investments in real and personal property, regardless of how  
14 acquired, not permitted [NECESSARY FOR THE CONVENIENT  
15 TRANSACTION OR PROMOTION OF A BANKING BUSINESS] under  
16 AS 06.05.230 that come [COMES] into the possession of a state bank shall be  
17 disposed of as soon as possible. If the real or personal property is not sold within the  
18 time limit set [PRESCRIBED] by the department in regulations, it shall be written off  
19 and may not be carried as an asset of the state bank.

20 \* **Sec. 18.** AS 06.05.272(b) is amended to read:

21 (b) Under this section, a state bank's total investment in its subsidiaries  
22 may not exceed that which is permissible for a federally chartered bank's total  
23 investment in all subsidiaries as set out in 12 U.S.C. 24a, as amended [BANK  
24 MAY INVEST IN SUBSIDIARIES AN AMOUNT EQUAL TO THE LESSER OF  
25 20 PERCENT OF ITS TOTAL ASSETS OR 50 PERCENT OF ITS TOTAL  
26 CAPITAL ACCOUNTS]. Loans to subsidiaries are considered investments subject to  
27 the limitations of this subsection.

28 \* **Sec. 19.** AS 06.05.301(a) is amended to read:

29 (a) Except for national banks with a principal place of business in the state,  
30 and interstate state banks and international banks with a certificate of authority under  
31 AS 06.05.555, a corporation may not engage in the banking business unless the

1 corporation is organized under AS 10.06 (Alaska Corporations Code) and this title.

2 \* **Sec. 20.** AS 06.05.350(d) is amended to read:

3 (d) Except as authorized under this section, a person may not

4 (1) engage in the business of receiving deposits, discounting evidences  
5 of indebtedness, or receiving money for transmission;

6 (2) represent that the person is [, OR ACTS FOR,] a bank; or

7 (3) use **any form of the word "bank" in the person's name unless**  
8 **the person is a state bank formed under this title or a bank formed under the**  
9 **authority of another state or an agency of the federal government, or unless it is**  
10 **clear that the use does not represent that the person is a bank; the prohibition in**  
11 **this paragraph does not apply to a food bank, blood bank, or similar**  
12 **organization that cannot readily be confused with a bank** [AN ARTIFICIAL OR  
13 CORPORATE NAME THAT PURPORTS TO BE OR SUGGESTS THAT IT IS  
14 THE NAME OF A BANK].

15 \* **Sec. 21.** AS 06.05.350 is amended by adding a new subsection to read:

16 (e) A person prohibited by (d)(3) of this section from using any form of the  
17 word "bank" in its name may apply to the commissioner for authority to use a form of  
18 the word "bank" in its name.

19 \* **Sec. 22.** AS 06.05.426(b) is amended to read:

20 (b) A state bank may establish, maintain, and operate an automated teller  
21 machine at a location other than bank premises **by notifying the department 30 days**  
22 **before the date of establishment** [WITH THE PRIOR APPROVAL OF THE  
23 DEPARTMENT]. An automated teller machine operated off bank premises shall be  
24 made available on a nondiscriminatory basis for use by **depositors of** other  
25 **depository institutions** [BANKS] authorized to do business in the state [AND THEIR  
26 CUSTOMERS], upon the agreement of the other **depository institutions** [BANKS] to  
27 pay a fair and equitable amount for the use of the machine.

28 \* **Sec. 23.** AS 06.05.426(c) is repealed and reenacted to read:

29 (c) The notice required in (b) of this section must include

30 (1) the location and general description of the surrounding area,  
31 including a description of the business establishment, if any, in which the machine will

1                   be located;

2                   (2) the manner of operation and the kinds of transactions that the  
3                   machine will perform;

4                   (3) the names of the other depository institutions that will share the  
5                   machine's services; and

6                   (4) other information required by the department.

7                   \* **Sec. 24.** AS 06.05.426(d) is amended to read:

8                   (d) A state bank may invest in a corporation organized to operate machines  
9                   that perform automated teller services for two or more **depository institutions**  
10                   [BANKS, IF EACH BANK OWNS PART OF THE CAPITAL STOCK OF THE  
11                   CORPORATION].

12                   \* **Sec. 25.** AS 06.05.426 is amended by adding a new subsection to read:

13                   (e) A person may not establish or operate an automated teller machine that  
14                   accepts deposits unless those deposits are insured by the Federal Deposit Insurance  
15                   Corporation or another agency of the United States that insures deposits.

