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House Majority Leader

Alaska State Legislature

District 23 - Representing Dimond Estates, Foxridge, Taku, Campbell, Northwood and Windemere

HB 376 Sectional Analysis Version A

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

Section 1. AS 06.60.015 Exempts the Alaska State Bank from the mortgage lender licensing requirements, just like other depository institutions or local government agencies that provide mortgage loans in Alaska.

Sec. 2. AS 36.30.990 Defines the Alaska State Bank to be legally similar to the Alaska Railroad Corporation, University of Alaska, Alaska Housing Finance Corporation, Alaska Aerospace Corporation and the Alaska Industrial Development and Export Authority.

Sec. 3. AS 39.25.110(11) Defines the Alaska State Bank officers, employees, boards, and commissions to be legally similar to the Alaska Permanent Fund Corporation, Alaska Industrial Development and Export Authority and the Alaska Aerospace Corporation.

Sec. 4. AS 39.50.200(b) Includes the board of directors of the Alaska State Bank in the definition of public officials for the purposes of requiring an annual financial disclosure with the Alaska Public Offices Commission.

Sec. 43.23.058. Purchase of Alaska State Bank shares. Allows an applicant for a permanent fund dividend to purchase shares of the Alaska State Bank at a discounted rate and prepares the permanent fund dividend application for this purpose.

Sec. 6. AS 44 Adds a new chapter to read Chapter 90. Alaska State Bank.

Article 1. Establishment, Name, and Purposes.

Sec. 44.90.010. Establishment of bank. The Alaska State Bank is established as a public corporation of the state. The primary purpose of the bank is to promote infrastructure, education, science, technology, maintenance, engineering, and productive capacity in the state through the sale or leveraging of financial instrument packages, including the sale or leveraging of packages that facilitate access to Federal Reserve System and United States Department of the Treasury—for the benefit of the people of the state.

The Alaska State Bank is established as a public corporation of the state that allows for "fractional reserve banking." A fractional reserve bank holds reserves that are a fraction of the amount of its deposit liability.

Sec. 44.90.020. Use of name. The bank shall conduct business under the name of "Alaska State Bank." The president or employee of the bank may execute instruments on behalf of the bank.

Sec. 44.90.030. Other purposes of the bank. In addition to the primary purposes of the bank the purposes of the bank are to:

- (1) provide financing, insurance, and funding for economic development projects and packages of financial instruments in the state;
- (2) provide stability to the financial sector in the state;
- (3) facilitate transactions with the Federal Reserve System and the United States Department of the Treasury;
- (4) receive funding from the state and the federal government;
- (5) increase access to capital and financial services for new and existing businesses and the customers of those businesses;
- (6) promote long-term economic growth in the state;
- (7) reduce the costs of public and private banking and financial services;
- (8) promote science, technology, and engineering in the state;
- (9) increase the economic efficiency and productivity of the state and individuals in the state;
- (10) leverage packages of bonds, grants, and stocks;
- (11) increase educational levels in the state; and
- (12) provide grants to schools, colleges, and universities in the state.

Article 2. Management and Operation of Bank.

Sec. 44.90.100. Board of directors. A board of directors shall manage the bank and shall adopt and enforce bylaws and procedures for the transaction of the bank's business.

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

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

Sec. 44.90.130. Employees. The bank may hire employees. The executive director, other officers of the bank, and employees of the bank are state employees.

Sec. 44.90.140. Advisory board. The board shall appoint an advisory board of directors. The advisory board shall consist of seven members. The members of the advisory board shall consist of representatives of the financial, business, agricultural, and labor sectors of the state and a representative from the University of Alaska. The members of the advisory board may include employees of the bank.

Sec. 44.90.150. Advisory board meetings and activities. This section spells out the advisory board's meeting and activities including reviewing the bank's operations, recommending objectives, placing projects in investment categories, meeting with the public and voting in loan committees.

Sec. 44.90.160. Review committee. This section establishes a review committee to review investment proposals submitted to the bank and to assist clients submitting investment proposals to provide investment proposals that are complete and coherent. The members of the review committee may not be members of the board or members of the advisory board.

Sec. 44.90.170. Confidentiality of records. This section identifies which records are confidential, so they will not be confused with public records.

Sec. 44.90.180. Cooperation with authority. The board may work with the Alaska Industrial Development and Export Authority on projects—including funding projects jointly.

Sec. 44.90.190. Contracts and procurement. The bank is not subject to procurement requirements and the bank may contract with professional advisors and technical experts to carry out the bank's powers and duties.

Article 3. Powers and Duties of the Bank.

Sec. 44.90.200. Bank powers. Alaska State Bank powers will include all the customary powers of a FDIC insured commercial bank and additionally provide grants for education, science and technology and accept appropriations from the Alaska legislature and our federal government.

Sec. 44.90.210. Deposits and other items accepted by the bank. Alaska State Bank will accept all the customary deposits of a FDIC insured commercial bank and additionally the bank may accept deposits in cash and by electronic means from marijuana-related businesses.

