

HOUSE BILL NO. 376

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE TUCK

Introduced: 2/21/18

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a state bank; relating to insurance, mortgage lending, securities,**
2 **and permanent fund dividends; and providing for an effective date."**

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

4 * **Section 1.** AS 06.60.015(a) is amended to read:

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

7 (1) a depository institution;

8 (2) a subsidiary that is

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

10 (B) regulated by a federal banking agency;

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

12 (4) a federal, state, or local government agency, including an agency
13 that arranges or provides financing for mortgage loans, **and the Alaska State Bank**
14 **established under AS 44.90.010.**

1 * **Sec. 2.** AS 36.30.990(1) is amended to read:

2 (1) "agency"

3 (A) means a department, institution, board, commission,
4 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska
5 Veterans' Home, or other administrative unit of the executive branch of state
6 government;

7 (B) does not include

8 (i) the University of Alaska;

9 (ii) the Alaska Railroad Corporation;

10 (iii) the Alaska Housing Finance Corporation;

11 (iv) a regional Native housing authority created under
12 AS 18.55.996 or a regional electrical authority created under
13 AS 18.57.020;

14 (v) the Department of Transportation and Public
15 Facilities, in regard to the repair, maintenance, and reconstruction of
16 vessels, docking facilities, and passenger and vehicle transfer facilities
17 of the Alaska marine highway system;

18 (vi) the Alaska Aerospace Corporation;

19 (vii) the Alaska Retirement Management Board;

20 (viii) the Alaska Seafood Marketing Institute;

21 (ix) the Alaska children's trust and the Alaska
22 Children's Trust Board;

23 (x) the Alaska Industrial Development and Export
24 Authority;

25 **(xi) the Alaska State Bank;**

26 * **Sec. 3.** AS 39.25.110(11) is amended to read:

27 (11) the officers and employees of the following boards, commissions,
28 and authorities:

29 (A) [REPEALED

30 (B)] Alaska Permanent Fund Corporation;

31 **(B)** [(C)] Alaska Industrial Development and Export Authority;

(C) [(D)] Alaska Commercial Fisheries Entry Commission;

(D) [(E)] Alaska Commission on Postsecondary Education;

(E) [(F)] Alaska Aerospace Corporation;

(F) [(G)] REPEALED

[(H)] Alaska Gasline Development Corporation and subsidiaries
of the Alaska Gasline Development Corporation;

(G) Alaska State Bank;

* **Sec. 4.** AS 39.50.200(b) is amended by adding a new paragraph to read:

(65) the board of directors of the Alaska State Bank (AS 44.90.100).

* **Sec. 5.** AS 43.23 is amended by adding a new section to read:

Sec. 43.23.058. Purchase of Alaska State Bank shares. (a) An applicant for a permanent fund dividend who is eligible under this chapter to receive a permanent fund dividend, or the applicant's authorized representative, may direct that all or part of the amount of the dividend payment be used to purchase shares of the Alaska State Bank established under AS 44.90.010 at a discounted rate.

(b) The department shall prepare the permanent fund dividend application to allow an applicant, or the applicant's authorized representative, to direct the department to purchase shares of the Alaska State Bank established under AS 44.90.010 at a discounted rate, as authorized under (a) of this section, and to provide the information that the department determines is necessary to implement (a) of this section.

* **Sec. 6.** AS 44 is amended by adding a new chapter to read:

Chapter 90. Alaska State Bank.

Article 1. Establishment, Name, and Purposes.

Sec. 44.90.010. Establishment of bank. (a) The Alaska State Bank is established in the department as a public corporation of the state. The exercise by the bank of the powers given to the bank under this chapter is considered to be for a public purpose.

(b) The primary purpose of the bank is to promote infrastructure, education, science, technology, infrastructure maintenance, engineering, and productive capacity in the state through the sale or leveraging of financial instrument packages, including

1 the sale or leveraging of financial instrument packages that facilitates access to
 2 Federal Reserve System and United States Department of the Treasury

3 (1) transactions that provide reserve and capital requirements for the
 4 bank to use in fractional reserve banking; in this paragraph, "fractional reserve
 5 banking" means a process by which a bank holds reserves that are a fraction of the
 6 amount of its deposit liability; and

7 (2) funds that can be distributed for other purposes of the bank.

8 (c) The bank is not subject to regulation by the department under AS 06.01 or
 9 AS 06.05. The bank is subject to regulation by the department under AS 21 when it
 10 offers insurance. The bank is exempt from AS 45.45.010 - 45.45.090 when lending
 11 money under this chapter. The bank is not subject to AS 10.06 (Alaska Corporations
 12 Code) or AS 10.20 (Alaska Nonprofit Corporation Act).

13 (d) The bank shall exercise the powers granted by this chapter for the benefit
 14 of the people of the state, for their well-being and prosperity, and for the improvement
 15 of their social and economic conditions.

16 **Sec. 44.90.020. Use of name.** (a) The bank shall conduct business under the
 17 name of "Alaska State Bank."