16                   \* **Sec. 26.** AS 06.05.435(c) is amended to read:

17                   (c) Unless otherwise approved by the department, each director of a **state**  
18                   bank shall own, in the director's own right or jointly with the director's spouse, free of  
19                   any encumbrance, **common or preferred stock of the state bank or of an entity that**  
20                   **controls the state bank that has an aggregate par value of at least \$1,000, an**  
21                   **aggregate shareholder's equity of at least \$1,000, or an aggregate fair market**  
22                   **value of at least \$1,000** [CAPITAL STOCK OF THE BANK IN AN AMOUNT  
23                   EQUAL TO AT LEAST \$1,000 IN PAR VALUE].

24                   \* **Sec. 27.** AS 06.05.435 is amended by adding new subsections to read:

25                   (h) In the case of an entity that owns more than one bank, a director may use  
26                   the director's equity interest in the controlling entity to satisfy, in whole or in part, the  
27                   equity interest requirement for one or all of the controlled banks.

28                   (i) The value of the common or preferred stock held by a director of a state  
29                   bank or of an entity that controls the state bank is valued as of the date purchased, or  
30                   as of the date on which the individual became a director, whichever value is greater.

31                   \* **Sec. 28.** AS 06.05.550 is amended to read:

Sec. 06.05.550. Authority of international bank, [OR] interstate state bank, or interstate national bank to branch. (a) An international bank, [OR] an interstate state bank, or an interstate national bank whose deposits are insured by the Federal Deposit Insurance Corporation [,] may acquire a branch bank as the result of a merger or consolidation of the international bank, [OR] interstate state bank, or interstate national bank with, or the purchase of all or substantially all of the assets of, a state bank, a national bank with its principal office in this state, or a branch of the state bank or national bank, unless the state bank or national bank is a recently formed bank.

(b) An international bank may establish a new branch bank in this state or acquire a recently formed bank [,] if the department approves the establishment or acquisition before the establishment or acquisition occurs. An interstate state bank or interstate national bank may not establish a branch bank in this state unless the establishment occurs through an acquisition under (a) of this section of a bank located in the state. An interstate state bank or interstate national bank may not establish a new branch bank in this state.

(c) An interstate **state bank, interstate national bank**, or international bank that opens, occupies, or maintains a branch bank in the state has the same powers under the laws of the state as a state or national bank of the same type.

\* **Sec. 29.** AS 06.05.555(a) is amended to read:

(a) Before acquiring a branch bank under AS 06.05.550(a) or establishing a branch bank under AS 06.05.550(b), an interstate state bank or international bank shall file an application with the department for and receive a certificate of authority to operate a branch bank. The application must include

- (1) all information and fees required under AS 06.05.399;
- (2) the name of the bank and the address of its principal office;
- (3) if an international bank, the country under whose laws it is organized;

(4) the amount of the bank's capital actually paid in cash and the amount subscribed for and unpaid;

(5) a complete and detailed statement of the bank's financial condition;

(6) the names of all other states and countries in which the bank is admitted or qualified to do business;

(7) a copy of the bank's charter, articles of incorporation, and bylaws, as applicable;

(8) if an international bank, evidence satisfactory to the department that the bank is authorized to conduct a banking business under the laws of the country of its organization, and the nature of the bank's business;

(9) a properly executed designation of the department as the bank's agent for service of process in an action or proceeding arising out of a transaction involving the branch bank; the designation must include the name and address of the officer, agent, or other person to whom the department is to forward the process; and

(10) other information necessary or appropriate for the department to determine whether the bank is entitled to a certificate of authority from the department.

\* **Sec. 30.** AS 06.05.555(b) is amended to read:

(b) The department shall notify the interstate state bank or international bank of its action on the application. If the application and the accompanying documents do not comply with the requirements of (a) of this section, the department shall return them with an explanation of the noncompliance. If the department does not respond within 30 days of its receipt of the application, the application is considered to be accepted.

\* Sec. 31. AS 06.05.555(c) is amended to read:

(c) The interstate **state bank** or international bank shall publish notice of the application in the manner provided in AS 06.05.344(d) - (e). The notice must state the proposed location of the branch bank.

