

CS FOR SENATE BILL NO. 157(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/2/96

Referred: Finance

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

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. Only one bond is required for
16 an application for a multiple office license. The bond shall be for the use of the
17 state and any person who may have a cause of action against the obligor under this
18 chapter. The bond must state that the obligor will faithfully conform to and abide by
19 the provisions of this chapter and of all regulations lawfully adopted by the
20 department, and will pay to the state and to any person all money that may become
21 due or owing to the state or to the person from the applicant under this chapter.

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

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

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

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

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

25 (b) If a licensee changes the place of business to another location within the
26 same municipality, the licensee shall give written notice to the department in advance.

27 **Upon approval, the department shall issue an amended license for** [THE
28 DEPARTMENT SHALL ATTACH THE WRITTEN NOTICE OF THE CHANGE TO
29 THE LICENSE TOGETHER WITH THE DATE. THEREAFTER THE LICENSEE
30 MAY OPERATE THE BUSINESS UNDER THE LICENSE AT] the new location.

31 A licensee may not change the place of business to a location outside the municipality

1 in which the licensee is authorized to do business.

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

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

14 * **Sec. 8.** AS 06.20.240 is amended to read:

15 Sec. 06.20.240. LOANS FOR PURPOSE OF OBTAINING HIGHER
16 INTEREST. [A LICENSEE MAY NOT INDUCE OR PERMIT A BORROWER TO
17 SPLIT UP OR DIVIDE A LOAN.] A licensee may not induce or permit a person, or
18 a husband and wife jointly or severally, **to split up or divide a loan or** to become
19 obligated, directly or contingently or both, under more than one loan contract at the
20 same time, for the purpose or with the result of obtaining a higher rate of interest than
21 would otherwise be permitted by AS 06.20.230. **However, a licensee may enter into**
22 **new or different loan transactions with the borrower or the borrower's spouse at**
23 **a different time so long as the purpose of the additional transaction does not**
24 **violate this section.**

25 * **Sec. 9.** AS 06.20.250 is amended by adding new subsections to read:

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

29 (e) If the irregular payment is confirmed in writing by the borrower, and the
30 method of repayment is consistent with the maximum term and annual interest rate
31 provided in this chapter, and if a borrower demonstrates sufficient seasonal or

1 extraordinary income to support repayment of a loan, the loan contract may provide
2 for irregular payments and first payment loan extensions greater than 45 days from the
3 date the loan is made.

4 * **Sec. 10.** AS 06.20.260(a) is amended to read:

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

8 (1) lawful fees actually paid out by the licensee to a public officer for
9 filing, recording, or releasing any instrument securing the loan, **or premiums payable**
10 **for insurance in lieu of perfecting a security interest if the premiums do not**
11 **exceed the fees that would otherwise normally be incurred for perfecting, filing,**
12 **recording, and releasing the security interest,** or for transferring certificate of title
13 to a motor vehicle securing the lien or noting a lien on that certificate;

14 (2) premiums actually paid out for insurance on any one or combination
15 of the following: pledged property of the borrower, or consumer credit insurance; in
16 this paragraph, "consumer credit insurance" has the meaning given in AS 21.57.160;

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

20 (4) **for loans of \$10,000 or less that are secured by an interest in**
21 **real estate,** reasonable **costs and** fees paid by a licensee for appraisals, surveys, and
22 title insurance or reports [IF THE LOAN IS SECURED BY AN INTEREST IN REAL
23 ESTATE];

24 (5) **for loans over \$10,000, whether or not secured by an interest**
25 **in real estate, reasonable costs and fees paid by a licensee for appraisals, surveys,**
26 **title insurance or reports, and credit reports;**

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

29 (7) **a fee for dishonored checks not to exceed \$25 for each**
30 **dishonored check;**

31 (8) **reasonable attorney fees, actual expenses, and costs incurred in**

1 connection with the collection of a delinquent debt or a foreclosure if the
2 collection or foreclosure is referred to an attorney who is not a salaried employee
3 of the licensee and the balance then owing on the debt exceeds \$5,000;

4 (9) actual expenses and costs incurred in connection with a
5 repossession.

6 * **Sec. 11.** AS 06.20.287 is amended to read:

7 Sec. 06.20.287. CREDIT INSURANCE ON OPEN-END LOANS. (a) A
8 licensee may obtain consumer credit, credit loss of income, and property insurance on
9 open-end loans under this chapter. The consumer credit insurance obtained by a licensee
10 shall satisfy the requirements of AS 21.57. The property insurance obtained by a
11 licensee shall satisfy the requirements of AS 21.39 and AS 21.42. The licensee shall
12 comply with AS 21.36.160 and 21.36.165 during all transactions with borrowers
13 involving consumer credit, credit loss of income, and property insurance.

14 (b) The licensee shall calculate the charge for credit life, credit loss of income,
15 or disability insurance in each billing cycle by adding to the unpaid balance in the
16 borrower's account the current monthly premium rate for the coverage required at the
17 rate set under AS 21.57, using the method specified in the loan agreement for
18 determining the unpaid balance.

19 (c) A licensee may not cancel credit life, credit loss of income, or disability
20 insurance obtained for an open-end loan if the borrower is delinquent in paying the
21 monthly installments unless an installment is delinquent for 90 days or longer. The
22 licensee shall advance to the insurer amounts necessary to keep the policy in force until
23 the 90-day delinquency period has elapsed, and the borrower's account may be charged
24 for the amounts advanced to the insurer.

25 * **Sec. 12.** AS 45.10.070(b) is amended to read:

26 (b) Except when the service charge is computed on an add-on or simple
27 interest basis, the [THE] amount of the refund credit shall be computed according to
28 the "rule of 78ths"; that is, it shall represent at least as great a proportion of the original
29 service charge over \$25 in case of a retail installment sale of a motor vehicle, or \$10 in
30 case of a retail installment sales of goods other than a motor vehicle, as (1) the sum of
31 the monthly or other periodic unpaid balances under the schedule of payments in the
32 contract beginning as of the date after the prepayment that [WHICH] is the next

1 succeeding monthly or other periodic anniversary date of the due date of the first
2 installment under the contract, or, if the prepayment is before the due date of the first
3 installment under the contract, then as of the date after the prepayment **that** [WHICH]
4 is the next succeeding monthly or other periodic anniversary date of the date of the
5 contract bears to (2) the sum of all the monthly or other periodic unpaid balances under
6 the schedule of installment payments in the contract.

7 * **Sec. 13.** AS 45.10.080(a) is amended to read:

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

15 * **Sec. 14.** AS 45.10.120 is repealed and reenacted to read:

16 Sec. 45.10.120. EXTENT OF SERVICE CHARGE. (a) Notwithstanding any
17 other law, the service charge included in a retail installment contract, retail charge
18 agreement, revolving charge agreement, or other retail charge agreement shall be at the
19 rate agreed upon by the retail seller and the buyer.

20 (b) This section does not limit or restrict the method of computing the service
21 charge, whether by way of add-on, simple interest, or otherwise, so long as that method
22 is disclosed in the contract and agreed upon by the retail seller and the buyer.

23 * **Sec. 15.** AS 45.10.220(3) is amended to read:

24 (3) "official fees" means the amount of the fees set by law for filing,
25 recording, or otherwise perfecting and releasing or satisfying a retained title, lien, or
26 other security interest created by a retail installment transaction **or premiums payable**
27 **for insurance in lieu of perfecting a security interest if the premiums do not exceed**
28 **the fees that would otherwise normally be incurred for perfecting, filing, recording,**
29 **or otherwise perfecting and releasing or satisfying a retained title, lien, or other**
30 **security interest;**