



LAWS OF ALASKA

1970

Source

CSHB 643 (Judiciary)

Chapter No.

157

AN ACT

Amending the Alaska banking laws.

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

* Section 1. AS 06.05.005(3) is amended to read:

(3) authorize a state bank

(A) to participate in a public agency created under the laws of this state or of the United States, for the purpose of affording advantages or safeguards to banks or to depositors and to comply with all requirements and conditions imposed upon such participants;

(B) to engage in any banking activity in which a bank subject to the jurisdiction of the federal government may be authorized by federal legislation to engage;

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

(11) charge off all debts owed to the bank in which interest due has been unpaid for a period of six months unless the debt principal is adequately secured and the bank is in process of collection.

* Sec. 3. AS 06.05.025 is amended to read:

Sec. 06.05.025. BANK EXAMINATIONS. (a) The department shall select one or more competent persons to make examinations of state banks. A copy of the report of examination shall be sent to the organization examined.

(b) Irregularities in the conduct of a bank's

business and any violation of law shall be promptly called to the attention of the directors of the bank by the department.

(c) Banks regulated under this chapter are subject to at least one examination a year. Additional examinations may be conducted at the discretion of the commissioner.

* Sec. 4. AS 06.05.035 is repealed and re-enacted to read:

Sec. 06.05.035. EXAMINATION FEE. A bank examined under the provisions of sec. 25 of this chapter shall pay a fee to the department of \$125 per examiner for each day or part of a day required for the examination but not to exceed \$3,750 per calendar year. The total amount of the fee shall be paid by the bank promptly upon receipt of the examination report and billing from the department.

* Sec. 5. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.206. LEASEHOLD AND DEVELOPMENT LOANS.

(a) A bank may, subject to the requirements of this chapter, make or acquire a loan secured by a first lien on a leasehold in improved real estate if

(1) the lease does not expire, or is renewable at the option of the bank, for at least 10 years after the maturity date of the loan;

(2) the loan satisfies the criteria governing amount, terms and security as provided by sec. 207(a)(1), (2) or (3) of this chapter;

(3) the lease does not contain covenants or restrictions that are more onerous or burdensome than the provisions of leases in general use in the area where the property is located;

(4) the lease and any agreement affecting possession of the leasehold estate permit the bank to acquire possession of the premises by voluntary conveyance, assignment, or judicial process, under the security instrument, without restrictions likely to jeopardize the security value of the leasehold;

(5) existing liens on real estate constituting the leasehold are subordinated to the bank lien against the leasehold at or before the loan is made or acquired.

(b) The provisions of (a) of this section do not apply to loans which are at least 90 per cent insured or guaranteed by a government agency or a mortgage insurer authorized to do business in Alaska.

(c) A bank may, subject to the requirements of this chapter, make or acquire a loan, the proceeds of which are used to improve undeveloped real estate if

(1) the loan satisfies the criteria governing amount, terms and security as provided in sec. 207(a)(1), (2) or (3) of this chapter;

(2) the loan is secured by a first lien on the real estate; and

(3) the undeveloped property is improved by adding

(A) streets, water, sewer, and other utilities for lots in a subdivision;

(B) fill, gravel, topping, bulkheads, piling or similar improvements that make the property more suitable for use; or

(C) paved streets, utilities or transportation facilities on or available to industrial properties.

* Sec. 6. AS 06.05.207 is repealed and re-enacted 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 first lien on improved 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; or

(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 10 years or less; or

(3) 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 instrument 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; or

(4) the amount of the loan does not exceed 90 per cent of the appraised value of the real estate offered as security, the term of the loan does not exceed 30 years, and the loan is secured by an amortized mortgage, deed of trust, or other instrument 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 and, in addition, the loan is either

(A) insured by a mortgage insurer authorized to do business in Alaska; or

(B) secured in addition to the amortized mortgage by a savings account held by the lending institution in an amount equal to 10 per cent of the loan or other collateral acceptable to the department.

(b) A bank may, subject to the requirements of this chapter, make or acquire a loan secured by a second lien on improved real estate if

(1) payments on the loan secured by the first mortgage are current and the bank retains in its records a written report of the status and balance of the first lien loan as of the date the second lien loan is made or acquired;

(2) the total of the balance of the loan secured by the first lien and the loan secured by the second lien does not exceed the maximum percentage of appraised value permitted under (a)(2) or (3) of this section; and

(3) the loan is amortized as provided in (a)(2) or (3) of this section for loans secured by a first lien.

(c) 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.

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

(1) the value of the real estate shall be determined by an appraisal by a person familiar with the 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 limitations of this section do not apply to a home improvement loan.

(f) In this section "improved real estate" means improved farm land that 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 on the property or in the immediate vicinity.

(g) The provisions of this section do not apply to a loan made before August 6, 1968 if the loan is reduced and paid according to its terms provided the loan may be extended in compliance with this section.

* Sec. 7. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.211. LOANS SECURED BY FOREST TRACTS. (a) A bank may, subject to the requirements of this chapter, make or acquire a loan secured by a first lien on a forest tract if

(1) the amount of the loan does not exceed 60 per cent of the appraised value of the growing timber, lands and improvements thereon offered as security;

(2) the terms and conditions of the loan are adequate to insure that the loan balance will not at any time exceed 60 per cent of the original appraised value of the property remaining as security;

(3) the term of the loan does not exceed 15 years and the annual principal payments equal at least 6 2/3 per cent of the amount loaned; and

(4) the loan is secured by an amortized mortgage, deed of trust, or assignment of a federal or state timber sale contract.