\* **Sec. 32.** AS 06.05.555(d) is amended to read:

(d) Upon acceptance of the application, the department shall conduct an investigation to determine that

(1) if an interstate **state** bank,

(A) the laws of the home state of the bank authorize a state bank of this state to acquire a branch bank in the home state without conditions

1 or restrictions on the operations of the branch bank; and

2 (B) the bank supervisor of the home state of the bank has  
 3 agreed to provide to the department the examination reports that the  
 4 department determines sufficient to permit the department to determine on a  
 5 current basis the financial condition of the bank;

6 (2) the proposal is consistent with a sound and competitive banking  
 7 system;

8 (3) the capital structure of the bank is adequate in relation to the  
 9 anticipated business and costs of operating the branch bank;

10 (4) the name of the bank is not deceptively similar to the name of  
 11 another branch bank or state bank and is not otherwise misleading; and

12 (5) the other requirements of this chapter have been met.

13 \* **Sec. 33.** AS 06.05.555(e) is amended to read:

14 (e) Not later than 150 days after the department accepts an application by an  
 15 interstate state bank or international bank for a certificate of authority to operate a  
 16 branch bank, the department shall make a determination whether to approve the  
 17 application. Within 30 days after the second publication of the notice referred to in (c)  
 18 of this section, a person opposing the pending application may file written objections  
 19 with the department. When it approves or denies the application, the department shall  
 20 notify the bank and any other person who requested in writing to be notified, and, if  
 21 the application is denied, the department shall state the reasons for its decision.

22 \* **Sec. 34.** AS 06.05.555(f) is amended to read:

23 (f) The department shall issue a certificate of authority to an interstate state  
 24 bank or international bank to operate a branch bank if

25 (1) the conditions imposed by the department in granting the certificate  
 26 have been fulfilled; and

27 (2) the requirements of this chapter are satisfied.

28 \* **Sec. 35.** AS 06.05 is amended by adding a new section to read:

29 **Sec. 06.05.557. Notice filing for interstate national banks.** An interstate  
 30 national bank acquiring a branch in this state under AS 06.05.550 shall file a notice of  
 31 the acquisition with the department along with a copy of the application filed with the

1 agency that primarily regulates the interstate national bank. The notice and copy of  
 2 the application shall be filed with the department at the same time the application is  
 3 filed with the agency that primarily regulates the interstate national bank.

4 \* **Sec. 36.** AS 06.05.565(a) is amended to read:

5 (a) An interstate **state bank** or international bank operating a branch bank in  
 6 the state is subject to the provisions of this title [,] and the regulations adopted and  
 7 orders issued under this title, except for the residency requirements in  
 8 AS 06.05.435(a).

9 \* **Sec. 37.** AS 06.05.565(c) is amended to read:

10 (c) A branch bank of an interstate **state bank** or international bank operating  
 11 in the state is subject to examination under AS 06.01.015 and assessments under  
 12 AS 06.01.010. Assessments under AS 06.01.010(d) are based on the branch bank's  
 13 total deposits in the state.

14 \* **Sec. 38.** AS 06.05.565(d) is amended to read:

15 (d) When the department considers it necessary to protect the public interest,  
 16 the department or a competent person designated by the department may examine an  
 17 interstate **state bank** or international bank with a branch in the state. The interstate  
 18 **state bank** or international bank shall pay an examination fee established under  
 19 AS 06.01.010.

20 \* **Sec. 39.** AS 06.05.565(e) is amended to read:

21 (e) The department may require periodic reports from an **interstate state**  
 22 **bank or an interstate national bank** [OUT-OF-STATE DEPOSITORY  
 23 INSTITUTION] that maintains a branch in this state and from a bank holding  
 24 company that controls the **interstate state bank or interstate national bank** [OUT-  
 25 OF-STATE DEPOSITORY INSTITUTION]. The reports shall be made under oath  
 26 and filed as frequently as required by the department. The reports must contain the  
 27 information and detail that the department determines to be appropriate to assure  
 28 continuing compliance of the **interstate state bank or interstate national bank**  
 29 [OUT-OF-STATE DEPOSITORY INSTITUTION] with the **provisions**  
 30 [PROVISION] of this title.

31 \* **Sec. 40.** AS 06.05.565 is amended by adding a new subsection to read:

(g) An interstate national bank operating a branch bank in this state is subject to the provisions of AS 06.05.548 and 06.05.550 and the regulations adopted and orders issued under those sections.