18 (b) Within the scope of authority that the bank grants, the president of the
 19 bank may execute instruments on behalf of the bank, including an instrument that
 20 grants, conveys, or otherwise affects an interest in or lien on real or personal property.

21 (c) An officer or employee of the bank may execute instruments on behalf of
 22 the bank if the board authorizes the officer or employee to execute the instruments on
 23 behalf of the bank.

24 **Sec. 44.90.030. Other purposes of the bank.** In addition to the primary
 25 purposes of the bank described in AS 44.90.010(b), the purposes of the bank are to

26 (1) provide financing, insurance, and funding for economic
 27 development projects and packages of financial instruments in the state; in this
 28 paragraph, "economic development project" includes a project for infrastructure,
 29 infrastructure maintenance, and productive capacity;

30 (2) provide stability to the financial sector in the state;

31 (3) facilitate transactions with the Federal Reserve System and the

1 United States Department of the Treasury;

2 (4) receive funding from the state and the federal government;

3 (5) increase access to capital and financial services for new and
4 existing businesses and the customers of those businesses;

5 (6) promote long-term economic growth in the state;

6 (7) reduce the costs of public and private banking and financial
7 services;

8 (8) promote science, technology, and engineering in the state;

9 (9) increase the economic efficiency and productivity of the state and
10 of individuals in the state;

11 (10) leverage packages of bonds, grants, and stocks;

12 (11) increase educational levels in the state; and

13 (12) provide grants to schools, colleges, and universities in the state.

14 **Article 2. Management and Operation of Bank.**

15 **Sec. 44.90.100. Board of directors.** (a) A board of directors shall manage the
16 bank.

17 (b) The board shall specify locations for and maintain places of business in
18 which the bank will operate and shall adopt and enforce bylaws and procedures for the
19 transaction of the bank's business.

20 **Sec. 44.90.110. Composition of board.** The board consists of the governor,
21 the commissioner of commerce, community, and economic development, the
22 commissioner of revenue, and the commissioner of labor and workforce development.
23 Three members of the board constitute a quorum to transact business and exercise the
24 rights, duties, and powers of the board.

25 **Sec. 44.90.120. Board chair and officers.** The governor shall act as the chair
26 of the board. The board shall select the president and other officers of the bank.

27 **Sec. 44.90.130. Employees.** The bank may hire employees. The executive
28 director, other officers of the bank, and employees of the bank are state employees and
29 are in the exempt service under AS 39.25.

30 **Sec. 44.90.140. Advisory board.** (a) The board shall appoint an advisory
31 board of directors. The advisory board shall consist of seven members.

1 (b) The members of the advisory board shall consist of representatives of the
2 financial, business, agricultural, and labor sectors of the state and a representative
3 from the University of Alaska. The members of the advisory board may include
4 employees of the bank.

5 **Sec. 44.90.150. Advisory board meetings and activities.** (a) The advisory
6 board shall meet regularly with the management of the bank to review the bank's
7 operations and finances to determine whether the advisory board has
8 recommendations to improve management performance, customer service, and the
9 internal methods, procedures, and operating policies of the bank.

10 (b) The advisory board shall meet regularly with the board to discuss the
11 advisory board's recommendations and to provide advice, expertise, and information at
12 the request of the board.

13 (c) The advisory board shall recommend to the board the criteria for the board
14 to establish for placing a project in a category under AS 44.90.610 and, for each
15 investment proposal the bank receives, the category under AS 44.90.610 in which the
16 board shall place the investment proposal.

17 (d) At the request of the board, the advisory board shall recommend additional
18 objectives for the bank's operations.

19 (e) The advisory board shall provide advice and consultation to the board
20 regarding the appointment of bank officers.

21 (f) The members of the advisory board shall participate as voting members on
22 loan committees.

23 (g) The advisory board shall recommend objectives for the bank to achieve the
24 bank's science, technology, infrastructure, and productive capacity goals.

25 (h) The advisory board shall meet with the public on a regular schedule to
26 provide the public with information on its activities.

27 **Sec. 44.90.160. Review committee.** (a) The board shall establish and maintain
28 a review committee to review investment proposals submitted to the bank and to assist
29 the persons submitting the investment proposals to provide investment proposals that
30 are complete and coherent.

31 (b) The board shall identify and make public the requirements that the review

1 committee applies when reviewing investment proposals to determine whether the
2 investment proposals are complete and coherent.

3 (c) The members of the review committee may not be members of the board
4 or members of the advisory board.

5 **Sec. 44.90.170. Confidentiality of records.** The following records of the bank
6 are confidential and are not public records subject to disclosure under AS 40.25.110 -
7 40.25.121:

8 (1) commercial and financial information of a customer of the bank,
9 whether obtained directly or indirectly, except as required by a court;

10 (2) internal or interagency memoranda or letters, except as required by
11 a court;

12 (3) except as provided in AS 44.90.700, information that is contained
13 in or related to an examination, operating, or condition report prepared by, on behalf
14 of, or for the use of a state or federal agency responsible for regulating or supervising
15 activities of the bank.

