



LAWS OF ALASKA

1978

Source

CSHB 668

Chapter No.

71

AN ACT

Relating to the Small Loans Act.

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

* Section 1. AS 06.20.010 is amended to read:

Sec. 06.20.010. LICENSE REQUIRED. No person may engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of \$5,000 or less and charge, contract for, or receive on the loan a greater rate of interest, discount, or consideration than the lender would be permitted by law to charge if he were not a licensee under this chapter, except as authorized by this chapter and without first obtaining a license from the department.

* Sec. 2. AS 06.20.040 is amended to read:

Sec. 06.20.040. LIQUID ASSETS REQUIRED. Every applicant shall prove, in form satisfactory to the department, that he has available for the operation of the business at the location specified in the application, liquid assets of at least \$20,000.

* Sec. 3. AS 06.20.050 is amended to read:

Sec. 06.20.050. BOND. The applicant shall file with the application a bond to be approved by the department in which the applicant shall be the obligor, in the sum of \$5,000 with one or more sureties. The bond shall be for the use of the state and any person who may have a cause of action against the obligor under this chapter. The bond shall state that the obligor will faithfully conform to and abide by the provisions of this chapter and of all regulations lawfully made by the department, and will pay to the state and to any person all money that may become due or

owing to the state or to the person from the applicant under this chapter.

* Sec. 4. AS 06.20.060 is amended to read:

Sec. 06.20.060. ISSUANCE OF LICENSE. Upon the filing of the application, the payment of the fees and the approval of the bond, the department shall issue a license to the applicant if it finds upon investigation that (1) the financial responsibility, experience, character, and general fitness of the applicant and of its members if the applicant is a copartnership or association, and of its officers and directors if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter, and (2) allowing the applicant to engage in business will promote the convenience and advantage of the community in which the business is to be conducted, and (3) the applicant has available for the operation of the business at the specific location liquid assets of at least \$20,000. The foregoing facts are conditions precedent to the issuance of a license under this chapter. The license permits the applicant to make loans in accordance with this chapter at the location specified in the application. The license remains in full force and effect until it is surrendered by the licensee or revoked or suspended. If the department denies the application, it shall notify the applicant of the denial and return the bond and license fee and retain the \$200 investigation fee. The department shall approve or deny every application for license within 60 days from the filing of the application with the fees and the approved bond. If the application is denied, the department shall, within 20 days thereafter, serve upon the applicant a copy of the written decision and findings. The decision and findings may be reviewed in the manner provided in the Administrative Procedure Act (AS 44.62).

* Sec. 5. AS 06.20.090(b) is amended to read:

(b) Whenever a licensee changes his place of business to another location within the same municipality, he shall give written notice to the department in advance. The department shall attach the written notice of the change to the license together with the date. Thereafter the licensee may operate the business under the license at the new location. A licensee may not change the place of business to a location outside the municipality in which he is authorized to do business.

* Sec. 6. AS 06.20.200(a) is amended to read:

(a) No person may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of \$5,000 or less, which is false, misleading, or deceptive. The department may order any licensee to desist from any conduct which it finds to be in violation of this section.

- * Sec. 7. AS 06.20.230 is amended to read:

Sec. 06.20.230. MAXIMUM INTEREST PERMITTED. A licensee may lend any sum of money not exceeding \$5,000 and may charge, contract for, and receive on the loan interest at a rate not exceeding three per cent a month on that part of the unpaid principal balance of a loan not in excess of \$500; two per cent a month on the remainder of any unpaid principal balance exceeding \$500 but not exceeding \$1,000; and one per cent a month on the remainder of any unpaid principal balance exceeding \$1,000 but not exceeding \$5,000. On loans the principal of which is \$50 or less a licensee may charge, contract and receive interest at a rate not exceeding five per cent a month.