\* Sec. 41. AS 06.05.570(a) is amended to read:

(a) An out-of-state bank holding company may acquire and own all or a portion of the voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting a banking business in the state, unless the state bank or national bank is a recently formed bank. Before an out-of-state bank holding company may acquire a state bank or bank holding company of a state bank doing business in this state, the out-of-state bank holding company shall apply for and obtain a permit from the department. In considering whether to issue a permit, the department shall consider the benefits to the public, the preservation of a competitive banking industry, and the maintenance of a safe and sound bank industry. To assure full protection of the public, the department may require an out-of-state bank holding company that directly or indirectly owns, holds, or controls stock in a state bank or domestic bank holding company to post a bond with the department under conditions established by the department. The amount of the bond may not be more than the product obtained by multiplying the amount of paid-in capital and paid-in surplus of the state bank or domestic bank holding company by the percentage of state bank or domestic bank holding company stock directly or indirectly owned, held, or controlled by the out-of-state bank holding company.

\* **Sec. 42.** AS 06.05.990(13) is amended to read:

(13) "financial institution" means an institution subject to the regulation of the department under this title; in this paragraph, "institution" includes a commercial bank, savings bank, credit union, premium finance company, small loan company, bank holding company, financial holding company, trust company, and savings and loan association;

\* Sec. 43. AS 06.05.990(19) is repealed and reenacted to read:

(19) "loan" includes an extension of credit resulting from direct or indirect negotiations between a lender and a debtor;

\* **Sec. 44.** AS 06.05.990(22) is amended to read:

(22) "recently formed bank" means a state bank or national bank that conducts a banking business in the state and that commenced the banking business in the state on or after July 1, 1982, and that has not been in existence and continuously operating in the state for a period of three years or more; "recently formed bank" does not include

(A) a bank organized solely for the purpose of facilitating acquisition of a bank that either has been in existence and continuously operating in the state as a bank for a three-year period, or was conducting a banking business in the state on or before June 30, 1982;

(B) a state bank that the department determines was not created directly or indirectly by an acquiring interstate state bank, interstate national bank, international bank, or out-of-state bank holding company, and that does not have the capacity to continue to conduct its business independently in a manner consistent with the public interest and the interest of depositors, creditors, and shareholders; or

(C) a national bank that the board of governors of the Federal Reserve System, or their designee, determines is not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to conduct its business independently in a manner consistent with the public interest of depositors, creditors, and shareholders;

\* **Sec. 45.** AS 06.05.990(24) is amended to read:

(24) "state financial institution" means a financial institution that is organized under this title or that is subject to examination by the department under this title;

\* **Sec. 46.** AS 06.05.990 is amended by adding new paragraphs to read:

(29) "extension of credit" means a negotiable instrument, and includes promissory notes, acknowledgments of advance, due bills, invoices, overdrafts, acceptances, and similar written or oral obligations or evidence of debt whether secured or unsecured; in this paragraph, "negotiable instrument" has the meaning given in AS 45.03.104;

(30) "financial holding company" means an existing, or newly formed, domestic bank holding company that has been approved as a financial holding company by the Federal Reserve System and not denied that status by the department under AS 06.05.237;

(31) "interstate national bank" means a national bank whose principal office, as designated in its articles of incorporation, is not located in this state;

(32) "interstate state bank" means a person organized under the laws of another state and holding a charter, license, or certificate of authority from another state to engage in a banking business.

\* **Sec. 47.** AS 06.15.100 is repealed and reenacted to read:

**Sec. 06.15.100. Prohibited conduct of trustees.** A trustee may not

(1) receive remuneration as trustee except reasonable fees for attendance at meetings of trustees or for services as a member of a committee of trustees;

(2) use the position as trustee, or knowingly allow it to be used, to obtain preferential terms in dealings with the mutual bank for which the person is trustee;

(3) use the position as trustee, or knowingly allow it to be used, to induce an actual or prospective borrower from the mutual bank for which the person is trustee to purchase goods or services at a direct or indirect profit to the trustee.

\* **Sec. 48.** AS 06.15 is amended by adding a new section to read:

**Sec. 06.15.105. Trustee borrowing.** A person may borrow money from the bank for which the person is trustee to the same extent that a director may do so under AS 06.05.210.

\* **Sec. 49.** AS 06.20.010 is amended by adding a new subsection to read:

(b) A person who is doing business under and as permitted by any law of the state or of the United States relating to banks, savings banks, trust companies, building and loan associations, or credit unions and who is exempt from the licensing requirement in (a) of this section shall comply with all other provisions of this chapter.