16 **Sec. 44.90.180. Cooperation with authority.** The board may work with the
17 Alaska Industrial Development and Export Authority on bank projects under this
18 chapter, including funding projects jointly.

19 **Sec. 44.90.190. Contracts and procurement.** The bank is not subject to the
20 procurement requirements of AS 36.30 when the bank procures services or property
21 for use by the bank. The bank may contract with professional advisors, counsel,
22 technical experts, and agents to carry out the bank's powers and duties under this
23 chapter.

24 **Article 3. Powers and Duties of the Bank.**

25 **Sec. 44.90.200. Bank powers.** The bank may

26 (1) solicit, receive, and accept money or its equivalent on deposit from
27 private customers, whether the deposit is made subject to a check or is evidenced by a
28 certificate of deposit, passbook, note, receipt, or other writing;

29 (2) negotiate for and discount promissory notes and other evidences of
30 indebtedness, sell and buy money or its equivalent, lend money on personal or real
31 property or other security, and perform other similar financial operations;

- 1 (3) sell shares in the bank;
- 2 (4) accept appropriations of money by the legislature;
- 3 (5) provide its services to persons in the state, in the United States, and
- 4 outside the United States;
- 5 (6) make, purchase, guarantee, or hold loans
- 6 (A) for state and federal financial institutions or other financial
- 7 institutions;
- 8 (B) that are obtained as security pledged for, or that originated
- 9 in the restructuring of, a loan that the bank originates or participates in;
- 10 (C) for agencies or other instrumentalities of this state; or
- 11 (D) that the United States or an agency of the United States
- 12 insures or guarantees in whole or in part;
- 13 (7) make participation loans or purchase participation interests in loans
- 14 that are made or held by a bank, bank holding company, lending agency, or other
- 15 financial institution if the loan meets underwriting standards that are generally
- 16 accepted by state or federal financial regulatory agencies;
- 17 (8) invest money of the bank in a manner consistent with the policies
- 18 of the board;
- 19 (9) lease, assign, sell, exchange, transfer, convey, grant, pledge, or
- 20 mortgage real and personal property;
- 21 (10) perform the acts necessary, convenient, advisable, or desirable to
- 22 carry out the powers expressly granted or necessarily implied in this chapter, through
- 23 its president, officers, agents, or employees, or by contracts with another person;
- 24 (11) act as a custodian institution for financial institutions;
- 25 (12) issue bank loans to a financial institution;
- 26 (13) take the action necessary to satisfy federal requirements for the
- 27 operation of the bank, including obtaining insurance for depositors from the Federal
- 28 Deposit Insurance Corporation;
- 29 (14) perform the functions and provide the services of a clearinghouse,
- 30 including providing domestic and foreign exchange, and rediscount commercial paper
- 31 on terms prescribed by the board;

- 1 (15) issue loans to a partnership or to form a partnership;
- 2 (16) make loans for large projects involving state infrastructure,
- 3 natural resources, industry, or technology;
- 4 (17) make loans to or for educational institutions;
- 5 (18) purchase or insure loans to finance the costs of manufacturing,
- 6 industrial, enterprise, and insurance projects;
- 7 (19) provide liquidity to local banks and credit unions;
- 8 (20) issue stocks and bonds and act in the proprietary trading of stocks
- 9 and bonds with public and private interests consistent with 12 U.S.C. 1851 (Dodd-
- 10 Frank Wall Street Reform and Consumer Protection Act);
- 11 (21) issue stocks, bonds, and grants to be discounted, rediscounted,
- 12 packaged, reimbursed, leveraged, purchased, or held by the Federal Reserve System;
- 13 (22) provide low-interest loans, bond reimbursements, and grants to
- 14 and for schools, colleges, universities, students, science, and technology in the state;
- 15 (23) leverage projects and packages of stocks, bonds, and grants with
- 16 the state, municipalities, state agencies, public corporations, financial entities,
- 17 corporations, and other persons;
- 18 (24) roll over, discount, or rediscount public and private existing loans,
- 19 mortgages, bonds, bills of exchange, tax credits, and promissory notes.

20 **Sec. 44.90.210. Deposits and other items accepted by the bank.** (a) The
21 bank may accept

- 22 (1) deposits, grants, bonds, stocks, shares, bills of exchange,
- 23 promissory notes, rediscounting, tax credits, treasury bills, and treasury currency from
- 24 private customers, state agencies, and federal agencies;
- 25 (2) appropriations from the legislature; and
- 26 (3) money from the federal government.

27 (b) The bank may accept deposits in cash and by electronic means from
28 marijuana-related businesses.

29 (c) The bank shall create a computer application that is able to accept deposits,
30 process point of sale and gift cards, automatically send tax payments to the state, and
31 pay marijuana-related businesses.

(d) To help marijuana-related businesses make deposits and to help other financial institutions receive deposits from marijuana-related businesses, the bank may create a division within the bank that works with the Financial Crimes Enforcement Network of the United States Department of the Treasury to post specific guidelines and documents about federal regulations and the filing of suspicious activity reports with the Financial Crimes Enforcement Network.

