

SENATE BILL NO. 157

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

Introduced: 4/12/95

Referred: L&C, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the regulation of small loan and retail installment
2 transactions."

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

4 * **Section 1.** AS 06.20.030(a) is amended to read:

5 (a) Investigation expenses incurred by the department in processing an
6 application for licensure shall be charged to and paid by the applicant under
7 AS 06.01.010. At the time of submitting the application to the commissioner, the
8 applicant shall pay to the department \$1,000 [\$400] in partial payment of those
9 investigation expenses incurred by the department. [IF THE INVESTIGATION
10 EXPENSES INCURRED BY THE DEPARTMENT DO NOT EXCEED \$400, THE
11 REMAINDER SHALL BE PROMPTLY REFUNDED TO THE APPLICANT.]

12 * **Sec. 2.** AS 06.20.030(b) is amended to read:

13 (b) An applicant shall pay to the department at the time of submitting an
14 application a sum, in addition to that specified in (a) of this section, of \$500 for a

1 single office license, or \$2,000 for a multiple office license [\$200] as an annual
2 license fee for a period terminating on the last day of the current calendar year. [IF
3 THE APPLICATION IS FILED AFTER JUNE 30, THE ADDITIONAL SUM IS
4 \$100.]

5 * **Sec. 3.** AS 06.20.040 is amended to read:

6 Sec. 06.20.040. LIQUID ASSETS REQUIRED. An applicant shall prove, in
7 form satisfactory to the department, that the applicant has available for the operation
8 of the business at the location specified in the application, liquid assets of at least
9 \$25,000, or, in the case of a multiple office license, that the equivalent amount is
10 available to each office from a central account maintained by the applicant
11 [\$20,000].

12 * **Sec. 4.** AS 06.20.050 is amended to read:

13 Sec. 06.20.050. BOND. The applicant shall file with the application a bond
14 to be approved by the department in which the applicant shall be the obligor, in the
15 sum of \$25,000 [\$5,000] with one or more sureties. The bond shall be for the use of
16 the state and any person who may have a cause of action against the obligor under this
17 chapter. The bond must state that the obligor will faithfully conform to and abide by
18 the provisions of this chapter and of all regulations lawfully adopted by the
19 department, and will pay to the state and to any person all money that may become
20 due or owing to the state or to the person from the applicant under this chapter.

21 * **Sec. 5.** AS 06.20.060 is amended to read:

22 Sec. 06.20.060. ISSUANCE OF LICENSE. Upon the filing of the application,
23 the payment of the fees and the approval of the bond, the department shall issue a
24 license to the applicant if it finds upon investigation that (1) the financial
25 responsibility, experience, character, and general fitness of the applicant and of its
26 members if the applicant is a copartnership or association, and of its officers and
27 directors if the applicant is a corporation, are such as to command the confidence of
28 the community and to warrant belief that the business will be operated honestly, fairly,
29 and efficiently within the purposes of this chapter, and (2) allowing the applicant to
30 engage in business at the location will provide accessibility and [PROMOTE THE]
31 convenience for borrowers of money [AND ADVANTAGE OF THE COMMUNITY

1 IN WHICH THE BUSINESS IS TO BE CONDUCTED], and (3) the applicant has
2 available for the operation of the business at the specific location liquid assets of at
3 least \$25,000, or, in the case of a multiple office license, that the equivalent
4 amount if available to each office from a central account maintained by the
5 applicant [\$20,000]. The foregoing facts are conditions precedent to the issuance of
6 a license under this chapter. The license permits the applicant to make loans in
7 accordance with this chapter at the location or locations specified in the application.
8 The license remains in full force and effect until it is surrendered by the licensee or
9 revoked or suspended. If the department denies the application, it shall notify the
10 applicant of the denial, bill the applicant for any outstanding expenses incurred by the
11 department during the investigation and return the bond if those expenses have been
12 paid. The department shall approve or deny every application for license within 60
13 days from the filing of the application with the fees and the approved bond. If the
14 application is denied, the department shall, within 20 days thereafter, serve upon the
15 applicant a copy of the written decision and findings. The decision and findings may
16 be reviewed in the manner provided in AS 44.62.560 and 44.62.570 (Administrative
17 Procedure Act).