\* **Sec. 50.** AS 06.45.020(a) is amended to read:

(a) Seven or more natural persons who desire to form a credit union shall

1 subscribe before an officer competent to administer oaths, articles of incorporation in  
 2 duplicate that must state

- 3 (1) the name of the credit union;
- 4 (2) the location of the credit union and the territory in which it will  
 5 operate;
- 6 (3) the names and addresses of the subscribers to the certificate and the  
 7 number of shares each subscribed;
- 8 (4) the par value of the shares, which **must** [SHALL] be **a minimum**  
 9 **of** \$5 each;
- 10 (5) the proposed field of membership specified in detail;
- 11 (6) the term of the existence of the credit union, which may be  
 12 perpetual; and
- 13 (7) the fact that the articles of incorporation are adopted to enable the  
 14 persons to avail themselves of the advantages of this chapter.

15 \* **Sec. 51.** AS 06.45.060(5) is amended to read:

16 (5) make loans, the maturities of which may not exceed **20** [12] years  
 17 except as provided in this chapter, and extend lines of credit to its members, to other  
 18 credit unions, and to credit union organizations and participate with other credit  
 19 unions, credit union organizations, or financial organizations in making loans to credit  
 20 union members in accordance with the following:

21 (A) loans to members shall be made in conformity with  
 22 regulations adopted by the commissioner, except that

23 (i) a residential real estate loan **that** [WHICH] is made  
 24 to finance the acquisition of a one- to four-family dwelling for the  
 25 principal residence of a credit union member **that** [WHICH] is secured  
 26 by a first lien on the dwelling may have a maturity not exceeding 30  
 27 years;

28 (ii) a loan to finance the purchase of a mobile home  
 29 **that** [, WHICH] is secured by a first lien on the mobile home, to be  
 30 used as the residence of a credit union member, or for the repair,  
 31 alteration, or improvement of a residential dwelling that is the residence

1 of a credit union member must [SHALL] have a maturity not to exceed  
 2 20 [15] years unless the loan is insured or guaranteed under (iii) of this  
 3 subparagraph;

4 (iii) a loan secured by the insurance or guarantee of the  
 5 federal government, of a state government, or an agency of either may  
 6 be made for the maturity and under the terms and conditions specified  
 7 in the law under which the insurance or guarantee is provided;

8 (iv) a loan or aggregate of loans to a director or member  
 9 of the supervisory or credit committee of the credit union making the  
 10 loan that [WHICH] exceeds \$20,000 [\$5,000] plus pledged shares shall  
 11 be approved by the board of directors;

12 (v) loans to other members for which directors or  
 13 members of the supervisory or credit committee act as guarantor or  
 14 endorser shall be approved by the board of directors when the loans  
 15 standing alone or when added to an outstanding loan or loans of the  
 16 guarantor or endorser exceed \$20,000 [\$5,000];

17 (vi) the rate of interest may not exceed the greater of 15  
 18 percent a year or the rate specified in AS 45.45.010(b);

19 (vii) the taking, receiving, reserving, or charging of a  
 20 rate of interest greater than is allowed by this paragraph, when  
 21 knowingly done, is considered a forfeiture of the entire interest that the  
 22 note, bill, or other evidence of debt carries with it, or that has been  
 23 agreed to be paid on the note, bill, or other evidence of debt; if a greater  
 24 rate of interest has been paid, the person by whom it has been paid or  
 25 the person's legal representatives may recover back from the credit  
 26 union taking or receiving it the entire amount of interest paid, but the  
 27 action must be commenced within two years from the time the usurious  
 28 collection was made;

29 (viii) a borrower may repay a loan before maturity in  
 30 whole or in part on any business day without penalty;

31 (ix) loans shall be paid or amortized under regulations

adopted by the commissioner that consider the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and the credit union, and other factors established in regulations adopted by the commissioner;

(x) the total dollar amount of real estate loans and mobile home loans outstanding may not exceed 25 percent of the assets of the credit union without the written approval of the commissioner;

(xi) a credit union with assets of less than \$3,000,000 may make real estate loans with maturities in excess of 15 years only with the approval of the commissioner;

(B) a self-replenishing line of credit to a borrower may be established to a stated maximum amount on terms and conditions that may be different from terms and conditions established for another borrower;

(C) loans to other credit unions require the approval of the board of directors of the loaning credit union;

(D) loans to credit union associations require the approval of the board of directors of the credit union and may not exceed one percent of the paid-in and unimpaired capital and surplus of the credit union;