Sec. 44.90.220. Surety bonds. The bank may provide surety bonds for public and private construction projects in the state.

Sec. 44.90.230. General powers. To further its purposes, the bank may, in addition to its other powers,

- (1) sue and be sued;
- (2) have a seal and alter it at pleasure;
- (3) make and alter bylaws for its organization and internal management;
- (4) adopt regulations governing the exercise of its corporate powers;
- (5) acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift, or lease;
- (6) accept gifts, grants, or loans from, and enter into contracts or other transactions regarding them with, a federal agency, an agency or instrumentality of the state, a municipality, a private organization, or another person;
- (7) make deposits in national banks and in state banks, trust companies, and mutual savings banks operating in accordance with the laws of the state;
- (8) enter into contracts with respect to the exercise of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter; and
- (9) exercise the incidental powers that are necessary or required to enable the bank to carry on effectively the business for which the bank was established.

Sec. 44.90.240. Investment in property and banking premises. The bank may acquire, purchase, hold, and convey real and personal property

1 (1) if the book asset value of the purchase or investment does not
2 exceed 60 percent of the capital and surplus of the bank and if the property is
3 necessary for the convenient transaction of its business, including buildings containing
4 offices, equipment, furniture and fixtures, leasehold improvements, parking lots, and
5 real property reasonably anticipated to be necessary for future expansion of the bank;

6 (2) when necessary to pay debts previously contracted in the course of
7 the bank's business; and

8 (3) at sale under judgment, decree, lien, or mortgage foreclosure,
9 against security held by the bank.

10 **Sec. 44.90.250. Sale of discounted bank shares.** The bank may sell bank
11 shares at a discounted rate

12 (1) directly to an individual who is a resident of the state;

13 (2) to the Department of Revenue under AS 43.23.058.

14 **Article 4. Financial Provisions.**

15 **Sec. 44.90.300. Deposit interest.** The bank shall pay interest on money
16 received on deposits made by customers of the bank at a rate that is comparable to the
17 average statewide interest rates paid by financial institutions and may offer other
18 financial products to state agencies on a competitive basis with other financial
19 institutions.

20 **Sec. 44.90.310. Excess income.** As soon as possible after the end of each
21 calendar year, the board shall determine the amount of income, if any, earned by the
22 bank in that calendar year that exceeds the amount of money that is necessary to pay
23 for the expenses of administering the activities of the bank. The bank shall deposit this
24 excess income in the bank fund.

25 **Sec. 44.90.350. Project and bond leveraging.** (a) The bank shall leverage the
26 funding for projects and financial packages to promote the purposes of the bank,
27 except that the bank investment may not exceed 35 percent of the total cost of a single
28 project or single financial package when combining all bonds, grants, obligations,
29 shares, insurance, and loans from the bank for the project.

30 (b) The bank investment may exceed the limit of 35 percent set under (a) of
31 this section

1 (1) if a person is disrupting the project by hostile, illegal, or predatory
2 financial action, as determined by the board or advisory board;

3 (2) for an individual infrastructure project, productive capacity project,
4 or financial package if the governor, the Alaska Industrial Development and Export
5 Authority, the president of the University of Alaska, the board, and the advisory board
6 place the project or package in the category described under AS 44.90.610(1); or

7 (3) for a research and development project related to education,
8 whether for profit or not for profit, if the board, advisory board, and president of the
9 University of Alaska identify the project as a project under AS 44.90.610(1); however,
10 the bank may not invest more than 80 percent of the total amount invested in the
11 research and development project related to education.

12 **Sec. 44.90.360. Investment fund activity prohibited or restricted.** (a) The
13 employees, directors, and investors in the bank may not use the bank

14 (1) for a sale of a borrowed security in anticipation that the security
15 price will fall and can be paid back from the profits earned after repurchasing the
16 security at a lower price;

17 (2) for the purchase of assets by paying a percentage of the value of the
18 assets and borrowing the balance from a bank or broker.

19 (b) The bank shall require, to the extent determined by the board, that the
20 financial instruments that are received or sold by the bank comply with the investment
21 standards established by P.L. 111-203 (Dodd-Frank Wall Street Reform and
22 Consumer Protection Act) and by 7 U.S.C. 1 - 27f (Commodity Exchange Act) as 7
23 U.S.C. 1 - 27f (Commodity Exchange Act) existed before enactment of P.L. 111-203
24 (Dodd-Frank Wall Street Reform and Consumer Protection Act).

25 (c) The board shall place derivatives, including high risk derivatives that are
26 predatory financial instruments in the category established under AS 44.90.610(4).

27 (d) The bank may not issue or invest in derivatives that are credit default
28 swaps and may not issue or invest in other derivatives unless the derivatives comply
29 with federal law. The bank shall severely restrict or penalize the use of high risk
30 derivatives, including credit default swaps and predatory financial instruments. In this
31 subsection, "credit default swap" means a financial contract under which a buyer of

1 debt attempts to eliminate possible loss arising from default by the issuer of the debt.

