

Alaska State Legislature

SESSION:
Alaska State Capitol
Juneau, AK 99801
(907) 465-3709



INTERIM:
1292 Sadler Way Suite 308
Fairbanks, AK 99701
(907) 451-4347

REPRESENTATIVE BART LEBON

Sectional Summary

House Bill 85 – Financial Institutions; Liability (32-LS0371\W)

Section & Statute Referenced	Summary
Sec. 1. AS 06.05.005(a)	Conforming language to changes made under Section 10 to provide Alaska chartered banks parity with credit unions when establishing a bank branch.
Sec. 2. AS 06.05.005	<p>Prohibits the Department from placing a regulatory limitation on a credit card that a state bank issues to an officer of a state bank, the statutory authority for which is amended in Section 5 and the regulation (3 AAC 02.121) annulled in Section 24.</p> <p>Prohibits the Department from adopting regulations relating to the setting of time limits on the disposal of real and personal property, the statutory authority for which is amended in Section 6 and the regulation (3 AAC 02.135) annulled in Section 24.</p>
Sec. 3. AS 06.05.050	<p><i>Publication of reports:</i> Directs a bank to post statutorily required reports on the bank's website and makes it optional to post those reports in the bank's physical lobby.</p> <p>This change recognizes that information is more commonly available on the Internet and provides the option for publication of reports online to better meet customer expectations. National banks do not have a similar requirement to post notices of publication of financial and other information that state banks are required to report. In 2019, the FDIC repealed the "lobby notice" rule, which had required posting notices in bank lobbies. 84 Fed. Reg. 9698 (Mar. 18, 2019) (repealing 12 C.F.R. Part 350). In the final rule, the FDIC noted that reports are widely available through bank websites.</p>
Sec. 4. AS 06.05.166(c)	Defines the timeframe – not later than 15 days – for which a bank must notify the Department after an emergency non-opening or closing of the bank. This change provides additional clarity for reporting requirements.
Sec. 5. AS 06.05.210(a)	Increases the amount a director or executive officer of a state bank may borrow to \$500,000 (from \$100K or \$250K for a primary residence). This change aligns with the regulatory limit established for national banks, which is \$500,000. 12 C.F.R. § 215.4(b)(2) ("Regulation O").
Sec. 6. AS 06.05.245	<i>Disposition of property not needed in the conduct of a banking business:</i> Removes the Department's authority to set a time limit on the disposal of real and personal property. Instead, the carrying value and right-down will be dictated by Generally Accepted Accounting Principles (GAAP). Federal regulations allow national banks to dispose of other real estate owned according to GAAP. 12 C.F.R. § 34.83(a).

Sec. 7. AS 06.05.260	Allows a state bank to pledge bank assets as collateral security to secure funds deposited by consortiums of federally recognized tribes in the same way as national banks, which are authorized to pledge bank assets as collateral security to secure funds deposited by federally recognized Indian tribes. 12 U.S.C. § 90.
Sec. 8. AS 06.05.260	<p>Adds a new subsection to replace the Division of Banking’s Parity Orders 12-B (3-6) regarding the pledging of assets for interest rate swaps. National banks are regulated by Section 610 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and implementing regulations at 12 C.F.R. Part 32. This change achieves parity by authorizing state banks to pledge assets for interest rate swaps according to the same regulations as national banks.</p> <p>Adds a new subsection to define:</p> <ul style="list-style-type: none"> • “federally recognized tribe” as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994; and • “interest rate swap agreement” as a stream of future interest payments that are exchanged for another stream of future interest payments.
Sec. 9. AS 06.05.355(a)	Requires all banks to become a member of the FDIC as a condition for receiving a Certificate of Authority; Intended to maintain trust and level the playing field for the banking industry. All national banks must be members of the FDIC. 12 C.F.R. § 5.20.
Sec. 10. AS 06.05.399	<i>Changes of location; branch banks.</i> Provides Alaska chartered banks parity with credit unions when establishing a bank branch. Banks are currently subject to stricter bank branch application requirements under 3 AAC 02.215 . The Division would establish in regulations similar requirements of credit unions as in 3 AAC 03.260 . [Same as section 19 for Mutual Banks]
Sec. 11. AS 06.05.438(a)	Reduces the number of required meetings of a bank’s board from 10 to 4 per calendar year. There is no required number of board meetings for national banks. 12 C.F.R. § 5.20.
Sec. 12. AS 06.05.555(a)	Conforming language to changes made under Section 10 to provide Alaska chartered banks parity with credit unions when establishing a bank branch.
Sec. 13. AS 06.05.990(4)	Removes “remote service unit” (ATM, etc.) from the definition of “branch bank” and defines “remote service unit” directly under this section.
Sec. 14. AS 06.15.180	Allowing mutual banks to have similar borrowing options as state banks. AS 06.05.205 establishes a 15-percent limit on state banks.
Sec. 15. AS 06.15.190	Expands the deposits that mutual banks can accept. The federal Depository Institutions Deregulation and Monetary Control Act of 1980 expanded the authority for national mutual banks to accept deposits. This change authorizes state mutual banks to accept the same deposits as national mutual banks.
Sec. 16. AS 06.15.220	Allows trustees to delegate their authority to approve interest on deposits.
Sec. 17. AS 06.15.240	Provides mutual banks with the same investment opportunities as state banks under AS 06.05.270 . This change adopts nearly identical language: “In addition to loans and acquisitions expressly authorized by this chapter, a state bank may deal in, underwrite, and invest in for its own account the obligations that the department by regulation authorizes the bank to deal in, underwrite, or invest in for its own account.” AS 06.05.270(a).

