

ALASKA STATE LEGISLATURE

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Juneau, Alaska 99801 (Jan. -April)

State Capitol, Room 412

907.465.2095

HOUSE BILL 145 33-LS0508\R

"An Act relating to loans in an amount of \$25,000 or less; relating to the Nationwide Multistate Licensing System and Registry; relating to deferred deposit advances; and providing for an effective date."

SECTIONAL ANALYSIS

Section 1. (Page 1) Amends AS 06.01.020(a) - Department authority to add financial institution powers and limitations

- to remove references to the Deferred Deposit Advances Act, which is repealed by Section 16 of this bill.
- simplifies the language by replacing "conferred upon" and "imposed upon" with "on"

Section 2. (Page 2) Amends AS 06.01.050 (3) - Definitions

- to remove references to the Deferred Deposit Advances Act, which is repealed in Section 16 of this bill.

Section 3. (Page 2) Amends AS 06.20.010 - License Required

- to add new subsections under (c) The section expands who is considered a lender for loans up to \$25,000 with high interest rates. It includes those:
 - (1) Holding a significant financial interest in a loan.
 - (2) Involved in offering, arranging, or servicing such loans with a possibility to own them.
 - (3) Making loans appear as something else, like a sale with a buy-back option.
 - (4) Structuring deals to get around lending rules.
- To add subsection (d) A loan is considered to happen in Alaska if the borrower lives there and completes the loan process while in the state. This change aims to protect Alaskans from unfair lending practices by covering more types of loans and lenders.

Section 4. (Page 2) Amends AS 06.20.025 - National Registry

- to add a new section allowing the Department of Commerce, Community, and Economic Development to participate in the Nationwide Multistate Licensing System and Registry (NMLS) and utilize the registry to register licensees and have licensees apply, renew an application, submit reports,

pay fees, submit reports, upload surety bonds, challenge information input by the department into the registry, and input other information and forms into the registry. This change should reduce the administrative burden on licensees. Currently, licensees must complete a pdf application, email it to the division, and mail a check or fax a credit card authorization to pay application fees. These processes should be streamlined if licensees apply through NMLS, which is used in over 50 U.S. states and territories. Renewal applications would simply note any changes (versus having to fill out a full application each year), surety bonds could be uploaded by the insurance company, fees could be paid by ACH or credit card directly, and no more emails or PDFs to submit the application. Additionally, this change will reduce the work required by the division to process applications.

Section 5. (Page 3) Amends AS 06.20.030 (a) -Fees and charges

- to allow the department to collect application investigation fees through the NMLS registry.

Section 6. (Page 3) Amends AS 06.20.030 (b)- Fees and charges

- to allow the department to collect application fees through the NMLS registry as well as bring the licensing structure for small term licenses to the modern era
 - o The proposed licensing structure is similar to the licensing structure currently found in deferred deposit advance (DDA or “payday”) licensing.
 - o This change is not expected to increase application fees on current small loan licensees and will keep fees constant for any DDA licensee who migrates to a small loan license.

Section 7. (Page 3) Repeals and Reenacts AS 06.20.090 Place of business

- to update the licensing structure of small loan licenses.

Section 8. (Page 4) Repeals AS 06.20.170- Periodic Examination

- to change the requirement that the department examine small loan licensees at least once every 18 months to “as often as necessary to carry out the purposes of this chapter.”

Section 9. (Page 4) Amends AS 06.20.230 Maximum interest permitted

- (a) to amend the maximum interest a licensee can charge on loans up to \$25,000, setting a flat rate of three percent per month on the entire unpaid principal balance. It simplifies the previous tiered interest rate structure that varied based on the loan amount, making it a uniform rate regardless of the loan size within the specified cap.
- (b) regarding open-end loans under this chapter, to allow a licensee to charge, contract for, and receive interest at the same rate of three percent per month on the unpaid principal balance up to \$25,000. This section eliminates the previous tiered structure for different portions of the loan amount for open-end loans, aligning it with the flat rate established in section (a).

- (c) to specifies that interest on open-end loans must be calculated using the actuarial method on the entire unpaid principal balance. The interest rate computation will include all fees, costs, and premiums charged under specific subsections of AS 06.20.260, ensuring that the total cost of credit is reflected in the interest rate.
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Section 10. (Page 4) Adds subsection AS 06.20.310 - Effect of illegal interest rate

- to add an anti-evasion provision. This section specifies that any loan amounting to \$25,000 or less, which incurs an interest rate higher than what is allowed by this chapter, cannot be legally upheld within the state. This rule applies to everyone involved in such transactions within Alaska, holding them accountable to the state's established interest rate limits. However, there is an exception for loans made legally in other U.S. states or territories that have small loan regulations similar to Alaska's, indicating a level of regulatory consistency. This exception does not cover loans made under circumstances described in AS 06.20.010(c), which include various scenarios where the lender might be attempting to bypass the state's lending regulations. The inclusion of AS 06.20.010(c) ensures that loans structured to evade these regulations, regardless of where they are made, are still governed by the chapter's provisions when the involved parties operate within.

Section 11. (Page 5) Amends AS 06.20 - Criminal Threats

- to add a new section AS 06.20.325 "Criminal Threats" to prohibit small loan licensees from threatening a borrower with criminal prosecution as a result of the borrower's default.
 - o This change would increase consumer protections by implementing language similar to what is currently found in AS 06.50 (DDA or "payday" lending).

Section 12. (Page 5) Amends AS 06.20.900 - Definitions

- to add a new paragraph defining "registry" as the Nationwide Multistate Licensing System (NMLS) and registry.

Section 13. (Page 5) Amends AS 08.76.500 - Business and Professions- Exemption

- to remove deferred deposit advance licensees from the list of financial institutions exempt from the chapter's regulations. Deferred deposit advance licensees will be subject to the same regulations as small loan companies.

Section 14. (Page 5) Amends AS 45.45.020 - Higher rate of interest prohibited

- to mandate that interest calculations include all service charges paid by the borrower, debtor, or mortgagor. The term "service charge" is defined to cover fees for account opening, renewal, or continuation, excluding late payment fees, dishonored check fees, reasonable attorney fees, other actual collection or foreclosure expenses, and actual repossession costs. This aims

to ensure transparency and fairness in how lenders charge borrowers by clearly including service charges in the interest computation

Section 15 (Page 5) Amends AS 06.50

- to repeal sections within AS 06.01.035(j), AS 06.20.030(c), 06.20.330; and a substantial part of AS 06.50, which covers various aspects of deferred deposit advances and related financial regulations. Additionally, it repeals certain provisions in AS 44.62.330(a)(40) related to the Administrative Procedure Act and AS 47.24.900(10)(K), likely affecting definitions or specific regulatory references within social services or administrative law. This action streamlines the regulatory framework governing financial services impacting the regulation of small loans and deferred deposit advances.

Section 16. Provides for an effective date.