2 (e) In this section, "predatory financial instrument" means a high risk
3 investment that can cause debt-pyramiding, asset-stripping, or a debt for equity change
4 of ownership.

5 **Sec. 44.90.370. Bonds of the bank.** (a) The bank may issue bonds, including
6 bonds on which the principal and interest are payable

7 (1) exclusively from the income and receipts or other money derived
8 from the project financed with the proceeds of the bonds;

9 (2) exclusively from the income and receipts or other money derived
10 from designated projects or development projects or other sources whether or not the
11 projects are financed, insured, or guaranteed in whole or in part with the proceeds of
12 the bonds; or

13 (3) from the income, receipts, and other assets of the bank.

14 (b) The bank shall authorize its bonds by resolution of the bank. The bonds
15 must be dated and mature as the resolution provides. The resolution may provide the
16 interest rate, the denominations, the form, the registration privileges, the manner of
17 execution, the medium of payment, the place of payment, and the terms of redemption
18 for the bonds.

19 (c) The bonds of the bank, regardless of form or character, are negotiable
20 instruments for all the purposes of AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and
21 AS 45.29 (Uniform Commercial Code).

22 (d) The bank may sell its bonds at public or private sale in the manner, for the
23 price, and at the time that the bank determines.

24 (e) Before issuing bonds, the bank shall provide for consideration that the
25 bank judges is at least sufficient to pay the principal of and interest on the bonds as the
26 bonds become due, to create and maintain the reserves for the payments that the bank
27 considers necessary or desirable, and to meet all obligations and necessary costs in
28 connection with the bonds.

29 (f) The superior court may hear and determine actions relating to the bonds of
30 the bank, including actions or other proceedings brought to foreclose or otherwise
31 enforce a mortgage, pledge, assignment, or security interest brought by or for the

1 benefit or security of a holder of the bank's bonds or by a trustee or other
2 representative of the holders.

3 (g) The bank may combine, for the purposes of a single offering, bonds
4 financing more than one project.

5 **Sec. 44.90.380. Infrastructure and productive capacity projects.** If a project
6 is not subject to AS 36.05.005 - 36.05.110, the bank shall require the owners of
7 infrastructure projects or productive capacity projects that are leveraged through the
8 bank and that exceed \$25,000 to require that the contractors and subcontractors on
9 those projects pay their laborers, mechanics, and field surveyors wages that are not
10 less than the current prevailing rate of wages required by AS 36.05.010, based on the
11 date of the contract for the project, not on the receipt of bids. In this section, "laborer,
12 mechanic, or field surveyor" has the meaning given in AS 36.95.010.

13 **Sec. 44.90.390. Terms of loans.** The board shall determine the monetary
14 increments for bonds and loan terms and allow for the creation of bonds that have a
15 term of 100 years.

16 **Sec. 44.90.400. Tax exemption.** (a) The bank and its property, franchises,
17 capital, reserves, surpluses, income, and other money are exempt from taxation by the
18 state or a municipality.

19 (b) All obligations issued under this chapter are considered to be issued by a
20 body corporate and public of the state and for an essential public and governmental
21 purpose, and the obligations, and the interest and income on and from the obligations,
22 and all fees, charges, funds, revenue, income, and other money pledged or available to
23 pay or secure the payment of the obligations, or interest on the obligations, are exempt
24 from taxation except for transfer, inheritance, and estate taxes.

25 **Sec. 44.90.410. Reserves against deposits.** As provided by the regulations of
26 the bank, the bank shall maintain a reserve fund sufficient to maintain liquidity and
27 meet all reasonable demands of depositors.

28 **Sec. 44.90.420. Bond debt reimbursement schedules.** The board shall
29 publish bond debt reimbursement schedules each year on a date appropriate for
30 industrial and educational timetables.

31 **Sec. 44.90.430. Nonpayment of tax.** The board may declare an individual

1 financial instrument void if a court determines that a tax imposed on a transaction
2 involving the financial instrument has not been paid.

3 **Sec. 44.90.440. Acquisition of property to satisfy or protect previous loan.**

4 The bank may accept property of any kind to satisfy or protect a loan previously made
5 by the bank in good faith and in the ordinary course of business. The bank shall enter
6 the property on the books at cost or fair market value, whichever amount is less. The
7 bank shall dispose of property acquired to satisfy or protect previous loans over the
8 periods that the bank establishes by regulation.

9 **Article 5. Alaska State Bank Fund.**

10 **Sec. 44.90.500. Alaska state bank fund.** (a) The Alaska state bank fund is

11 established in the general fund. The bank fund consists of money appropriated to the
12 bank fund, money received from the Federal Reserve System and the United States
13 Treasury, interest received by the bank, and income received by the bank, including
14 the excess income calculated under AS 44.90.310.

15 (b) The bank may spend the money appropriated to the bank fund to
16 implement the provisions of this chapter without further appropriation. Appropriations
17 to the bank fund do not lapse under AS 37.25.010, but remain in the bank fund for
18 future disbursements.

19 (c) The legislature may appropriate to the bank fund the income and interest
20 received by the bank.