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

The bank will work with the Department of the Treasury in filing suspicious activity reports with the Financial Crimes Enforcement Network to help marijuana-related businesses.

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. The Alaska State 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; (4) adopt regulations 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, and enter into contracts or other transactions with, a federal agency, an agency 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, and do all things necessary or convenient to carry out its corporate purposes; (9) exercise powers that are necessary or required to enable the bank to carry on 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 for banking premises if the purchase or investment does not exceed 60 percent of the capital of the bank.

Sec. 44.90.250. Sale of discounted bank shares. The bank may sell bank shares at a discounted rate directly to an individual who is a resident of the state or for sale through the Permanent Fund Dividend application.

Article 4. Financial Provisions.

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

Sec. 44.90.310. Excess income. Each calendar year, the bank shall deposit excess income in the bank fund.

Sec. 44.90.350. Project and bond leveraging. The Alaska State Bank shall be restricted to a maximum participation of 35 percent of the total cost of a single project or single financial package.

The bank investment may exceed the limit of 35 percent restriction for 3 reasons:

1. If the board or advisory board discovers predatory or illegal financial action.
2. If the governor, the Alaska Industrial Development and Export Authority, the president of the University of Alaska, the board, and the advisory board all place the project in the top investment category.
3. If it is a research and development project related to education but then only up to a maximum 80%.

Sec. 44.90.360. Investment fund activity prohibited or restricted. The employees, directors, and investors in the bank may not use the bank for speculative margin trading or investments that do not comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Commodity Exchange Act.

The board shall place derivatives, including high risk derivatives that are predatory financial instruments in category 4 of the banks regulations.

Sec. 44.90.370. Bonds of the bank. The bank may issue and combine bonds that comply with the Alaska Uniform Commercial Code if reserves are maintained to meet all obligations and costs.

Sec. 44.90.380. Infrastructure and productive capacity projects. The Alaska State Bank shall require the owners of infrastructure projects or productive capacity projects that are leveraged through the bank and exceed \$25,000 to require that the contractors and subcontractors on those projects pay their employee wages not less than the current prevailing rate of wages.

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

Sec. 44.90.400. Tax exemption. The bank is for an essential public and governmental purpose and exempt from taxation except for transfer, inheritance, and estate taxes.

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

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

Sec. 44.90.430. Nonpayment of tax. The board may declare an individual financial instrument void if a court determines that a tax imposed on a transaction involving the financial instrument has not been paid.

Sec. 44.90.440. Acquisition of property to satisfy or protect previous loan. The bank may accept property of any kind to satisfy a loan previously made by the bank at a fair market price. The bank may dispose, own or lease property acquired to satisfy previous loans.

Article 5. Alaska State Bank Fund.

Sec. 44.90.500. The Alaska state bank fund is established in the general fund. The bank fund consists of money appropriated to the bank fund, money received from the Federal Reserve System and the United States Treasury, interest received by the bank, and income received by the bank.

The bank may spend the money appropriated to the bank fund to implement the provisions of this chapter without further appropriation.

Appropriations to the bank fund do not lapse but remain in the bank fund for future disbursements and does not create a dedicated fund.

Sec. 44.90.510. Fund use limit. During a fiscal year of the bank, the bank may not use more than 25 percent of the value of the bank fund for one construction project, productive capacity project, or financial package.

Article 6. Projects.

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

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, if they are determined to be in categories 1, 2 or 3.

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.

Article 7. General Administrative Provisions.

Sec. 44.90.700. Examinations and audits. In addition to any other regulation required under this chapter, the department shall examine the bank at least once each calendar quarter to ensure that the bank is complying with the regulations of the board. The department's report is a public record subject to disclosure

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

Sec. 44.90.710. Regulations. The bank shall adopt regulations consistent with this chapter and other applicable law to ensure the safety and soundness of the bank.

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

Sec. 44.90.730. Nonapplicability of Administrative Procedure Act. Except for the Open Meetings Act the provisions of the Administrative Procedure Act do not apply to the bank.

Sec. 44.90.740. Regulation adoption procedure. At least 30 days before adopting regulations, the bank shall give public notice of the proposed regulation.

Sec. 44.90.750. Emergency regulations. The bank may adopt emergency regulations for the immediate preservation of the orderly operation of the bank's programs.

However, the bank shall, within 10 days after adopting the emergency regulations, publish notice of the emergency regulations in accordance with the notice procedures.

An emergency regulation does not remain in effect for more than 120 days unless, before the expiration of that period, the bank adopts the emergency regulation as a permanent.

Sec. 44.90.760. Effective date of regulations. A regulation adopted by the bank takes effect immediately upon its adoption unless the bank specifies a different regulation.

Sec. 44.90.770. Regulation distribution. 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.

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. This chapter defines terms used.

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:** This chapter defines what is and what is not a security.

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