(b) The aggregate of all loans made or acquired by a bank under this section may not exceed 50 per cent of its combined capital, surplus and undivided profits.

(c) In this section "forest tract" means a reasonably accessible tract of land primarily covered with marketable or potentially marketable growing timber having a recognized commercial value, which is safeguarded by fire protection, insect, pest and disease control.

* Sec. 8. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.231. BANK SERVICE CORPORATIONS. (a) A bank may invest not more than 10 per cent of its paid-in and unimpaired capital and surplus in a bank service corporation if

(1) the bank submits an application requesting permission to invest in a bank service corporation to the department, accompanied by complete information concerning feasibility, rates and competitive organizations, and the department consents in writing to the investment before it is made; and

(2) the total investment under this section and secs. 230(1) and 232 of this chapter does not exceed the combined capital, surplus and undivided profits.

(b) A bank may not employ or use the services of a bank service corporation unless the service corporation provides an adequate bond or insurance against liabilities arising from accounting or other activities performed by the service corporation affecting bank transactions and the bank gives written notice to the department, before any services are rendered, specifying the name and address of the bank service corporation and the nature of the activities to be performed.

(c) The performance of any service for a bank by a bank, person or organization other than the bank is subject to all laws and regulations governing performance and examination, in the same manner as if the bank were performing the services.

(d) The term "bank services" means services for

banks such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, and any clerical, bookkeeping, accounting, statistical, or similar functions performed by a bank for its customers.

(e) The term "bank service corporation" means a corporation organized to perform bank services for two or more banks, each of which owns part of the capital stock of such corporation.

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

Sec. 06.05.232. LEASING OF REAL AND PERSONAL PROPERTY.

(a) The department may authorize a bank to become the owner and lessor of real or personal property acquired upon the specific request of and for the use of a customer, if

(1) the original lease is executed in writing before acquisition of the property to be leased;

(2) the terms of the lease require payment to the bank during the minimum period of the lease of an amount of money that will exceed the total expenditures by the bank for acquisition, ownership, maintenance and protection of the property;

(3) the total of the expenditures by the bank for acquisition, ownership, maintenance and protection of the leased property and other loans to any one lessee by the bank do not exceed the limits on loans to one borrower under sec. 205 of this chapter;

(4) in the case of real property, the lease agreement provides that upon its expiration the lessee will become owner of the property;

(5) the director of banking certifies to the commissioner that leasing by banks is necessary to preserve a competitive dual banking system; leasing by banks is not considered necessary to preserve a competitive dual banking system unless a national bank in the state is actually engaged in leasing.

(b) The aggregate investment in property under this section and secs. 230(1) and 231 of this chapter may not exceed the bank's combined capital, surplus and undivided profits.

(c) Payments by a lessee to a bank for property leased under this section shall be considered as rent rather than interest.

(d) Real property retained by a bank upon termination of a lease authorized under this section, as the result of default by the lessee, shall be utilized or disposed of as provided by regulation of the department.

* Sec. 10. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.275. MISCELLANEOUS AND INCIDENTAL BANKING PRACTICES. (a) A bank may issue and confirm letters of credit authorizing the principal or beneficiary to draw upon the institution or its correspondents. A letter of credit shall expire by its terms within one year of date of issuance, but may be renewed on written request of the principal.

(b) A bank may discount, invest in, negotiate and issue trade acceptances and bank acceptances if

(1) the terms of the draft require presentation for payment within 180 days of issuance, exclusive of days of grace, and it is drawn to finance the purchase of goods with maturity and payment in accordance with the terms of the purchase agreement;

(2) the terms of the draft require presentation for payment within 180 days of issuance, exclusive of days of grace, and it is secured by shipping documents transferring or securing title to goods, or by receipt of a licensed or bonded warehouse securing title to readily marketable goods;

(3) the draft is drawn by a bank outside the continental limits of the United States for the purpose of furnishing dollar exchange for trade and its terms require presentation for payment within 90 days of issuance.

(c) A bank may make available its data processing equipment or perform data processing services on such equipment for other banks and bank customers, provided the bank is adequately insured against any additional liability incurred through the sale of such services.

* Sec. 11. AS 06.05.345(a)(4) is amended to read:

(4) the amount of its capital stock which shall be divided into shares of not less than \$1 each;

* Sec. 12. AS 06.05.365 is amended by adding a new subsection to read:

(c) An application for a charter shall be accompanied by an application fee of \$1,000.

* Sec. 13. AS 06.05.462 is repealed and re-enacted to read:

Sec. 06.05.462. CONVERSIONS, MERGERS AND CONSOLIDATIONS. (a) A national charter bank located in the state may convert to a state charter bank or merge or consolidate with a state charter bank, and a state charter bank may merge or consolidate with another state charter bank, if the merger or consolidation is consistent with federal and state law and approved by the department.

(b) Before merger or consolidation under (a) of this section, banks shall file with the department an application and other information and reports which the department requires.

(c) The department, in the exercise of its power to approve or disapprove applications for merger or

consolidation, shall act in the interests of promoting and maintaining a sound banking system, the security of deposits and customers, the preservation of the liquid position of banks and in the interest of preventing injurious credit expansions and contractions. The department may promulgate regulations to implement this section.

(d) A state charter bank converting to or merging or consolidating with a national charter bank shall submit a copy of the application for national charter or application to convert, merge or consolidate to the department at the time those documents are forwarded to the comptroller of the currency.

* Sec. 14. AS 06.15.220 is amended to read:

Sec. 06.15.220. INTEREST ON DEPOSITS. A mutual bank may pay interest on deposits from net earnings and undivided profits at the rates and intervals which its trustees approve.