21 (d) Nothing in this section creates a dedicated fund.

22 **Sec. 44.90.510. Fund use limit.** During a fiscal year of the bank, the bank may
23 not use more than 25 percent of an amount that is equal to the value of the bank fund
24 at the beginning of that fiscal year for one construction project, productive capacity
25 project, or financial package, unless the process of rediscounting with the Federal
26 Reserve System and combining with the United States Treasury results in an amount
27 of more than 25 percent.

28 **Article 6. Projects.**

29 **Sec. 44.90.600. Setting project priorities.** The board shall determine the
30 priority of each project proposed for bank investment. The board shall place each
31 project proposed for bank investment in one of the four categories of priority

described under AS 44.90.610. The board shall establish the requirements that an investment proposal must meet to be placed in a category described under AS 44.90.610.

Sec. 44.90.610. Project categories. The following categories of projects for bank investment are listed in descending order of priority:

(1) the first category applies to projects for education, science, technology, productive capacity, and infrastructure; under this category, a project will receive grants, stock purchases, bond reimbursement, and low interest rates;

(2) the second category applies to projects for education, science, technology, productive capacity, and infrastructure; under this category, a project will receive interest rates below the market interest rate, limited stock purchases, and limited bond reimbursements;

(3) the third category applies to productive capacity, infrastructure, and commercial business projects; under this category, a project will receive competitive interest rates;

(4) the fourth category applies to projects with financial instruments that present a high risk of loss; the bank will charge the projects in this category higher interest rates than the other categories under this section, and the bank may impose other requirements that the board determines are appropriate.

Sec. 44.90.620. Science and technology projects. (a) The board shall consider funding science and technology projects that the University of Alaska, the Alaska Industrial Development and Export Authority, or the advisory board identifies as qualified for placement under AS 44.90.610(1), (2), or (3).

(b) When determining whether the bank will fund science and technology projects, the board shall select projects that apply the principles of industrial science and efficiency, including principles of industrial science and efficiency that are associated with amperage, brightness, British thermal units, clarity, conductivity, dynamics, energy coherence, energy conversion, energy flux density, horsepower, intelligence, joules, luminosity, the machine tool principle, miniaturization, newtons, plasma coherence, potential population density, the principle of least action, productivity, qualitative transformation, radiancy, reliability, renewability, self-

1 organization, sustainability, thermal efficiency, throughput, torque, transparency,
 2 volumetric energy density, volumetric energy efficiency, voltage, wattage, and work
 3 flux density. In this subsection,

4 (1) "amperage" means the volume of electricity;

5 (2) "brightness" means the intensity of light emanating from a surface
 6 or a point source;

7 (3) "British thermal unit" means the amount of heat required to raise
 8 the temperature of one pound of water by one degree Fahrenheit;

9 (4) "clarity" means the quality of being clear, radiant, coherent, lucid,
 10 intelligible, sharp in image or sound, or easy to see or hear;

11 (5) "conductivity" means the degree to which a specified material
 12 conducts electricity or heat;

13 (6) "dynamics" means the cause of change or growth of an object,
 14 force, motion, development, or intensity of a phenomenon or process;

15 (7) "energy coherence" means, for industrial policy, the ability to
 16 select and utilize a particular phenomenon, wavelength, or process in the electrometric
 17 spectrum;

18 (8) "energy conversion" means to transform one form of energy to
 19 another form of energy;

20 (9) "energy flux density" means the amount of action or qualitative
 21 transformation effected for each cross sectional area in an energy function;

22 (10) "horsepower" means the comparison of the output of horses with
 23 that of engines, generally considered a unit of power equal to 550 foot-pounds a
 24 second;

25 (11) "intelligence" means the ability to acquire and apply cognition,
 26 knowledge, and skills;

27 (12) "joule" means a unit of energy equal to the energy transferred to,
 28 or work done on, an object when a force of one newton acts on that object in the
 29 direction of its motion through one meter;

30 (13) "luminosity" means the total amount of energy emitted by an
 31 object for each unit of time;

1 (14) "machine tool principle" means the process of a scientist
 2 recognizing a paradox and testing a hypothesis using an experimental apparatus that
 3 becomes a machine tool or technology that is used by industry or commerce to
 4 improve productivity or efficiency;

5 (15) "miniaturization" means the process of designing and
 6 manufacturing smaller versions of mechanical, optical, and electronic products or
 7 other devices;

8 (16) "newton" means the force required to cause a mass of one
 9 kilogram to accelerate at a rate of one meter a second squared in the absence of other
 10 force-producing effects;

11 (17) "plasma coherence" means, for industrial policy, the ability to
 12 select and use a particular phenomenon, wavelength, or process in the fourth state of
 13 matter that is an ionized gas having self-organizing properties;

14 (18) "potential population density" means the number of people for
 15 each square mile or for each square meter supported by infrastructure and technology;

16 (19) "principle of least action" means a universal efficiency principle
 17 in physics;

18 (20) "productivity" means the amount of output a worker can produce
 19 in a given period or the effectiveness of effort as measured in terms of the rate of
 20 output for each unit of input;