18 * **Sec. 6.** AS 06.20.090 is amended to read:

19 Sec. 06.20.090. PLACES OF BUSINESS. (a) A licensee may maintain only
20 one place of business under a single office [THE] license, or up to 10 places of
21 business under each multiple office license. The department may issue more than
22 one license to the same licensee upon compliance with the provisions of this chapter
23 governing the original issuance of a license.

24 (b) If a licensee changes the place of business to another location within the
25 same municipality, the licensee shall give written notice to the department in advance.
26 Upon approval, the department shall issue an amended license for [THE
27 DEPARTMENT SHALL ATTACH THE WRITTEN NOTICE OF THE CHANGE TO
28 THE LICENSE TOGETHER WITH THE DATE. THEREAFTER THE LICENSEE
29 MAY OPERATE THE BUSINESS UNDER THE LICENSE AT] the new location.
30 A licensee may not change the place of business to a location outside the municipality
31 in which the licensee is authorized to do business.

1 * **Sec. 7.** AS 06.20.180 is amended to read:

2 Sec. 06.20.180. BOOKS AND RECORDS OF LICENSEES. Each licensee
3 shall keep and use in the licensed **premises** [BUSINESS] those books, accounts, and
4 records that will enable the department to determine whether the licensee is complying
5 with this chapter and with the regulations lawfully adopted by the department under
6 this chapter. **The maintenance of separate books and records for another business**
7 **authorized by the department under AS 06.20.210 is not required. The method**
8 **of tracking and numbering the loans shall be determined by the licensee, as long**
9 **as the system enables the department to perform the department's obligations**
10 **under this title.** The licensee shall preserve the books, accounts, and records,
11 including cards used in the card system, if any, for two years after making the final
12 entry on any recorded loan.

13 * **Sec. 8.** AS 06.20.250 is amended by adding new subsections to read:

14 (d) Loan contracts must provide for substantially equal payments, and the
15 payments must be due at least once a month, with the first payment beginning not later
16 than 45 days from the date the loan is made.

17 (e) If the irregular payment is confirmed in writing by the borrower, and the
18 method of repayment is consistent with the maximum term and annual interest rate
19 provided in this chapter, and if a borrower demonstrates sufficient seasonal or
20 extraordinary income to support repayment of a loan, the loan contract may provide
21 for irregular payments and first payment loan extensions greater than 45 days from the
22 date the loan is made.

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

24 (a) A further or other charge or amount for an examination, service, brokerage
25 commission, expense, fee, bonus, or other thing may not be directly or indirectly
26 charged, contracted for, or received except

27 (1) lawful fees actually paid out by the licensee to a public officer for
28 filing, recording, or releasing any instrument securing the loan, **or premiums payable**
29 **for insurance in place of perfecting a security interest if the premiums do not**
30 **exceed the fees that would otherwise normally be incurred for perfecting the**
31 **security interest,** or for transferring certificate of title to a motor vehicle securing the

1 lien or noting a lien on that certificate;

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

6 (3) taxable costs and expenses to which the licensee becomes entitled
7 under general law in any court proceedings to collect a loan or to realize on the
8 security after default;

9 (4) **for loans over \$10,000**, reasonable **costs and** fees paid by a
10 licensee for appraisals, surveys, [AND] title insurance or reports, **and credit reports**
11 [IF THE LOAN IS SECURED BY AN INTEREST IN REAL ESTATE];

12 (5) a late payment fee of not more than 10 percent of the payment that
13 is due or **\$25** [\$15], whichever is less;

14 (6) **a fee for dishonored checks in an amount established by the**
15 **department based on existing commercial rates then in effect;**

16 (7) **reasonable attorney fees, actual expenses, and costs incurred in**
17 **connection with the collection of a delinquent debt, a repossession, or a**
18 **foreclosure if the collection, repossession, or foreclosure is referred for collection**
19 **to an attorney who is not a salaried employee of the licensee and the balance then**
20 **owing on the debt exceeds \$5,000.**

21 * **Sec. 10.** AS 45.10.080(a) is amended to read:

22 (a) **If authority to do so is contained in the contract or agreement and**
23 **agreed to by the parties, the** [THE] holder of a retail installment contract **or retail**
24 **charge agreement** may [NOT] collect any delinquency, [OR] collection **or**
25 **dishonored check charges,** [CHARGE OTHER THAN] attorney fees, court costs,
26 and disbursements [UNLESS THE CONTRACT SO PROVIDES]. In this case, the
27 charge **must** [SHALL] be reasonable, and no attorney fee may be recovered unless the
28 contract is referred for collection to an attorney not a salaried employee of the holder.

