



LAWS OF ALASKA

1968

Source

SB 305 am FCC

Chapter No.

230

AN ACT

Amending the Alaska Banking Code.

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

* Section 1. AS 06.05.015(3) is amended to read:

(3) charge off the whole or part of an asset which has not been lawfully acquired;

* Sec. 2. AS 06.05.015 is amended by adding a new paragraph to read:

(10) charge off that portion of an asset classified as loss in the FDIC report of examination or the state report of examination.

* Sec. 3. AS 06.05.045 is amended to read:

Sec. 06.05.045. BANK REPORTS TO THE DEPARTMENT. (a) Every state bank shall make at least four reports each year to the department on days designated by it, and on forms prescribed by it. The report shall be verified by an oath of the president, vice president, or cashier and by at least three directors; certifying and subscribing under oath that they and each of them have personal knowledge of the facts stated in the report and that the facts are true. The reports shall exhibit in detail and under appropriate heads the resources and liabilities of the bank, and shall be transmitted or mailed to the department within 10 days of the receipt of the request from it.

(b) The department may require special reports from a bank whenever in its judgment they are necessary in order to obtain a full knowledge of its condition.

(c) Each state bank shall make at least one report of income and dividends to the department each year. The report shall be submitted to the department within 30 days following the end of the calendar year covered in the report.

* Sec. 4. AS 06.05.200 is repealed and re-enacted to read:

Sec. 06.05.200. RESERVES AGAINST DEPOSITS. (a) Each commercial bank which is not a member of the federal reserve system shall maintain total reserves equal to the following percentages of the aggregate amount of its deposits, exclusive of deposits of the United States, the State of Alaska, borough and municipal governments and other deposits of public money which are secured as required by law

- (1) 20 per cent of its demand deposits; and
- (2) eight per cent of its time deposits.

(b) Only vault cash and the amount due from good and solvent banks located in the state, or within the United States may be used in computing the reserves required under (a) of this section and the computation shall be made on the basis of average daily net deposit balances covering bi-weekly periods.

(c) A daily record of the required reserves shall be maintained on a form prescribed by the department reflecting the current reserve condition of the bank. The report shall be subject to the examination of the department or other duly appointed examiners. The department may from time to time require the bank to submit its report of reserve condition for purposes of examination.

(d) If the reserves of a commercial bank fall below the amount required to be maintained by this section, the bank may not make any new loans or other investments nor pay any dividends until its reserves have been restored to the amount required under this section.

* Sec. 5. AS 06.05.205(a) is amended to read:

(a) If an officer or employee of a bank loans funds of the bank in an amount exceeding \$5,000 to a person he must so notify the board of directors of the bank.

* Sec. 6. AS 06.05.205(b) is amended to read:

(b) It is unlawful for an officer or employee of a state bank to loan funds of the bank to a person in a sum exceeding 15 per cent of its combined capital stock, surplus, and undivided profits. Unearned income may not be included in determining the amount a bank may loan under this subsection. In the case of a corporation the total of any sum loaned directly to the corporation, and of any sum loaned in such manner or to such person that the capital stock of the corporation is received by the bank as collateral security for such loan or loans, shall never exceed 15 per cent of the combined capital, surplus and undivided profits of the bank. The discount of bills of

exchange drawn in good faith against actual existing values, or loans upon gold, gold dust, bullion, cannery products, or other produce in transit, or upon warehouse receipts as collateral security, and the discount of commercial or business paper actually owned by a person negotiating the same, are not considered as money borrowed.

* Sec. 7. AS 06.05.205(d) is amended to read:

(d) A bank may not accept its capital stock as security for a loan unless it is necessary to prevent loss upon an indebtedness previously contracted in good faith.

* Sec. 8. AS 06.05.205 is amended by adding new subsections to read:

(e) Obligations of a person, copartnership, association or corporation in the form of notes payable on demand shall be supported by a current financial statement and the principal amounts of these demand notes shall be reduced at least annually unless the notes are fully secured at all times by marketable collateral or there exists a specific and evident means of repayment.

(f) The provisions of (b) of this section do not apply to a loan made before the effective date of this subsection if the loan is reduced and paid according to its terms without benefit of extension and no other loan is made to the person until the amount of the proposed loan and the amount of all loans outstanding to the person from the bank in question do not exceed the limit specified in (b) of this section.