21 (21) "qualitative transformation" means the functional change in the
 22 nature and character of a process;

23 (22) "radiancy" means the amount of radiation or heat that is emitted,
 24 reflected, transmitted, or received by a given surface area;

25 (23) "reliability" means the

26 (A) degree to which the result of a measurement, calculation, or
 27 specification can be depended on to be accurate; or

28 (B) rate of failure in production or a process;

29 (24) "renewability" means a source of energy that is not depleted when
 30 used;

31 (25) "self-organization" means a process composed of many parts

1 spontaneously acquiring its structure or function through self-assembly;

2 (26) "sustainability" means meeting the needs of the present without
3 compromising future generations;

4 (27) "thermal efficiency" means the percentage of energy taken from
5 combustion that is converted to mechanical work or the ratio of hot and cold input and
6 output when measuring heat loss;

7 (28) "throughput" means the rate of production or processing;

8 (29) "torque" means the measurement of the ability of a rotating
9 element to overcome turning resistance;

10 (30) "transparency" means the quality of allowing the passage of a
11 specified form of radiation without appreciable scattering;

12 (31) "voltage" means the pressure of electricity;

13 (32) "volumetric energy density" means the amount of energy stored in
14 a given system or area of space for each unit of volume or mass;

15 (33) "volumetric energy efficiency" means the measurement, by
16 volume, of the ratio of maximum theoretical energy potential to actual measured use
17 or work;

18 (34) "wattage" means the amount of electricity used by a power-
19 consuming device;

20 (35) "work flux density" means the amount of action or qualitative
21 transformation effected for each cross sectional area in a work function.

22 **Article 7. General Administrative Provisions.**

23 **Sec. 44.90.700. Examinations and audits.** (a) In addition to any other
24 regulation allowed or required under this chapter, the department shall examine the
25 bank at least once each calendar quarter to verify and ensure that the bank is
26 complying with the regulations of the board. The department shall report the results of
27 the examination to the board. The department's report is a public record subject to
28 disclosure under AS 40.25.110 - 40.25.121.

29 (b) The bank shall have an audit of the accounts and financial affairs of the
30 bank performed by an independent auditor at least once every two years.

31 **Sec. 44.90.710. Regulations.** The bank shall adopt regulations consistent with

1 this chapter and other applicable law to

2 (1) ensure the safety and soundness of the bank, adhere to sound
3 underwriting practices, and reflect applicable standards for safety and soundness as
4 provided in 12 C.F.R. 364;

5 (2) specify limits for loans and other obligations the bank makes or
6 undertakes;

7 (3) specify reserve requirements;

8 (4) set other requirements that the board considers necessary to
9 administer the bank under this chapter;

10 (5) determine borrower eligibility;

11 (6) set loan guidelines and terms, including

12 (A) maximum loan amounts;

13 (B) required loan-to-value ratios; and

14 (C) a method for determining loan interest rates;

15 (7) identify the characteristics of projects eligible for loans or purchase
16 of loans; and

17 (8) establish the qualifications of loan originators and servicers and the
18 method of allocating amounts available for the purchase of loans.

19 **Sec. 44.90.720. Public meetings.** The board shall hold public meetings on a
20 regular basis.

21 **Sec. 44.90.730. Nonapplicability of Administrative Procedure Act.** Except
22 for AS 44.62.310 - 44.62.319 (Open Meetings Act), the provisions of the
23 Administrative Procedure Act regarding the adoption of regulations (AS 44.62.040 -
24 44.62.320) do not apply to the bank.

25 **Sec. 44.90.740. Regulation adoption procedure.** (a) Except as provided in
26 AS 44.90.750, at least 15 days before adopting regulations, the bank shall give public
27 notice of the proposed regulation by publishing the notice in at least three newspapers
28 of general circulation in the state and by mailing a copy of the notice to every person
29 who has filed a request for notice of proposed regulations with the bank. The public
30 notice must include a statement of the time, place, and nature of the proceedings for
31 the regulations and must include an informative summary of the subject of the

1 proposed regulatory action.

2 (b) On the date and at the time and place designated in the notice, the bank
3 shall give each interested person, an authorized representative of the person, or both,
4 the opportunity to present statements, arguments, and viewpoints orally or in writing.
5 The bank shall consider all relevant matter presented to it before adopting the
6 proposed regulations.

7 (c) The bank may continue or postpone a hearing to a time and place
8 determined by the bank and announced at the hearing before taking action to continue
9 or postpone the hearing.

10 (d) The bank may adopt, amend, or repeal a regulation that varies from the
11 informative summary specified in this section if the subject matter of the regulation
12 remains the same and if the original notice of the proposed regulation reasonably
13 notified the public of its subject matter so that a person could determine whether the
14 bank's proposed regulation on the subject affected the person's interests.

15 **Sec. 44.90.750. Emergency regulations.** (a) The bank may adopt emergency
16 regulations if, in the order of the emergency regulation, the bank states the facts
17 constituting the emergency and makes a finding that the emergency regulation is
18 necessary for the immediate preservation of the orderly operation of the bank's
19 programs.