- * Sec. 8. AS 06.20.250 is amended to read:

Sec. 06.20.250. COMPUTATION AND PAYMENT OF INTEREST.
 (a) Interest shall not be paid, deducted, or received in advance. Interest shall be computed and paid only on unpaid principal balances and shall not be compounded; however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the loan contract may include any unpaid charges on the prior loan which have accrued within 60 days before the making of the loan contract. The maximum interest permitted on loans made under this chapter shall be computed on the basis of the number of days actually elapsed. For the purpose of these computations a month is any period of 30 consecutive days.

(b) A licensee may compute interest for a loan as provided in this chapter on an interest-bearing or actuarial basis either at the rates stated in sec. 230 of this chapter or at the single annual percentage rate that would earn the same finance charge as the rates stated in sec. 230 when the debt is paid according to the agreed terms and the calculations made according to the actuarial method.

(c) No licensee may enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set out below opposite the respective size of loans.

Principal amount of loan to	Maximum term
\$1,000.....	24 and 1/2 months
Over \$1,000 to \$2,500.....	48 and 1/2 months
Over \$2,500 to \$5,000.....	60 and 1/2 months

- * Sec. 9. AS 06.20.260(a)(2) is amended to read:

(2) premiums actually paid out for insurance on any one or combination of the following: pledged property of the borrower, credit life insurance on the life of one or more borrowers, or credit disability insurance to provide indemnity for payments becoming due on the indebtedness;

- * Sec. 10. AS 06.20.280 is amended to read:

Sec. 06.20.280. MAXIMUM CHARGE BY LICENSEE. No licensee may directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than that which he would be permitted by law to charge if he were not a licensee under this chapter, upon the loan, use or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than \$5,000. This section applies to any licensee who permits any person, as borrower or endorser, guarantor, or surety for any borrower, or otherwise, to owe directly or contingently or both to the licensee at any time a sum of more than \$5,000 on principal.

- * Sec. 11. AS 06.20.290 is amended to read:

Sec. 06.20.290. PURCHASE OF WAGES FOR \$5,000 OR LESS. For purposes of this chapter, the payment of \$5,000 or less in money, credit, goods, or things in action, as consideration for the sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services whether earned or to be earned is considered interest or a charge upon the loan from the date of payment to the date the compensation is payable. Such transaction is governed by this chapter.

- * Sec. 12. AS 06.20.300(a) is amended to read:

(a) Except as authorized in this chapter, no person may directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than that which he would be permitted by law to charge if he were not a licensee, upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of \$5,000 or less.

- * Sec. 13. AS 06.20.310 is amended to read:

Sec. 06.20.310. ILLEGAL INTEREST RATE. No loan of the amount or value of \$5,000 or less for which a greater rate of interest, consideration or charge than is permitted by this chapter has been charged, contracted for or received, wherever made, may be enforced in the state, and every person participating in such a loan in the state is subject to this chapter. This section does not apply to loans legally made in any state or territory of the United States which has in effect a regulatory small loan law similar in principle to this chapter.

- * Sec. 14. AS 06.20.320 is amended to read:

Sec. 06.20.320. CIVIL AND CRIMINAL PENALTIES. (a) A licensee or lender who, in the making or collection of a loan contract, does any act which violates secs. 230 - 260 or 280 - 310 of this chapter shall at the option of the commissioner reimburse the portion of the interest and charges in excess of that provided in those sections, or, in the case of repeated violations of those sections by the licensee, the commissioner may, upon a hearing, require the licensee to adjust the loan contract interest or other charges down to the contract interest limitation specified

in AS 45.45.010(a).

(b) Any person, copartnership, association, or corporation, and its members, officers, directors, agents, and employees, who violates or participates in a violation of the provisions of secs. 10, 180 - 200, 230 - 290, 300 or 310 of this chapter is guilty of a misdemeanor.

* Sec. 15. AS 06.20 is amended by adding a new section to read:

Sec. 06.20.900. DEFINITIONS. As used in this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of commerce and economic development or his designee;

(2) "department" means the Department of Commerce and Economic Development.

* Sec. 16. AS 06.20.260(a)(4) is repealed.