(E) participation loans with other credit unions, credit union associations, or financial organizations shall be made in accordance with written policies of the board of directors of the credit union, except that a credit union that originates a loan for which participation arrangements are made in accordance with this section shall retain an interest not less than 10 percent of the face amount of the loan;

**\* Sec. 52.** AS 06.45.060(7) is amended by adding new subparagraphs to read:

(L) in bankers' acceptances issued by a financial institution whose accounts are insured by an agency of the federal government;

(M) in stock of a federal home loan bank; the investment must be limited to the minimum amount of stock required for membership in the federal home loan bank, plus any additional stock purchase required to obtain an advance of funds from a federal home loan bank;

(N) in obligations of, or issued by, a state or political subdivision of the state, except that a credit union may not invest more than 10 percent of its unimpaired capital and surplus in the obligations of any one issuer, exclusive of general obligations of the issuer; in this subparagraph, "political subdivision of the state" includes an agency, corporation, or instrumentality of a state or political subdivision;

\* **Sec. 53.** AS 06.45.060 is amended by adding a new paragraph to read:

(16) issue solicited or unsolicited credit cards or other similar credit granting devices to a member for obtaining money, goods, services or anything else of value; notwithstanding (5)(A)(vi) of this section and AS 45.45.010, when credit is extended under this section, the credit union may impose a service charge at a monthly rate as agreed upon by contract between the credit union and the member receiving the credit granting device, but the credit union may not hold the member liable for charges made on a credit card or other credit granting device before its acceptance by the member; before an unsolicited card is considered accepted by the member, the member shall execute and furnish to the credit union a written statement of acceptance; in addition, a credit union may charge fees for credit cards or other similar credit granting devices.

\* **Sec. 54.** AS 06.45 is amended by adding a new section to read:

**Sec. 06.45.295. Automated teller machines.** (a) A state credit union may establish, maintain, and operate an automated teller machine on the premises of the main office or a branch office of the state credit union.

(b) A state credit union may establish, maintain, and operate an automated teller machine at a location other than credit union premises by notifying the department 30 days before the date of establishment. An automated teller machine operated off credit union premises shall be made available on a nondiscriminatory basis for use by depositors of other depository institutions authorized to do business in the state, upon the agreement of the other depository institutions to pay a fair and equitable amount for the use of the machine.

(c) The notice required by (b) of this section must include

(1) the location and general description of the surrounding area,

including a description of the business establishment, if any, in which the machine will be located;

(2) the manner of operation and the kinds of transactions that the machine will perform;

(3) the names of the other depository institutions that will share the machine's services; and

(4) other information required by the department.

(d) A state credit union may invest in a corporation organized to operate machines that perform automated teller services for two or more depository institutions.

(e) A person may not establish or operate an automated teller machine that accepts deposits unless those deposits are insured by the National Credit Union Share Insurance Fund or another agency of the United States that insures deposits.

\* **Sec. 55.** AS 06.05.005(b)(3), 06.05.175, 06.05.272(d), 06.05.990(18); and AS 06.20.330(a) are repealed.

\* **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENTS. AS 06.01.028(b), added by sec. 4 of this Act, has the effect of changing Rule 45, Alaska Rules of Civil Procedure, Rules 17 and 37, Alaska Rules of Criminal Procedure, and Rule 24, Alaska Bar Rules, because AS 06.01.028(b) requires certain court orders compelling disclosure to provide for reimbursement of a financial institution's reasonable costs of complying with the order.

\* **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. Notwithstanding sec. 60 of this Act, the Department of Community and Economic Development may immediately proceed to adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory changes.

\* **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to read:

1           INSTRUCTION TO REVISOR. The revisor of statutes is instructed to change the  
2 catchline of

3                   (1) AS 06.05.555 from "Certificate of authority for interstate and international  
4 branching" to "Certificate of authority for interstate state bank and international bank  
5 branching"; and

6                   (2) AS 06.05.565 from "Applicability of title to interstate or international  
7 banks, to out-of-state depository institutions, and to bank holding companies" to  
8 "Applicability of title to interstate state banks, interstate national banks, international banks,  
9 and bank holding companies."

10               \* **Sec. 59.** Section 57 of this Act takes effect immediately under AS 01.10.070(c).

11               \* **Sec. 60.** Except as provided in sec. 59 of this Act, this Act takes effect July 1, 2002.