20 (b) The requirements of AS 44.90.740 do not apply to the initial adoption of
21 emergency regulations. However, the bank shall, within 10 days after adopting the
22 emergency regulations, publish notice of the emergency regulations in accordance
23 with the notice procedures in AS 44.90.740.

24 (c) An emergency regulation does not remain in effect for more than 120 days
25 unless, before the expiration of that period, the bank adopts the emergency regulation
26 as a permanent regulation in accordance with the procedures specified in
27 AS 44.90.740.

28 **Sec. 44.90.760. Effective date of regulations.** A regulation adopted by the
29 bank takes effect immediately upon its adoption by the bank or at another time
30 specified by the bank in its order of adoption.

31 **Sec. 44.90.770. Regulation distribution.** (a) The bank shall make available to

members of the public copies of the regulations adopted under this chapter. Within 45 days after adoption of a regulation, the chair of the bank shall submit the regulation adopted to the chair of the Administrative Regulation Review Committee under AS 24.20.400 - 24.20.460.

Article 8. Miscellaneous Provisions.

Sec. 44.90.800. Civil actions. A person may bring a civil action against the state for a claim that arises out of a transaction that is connected with the operation of the bank.

Sec. 44.90.810. Prohibited bank practices. The bank may not engage in unfair, deceptive, or fraudulent practices, including predatory practices in loan origination.

Sec. 44.90.820. Compliance with law. Except as otherwise provided by this chapter, the bank shall comply with all federal and state laws related to the bank's operations, including federal law related to issuing financial instruments.

Article 9. General Provisions.

Sec. 44.90.990. Definitions. In this chapter, unless the context indicates otherwise,

(1) "advisory board" means the advisory board appointed under AS 44.90.140;

(2) "bank" means the Alaska State Bank established under AS 44.90.010;

(3) "bank fund" means the Alaska state bank fund created under AS 44.90.500;

(4) "board" means the board of directors of the Alaska State Bank;

(5) "customer" means a person that has transacted or is transacting business with the bank, that has used or is using the services of the bank, or for whom the bank has acted or is acting as a fiduciary with respect to trust property;

(6) "department" means the Department of Commerce, Community, and Economic Development;

(7) "derivative" means a security with a price that depends on the underlying asset;

(8) "financial instruments" means bonds, grants, shares, insurance, loans, bills of exchange, promissory notes, treasury bills and treasury currency cash, contractual rights, or other types of assets;

(9) "grant" includes bond debt reimbursement;

(10) "infrastructure" means

(A) bridges, dams, highways, roads, pathways, waterways, navigable water, railroads, electrical production and distribution, water management systems, communication systems, transportation systems, agricultural structures, schools, universities, and other structures and facilities required for the operation of a society; and

(B) the maintenance of the structures and facilities described in (A) of this paragraph;

(11) "leverage" means using debt to create new loans;

(12) "productive capacity" means the physical plant, equipment, vehicles, ships, trains, buildings, technology, and engineering services of a public or private enterprise;

(13) "regulation" means the adoption, amendment, or repeal of a regulation.

Sec. 44.90.995. Short title. This chapter may be cited as the Alaska State Bank Act.

* **Sec. 7.** AS 45.55.990(32) is amended to read:

(32) "security" means a note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; limited liability company interest under AS 10.50, notwithstanding the limitations of AS 45.08.103(c); collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; viatical settlement interest; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under the title or lease or in any sale of or indenture or bond or contract for the conveyance of land or any interest in land; an option on a contract for the future delivery of agricultural or mineral commodities or any other commodity offered or

1 sold to the public and not regulated by the Commodity Futures Trading Commission;
 2 however, the contract or option is not subject to the provisions of AS 45.55.070 if it is
 3 sold or purchased on the floor of a bona fide exchange or board of trade and offered or
 4 sold to the public by a broker-dealer or agent registered under this chapter; investment
 5 of money or money's worth including goods furnished or services performed in the
 6 risk capital of a venture with the expectation of some benefit to the investor where the
 7 investor has no direct control over the investment or policy decision of the venture; or,
 8 in general, any interest or instrument commonly known as a "security," or any
 9 certificate of interest or participation in, temporary or interim certificate for, receipt
 10 for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing;
 11 "security" does not include a participation agreement entered into under AS 14.40.802,
 12 a program account established under AS 06.65, [OR] an insurance or endowment
 13 policy or annuity contract under which an insurance company promises to pay a fixed
 14 or variable sum of money either in a lump sum or periodically for life or for some
 15 other specified period, **or a share in the Alaska State Bank established under**
 16 **AS 44.90.010;**

17 * **Sec. 8.** The uncoded law of the State of Alaska is amended by adding a new section to
 18 read:

19 APPLICABILITY. AS 44.90.430, added by sec. 6 of this Act, applies to instruments
 20 entered into on or after the effective date of this Act.

21 * **Sec. 9.** This Act takes effect July 1, 2019.