29 * **Sec. 11.** AS 45.10.120 is amended to read:

30 Sec. 45.10.120. EXTENT OF SERVICE CHARGE. (a) The service charge
31 **must** [SHALL] include all charges incident to investigating and making the retail

1 installment contract or charge agreement and for the privilege of making the
2 installment payments under the contract or agreement. Another [NO OTHER] fee,
3 expense, or charge may not be taken, received, reserved, or contracted for investigating
4 and making the contract or agreement, or for the privilege of making the payments,
5 except for insurance premiums, delinquency charges, attorney fees, court costs,
6 official fees, or other charges contracted for and agreed to by the parties under
7 AS 45.10.080.

8 (b) A seller or holder of a retail installment contract may charge, receive, and
9 collect a service charge, which may [SHALL] not exceed one and one-half percent
10 a month [THE FOLLOWING RATES MULTIPLIED BY THE NUMBER OF
11 MONTHS], including a fraction of a month in excess of 15 days as one month,
12 elapsing between the date of the contract and the due date of the last installment [,

13 (1) on [SO MUCH OF] the unpaid balance [AS DOES NOT EXCEED
14 \$1,000, FIVE-SIXTHS OF ONE PER CENT;

15 (2) IF THE UNPAID BALANCE EXCEEDS \$1,000, ON SO MUCH
16 OF THE UNPAID BALANCE AS EXCEEDS \$1,000, TWO-THIRDS OF ONE PER
17 CENT;

18 (3) IF THE TOTAL SERVICE CHARGE SO COMPUTED IS LESS
19 THAN \$12, BUT IF THE DUE DATE OF THE LAST INSTALLMENT OF THE
20 CONTRACT IS EIGHT MONTHS OR LESS AFTER ITS EFFECTIVE DATE, \$10].

21 (c) A seller or holder of a retail charge agreement, revolving charge agreement,
22 or other retail charge agreement may charge, receive, and collect a service charge not
23 to exceed one and one-half percent a month [THE FOLLOWING RATES] computed
24 on the outstanding balances from month to month [,

25 (1) ON SO MUCH OF THE OUTSTANDING BALANCE AS DOES
26 NOT EXCEED \$1,000, ONE AND ONE-HALF PER CENT PER MONTH;

27 (2) IF THE OUTSTANDING BALANCE IS MORE THAN \$1,000,
28 ONE-TWELFTH OF THE ANNUAL RATE PERMITTED UNDER AS 45.45.010(b)
29 PER MONTH ON THE EXCESS OVER \$1,000 OF THE OUTSTANDING
30 BALANCE;

31 (3) IF THE SERVICE CHARGE SO COMPUTED IS LESS THAN \$1

1 FOR ANY MONTH, \$1;

2 (4) THE SERVICE CHARGE MAY BE COMPUTED ON A
3 SCHEDULE OF FIXED AMOUNTS IF AS SO COMPUTED IT IS APPLIED TO
4 ALL AMOUNTS OF OUTSTANDING BALANCES EQUAL TO THE FIXED
5 AMOUNT MINUS A DIFFERENTIAL OF NOT MORE THAN \$5 PROVIDED
6 THAT IT IS ALSO APPLIED TO ALL AMOUNTS OF OUTSTANDING
7 BALANCES EQUAL TO THE FIXED AMOUNT PLUS AT LEAST THE SAME
8 DIFFERENTIAL].

9 * **Sec. 12.** AS 45.10.220(3) is amended to read:

10 (3) "official fees" means the amount of the fees set by law for filing,
11 recording, or otherwise perfecting and releasing or satisfying a retained title, lien, or
12 other security interest created by a retail installment transaction **or premiums payable**
13 **for insurance in place of perfecting a security interest if the premiums do not**
14 **exceed the fees that would otherwise normally be incurred for perfecting the**
15 **security interest;**