* Sec. 9. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.207. REAL ESTATE LOANS. (a) A bank may, subject to the requirements of this chapter, make or acquire a loan secured by a lien on real estate if

(1) the amount of the loan does not exceed $66 \frac{2}{3}$ per cent of the appraised value of the real estate offered as security and the term of the loan does not exceed five years;

(2) the amount of the loan does not exceed $66 \frac{2}{3}$ per cent of the appraised value of the real estate offered as security, the term of the loan does not exceed 10 years, and the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize 40 per cent or more of the principal of the loan within a period of 10 years or less;

(3) the amount of the loan does not exceed 70 per cent of the appraised value of the real estate offered as security, the term of the loan does not exceed 20 years, and the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within a period of 20 years or less;

(4) the amount of the loan does not exceed 80 per cent of the appraised value of the real estate offered as security, the term of the loan does not exceed 25 years, and the loan is secured by an amortized mortgage, deed of trust, or other such instruments under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within the period ending on the date of its maturity.

(b) The provisions of (a) of this section do not apply to real estate loans which are insured under the provisions of the National Housing Act, or to guaranteed or participating loans under the Small Business Administration.

(c) Each real estate loan shall be secured by a first lien on improved real estate. For the purpose of this section improved real estate includes improved farm land which is useful for agricultural purposes without further substantial improvements, improved business and residential property where substantial and permanent improvements have been constructed or developed or when the value has been enhanced by other improvements in its immediate vicinity;

(d) As conditions precedent to making a real estate loan

(1) the value of the real estate shall be determined by an employee of the bank or other persons who are familiar with real estate values in the vicinity where the real estate is located, and a written report of the appraisal preserved in the records of the bank; and

(2) insurance against loss from fire on all buildings on the real estate which are included in the appraised value shall be acquired by the borrower or the bank and may not be allowed to lapse.

(e) The provisions of (a) - (d) of this section do not apply to a home improvement loan if the proceeds of the loan are used to improve the collateral of the loan.

(f) The provisions of this section do not apply to a loan made before the effective date of this section if the loan is reduced and paid according to its terms provided the loan may be extended in compliance with this section.

* Sec. 10. AS 06.05.210 is repealed and re-enacted to read:

Sec. 06.05.210. LOANS TO OFFICERS AND EMPLOYEES. (a) A bank may not make a loan to a salaried officer or employee of the bank or acquire an agreement for the payment of money on which he is liable in an amount in excess of \$5,000 exclusive of interest and charges, unless the loan is

(1) secured by deposits in a financial institution or cash surrender value of life insurance in an amount equal to, or by marketable securities with a value of, at least 20 per cent more than the amount of the loan or agreement for the payment of money;

(2) secured by a first mortgage on the home of

the officer or employee;

(3) insured by the Public Housing Authority or other similar public agency; or

(4) not an amount in excess of \$10,000 and is for the purpose of financing the education of the officer or employee's children.

(b) Each loan under (a) of this section shall be promptly reported to the board of directors of the bank and their approval or disapproval reported in the minutes of the board.

(c) An officer or employee of the state bank who violates this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both.

* Sec. 11. AS 06.05.305(a) is amended to read:

(a) It is unlawful for any corporation to commence and operate a banking business in the state unless the corporation has a paid-up capital of at least \$100,000 and a paid-up surplus equal to 20 per cent of paid-up capital.

* Sec. 12. AS 06.05 is amended by adding a new section to subchapter 1 to read:

Sec. 06.05.327. CHANGE IN OUTSTANDING VOTING STOCK. If a change occurs or is about to occur in the outstanding voting stock of a state bank which will result in a change in the control of the bank or if any sales or transfers by or to a person, corporation or other legal entity of the aggregate of 10 per cent or more of the voting stock of a state bank is about to be consummated, the president or other chief executive officer of the bank immediately upon obtaining knowledge of the change in the control of the bank or the contemplated or consummated sale or transfer of stock, shall report these facts to the department.

* Sec. 13. AS 06.05.345(a)(5) is amended to read:

(5) the number of directors of whom there must be at least five but no more than 25.

* Sec. 14. AS 06.05.435 is amended to read:

Sec. 06.05.435. DIRECTORS. (a) General powers of directors. The affairs of every bank incorporated under this chapter shall be managed by not less than five directors, or more than 25, who shall be elected by the stockholders and hold office for one year and until their successors are elected and have qualified. A majority of the board of directors shall be bona fide residents of the state and a majority constitutes a quorum for the transaction of business.

(b) Election of directors. In the first instance the directors shall be elected at a meeting held before the bank is authorized to do business by the department and thereafter at the annual meeting of the stockholders

held each year. If no election is held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose, notice of which shall be given as provided in the bylaws.