Sec. 18. AS 06.15.250	Provides mutual banks with the same lending opportunities as state banks. This change removes the mortgage lending limit that applies to mutual banks and authorizes mutual banks to invest in first mortgages subject to the same lending limits as state banks in AS 06.05.205-.206.
Sec. 19. AS 06.15.290	<i>Changes of location; branch banks.</i> Provides mutual banks parity with state banks and credit unions when establishing a bank branch. Alaska chartered banks are currently subject to stricter bank branch application requirements under 3 AAC 02.215 . The Division would establish in regulations similar requirements of credit unions as in 3 AAC 03.260 . [Same as section 10 for state banks]
Sec. 20. AS 43.70.105(a)	Exempts depository institutions (banks and credit unions) from the requirement to obtain business licenses for all headquarter and branch locations. Currently, state-chartered institutions receive a <i>Certificate of Authority</i> through the Division of Banking and Securities. Until each institution receives this certificate, they may not transact business. This change would eliminate duplicate licensing, thus reducing regulatory burden.
Sec. 21. AS 46.03.822(a)	Adds reference to the new language in section 22.
Sec. 22. AS 46.03.822	Conforms state law to the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA) standard for lender liability. CERCLA Section 101(20) contains a secured creditor exemption that eliminates owner or operator liability for lenders who hold ownership in a CERCLA facility primarily to protect their security interest in that facility, provided they do not “participate in the management of the facility.” Generally, participation in the management applies if a bank exercises decision-making control over a property’s environmental compliance, or exercises control at a level similar to a manager of the facility or property. Participation in management does not include actions such as conducting property inspections, requiring a response action to address contamination, providing financial advice or renegotiating or restructuring the terms of the security interest. The secured creditor exemption also provides that foreclosure on a property does not result in liability for a bank, provided the bank takes “reasonable steps” to divest itself of the property “at the earliest practicable, commercially reasonable time, on commercially reasonable terms.” Generally, a bank can maintain business activities and close down operations at a property as long as the property is listed for sale shortly after the foreclosure date or at the earliest practicable, commercially reasonable time.

Sec. 23. Repealed Sections	<ul style="list-style-type: none"> • Repeals AS 06.05.265 Liability of directors for certain loans. Overbroad and unnecessary. • Repeals AS 06.10.010-050 Model Foreign Bank Loan Act. The Act exempts out-of-state banks from Alaska taxation for certain business types and became obsolete in 1984 due to other tax measures. The Act is an unnecessary administrative burden. • Repeals AS 06.15.150, 160 & 170 Surplus requirements, additions and limitations. Repealing these statutes would provide parity and allow a mutual savings bank to follow AS 06.05.305 for capital requirements. AS 06.05.305 establishes surplus requirements, additions, and limitations for state banks. • Repeals AS 06.15.230 Withdrawal of Deposits: Language no longer relevant after deregulation of Thrifts and Savings and Loans.
Sec. 24. Annulled Regulations	<ul style="list-style-type: none"> • Annuls 3 AAC 02.121 Credit cards for officers: Removes the regulation limiting uncollateralized credit card balances up to \$10,000 for an officer of a state bank. See Sections 2 and 5. • Annuls 3 AAC 02.135 Disposition of property not needed for banking business. The carrying value and write-down of property will instead be dictated by Generally Accepted Accounting Principles (GAAP). See Sections 2 and 6.
Sec. 25. Applicability	<p>Uncodified law for sections 3, 4, 6, 9, 10, 12, 16, 18, and 19.</p> <p>Cites definition locations for “branch bank”, “department”, “international bank”, “interstate state bank”, “mutual bank” and “state bank”.</p>
Sec. 26. Transition	<p>Provides a transition period relating to sections 1, 10, 12, and 19; provides the Department time to promulgate regulations for changes of bank locations and establishing branch banks.</p>
Sec. 27. Delayed Effective Date	<p>Sets a delayed effective date of January 1, 2023 for sections 1, 10, 12, and 19 to provide the Department time to promulgate regulations for changes of bank locations and establishing branch banks.</p>
Sec. 28. Immediate Effective Date	<p>Sets an immediate effective date for all sections except for sections 1, 10, 12, and 19, relating to changes of bank locations and establishing branch banks.</p>