(c) Qualifications of directors. Each director of a bank shall own in his own right free of any encumbrance capital stock of the bank in an amount equal to at least \$1,000 in par value.

(d) Director's oath. Each director shall take an oath that he will faithfully and honestly perform the duties of his office and will not violate or permit to be violated any provisions of this chapter. The oath shall be filed annually in the office of the department.

(e) Vacancies. A vacancy in the board of directors shall be filled by the board, and the directors so appointed hold office until the next election or until their successors are elected and have qualified.

* Sec. 15. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.437. OFFICERS. (a) The officers of a bank shall be elected by the board of directors. No officer may be elected for a period longer than one year. An officer may be removed by the board of directors at any time but removal shall not prejudice any rights that he may have to damages for breach of contract of employment.

(b) A bank shall report within 30 days to the department any changes among executive officers and directors, including in its report a statement of the business and professional affiliations of new executive officers and directors.

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

Sec. 06.05.438. DIRECTORS, MEETINGS AND DUTIES. (a) The board of directors of each bank shall hold a meeting at least once each month for at least 10 months in each calendar year to generally investigate the affairs of the bank.

(b) The board of directors shall elect a secretary who shall keep a correct record of the minutes of each board meeting. The minutes shall state the date of each meeting, the names of the directors present and the votes taken. The record of the meeting of the board of directors shall be subscribed to by the presiding officer and the secretary. The minutes shall be read and approved at the next succeeding meeting and the minutes of that meeting shall show that fact. It is the duty of the bank examiner to examine the minutes of the board at the time he examines the bank and to include in his report of examination any failure of the bank to comply with this section.

(c) The board of directors shall designate at least one officer of the bank to prepare and submit to the board at each board meeting a report of the loans, overdrafts,

and investments made by the bank in the preceding month or since the last report. The board of directors shall examine and pass upon the report and make it a part of the record of the meeting by recording the report in full in the minutes.

(d) It shall be the duty of the board of directors to appoint annually an examining committee of no less than three directors of which no more than one may be an active officer of the bank. It shall be the duty of this committee to examine or cause to be examined the condition of the bank. A copy of the report shall be submitted to the department within 60 days after completion of the examination.

* Sec. 17. AS 06.05.440 is amended to read:

Sec. 06.05.440. AUTHORITY TO DECLARE DIVIDENDS. The directors of any bank transacting business in the state may declare a dividend out of the net profits after complying with secs. 441, 442, 443, and 445 of this chapter.

* Sec. 18. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.441. CONDITIONS PRECEDENT TO DIVIDEND DECLARATION AND PAYMENT. (a) Before a bank dividend is declared, or the net profits for the period covered by the dividend disposed of, not less than one-fifth of such net profits shall be carried to the bank surplus fund until the surplus fund amounts to 100 per cent of the paid-in capital of the bank.

(b) The department may require a bank to suspend the payment of any dividends until all requirements made by the department have been complied with.

* Sec. 19. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.442. RESTORATION OF SURPLUS BEFORE PAYMENT OF DIVIDENDS. A loss sustained by a bank in excess of its undivided profits and reserve shall be charged to its surplus account. Its surplus account shall thereafter be reimbursed from earnings and no dividends may be declared or paid by the bank in excess of one-half of its net earnings until the surplus account is restored to at least the amount from which the surplus was originally reduced or an amount equal to 100 per cent of paid-in capital.

* Sec. 20. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.443. LIMITATION ON DIVIDENDS. No bank may declare or pay a dividend to an amount greater than its net undivided profits then on hand after deducting

(1) all losses;

(2) all debts, unless the debts are well secured, on which interest for a period of six months is due and unpaid and debts upon which final judgment has been

recovered but has been for more than one year unsatisfied and on which interest for a period of one year is unpaid unless the debts are well secured and in process of collection;

(3) all assets or depreciation which the director of banks or a duly appointed examiner may have required to be charged off;

(4) all expenses, interest and taxes accrued and due from the bank.

* Sec. 21. AS 06.05.445 is amended to read:

Sec. 06.05.445. DETERMINING NET PROFITS. In determining net profits for the purpose of declaring a dividend, a bank may not include in its calculations

(1) interest accrued but not collected if the debt upon which the interest is due is more than 90 days delinquent,

(2) the interest collected but not earned, or

(3) the appreciation of any asset above its actual cost to the bank or its par value.