

HOUSE BILL NO. 106

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/5/01

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authorizations for state financial institutions; relating to
2 confidential financial records of depositors and customers of certain financial
3 institutions; relating to the Alaska Banking Code, Mutual Savings Bank Act, Alaska
4 Small Loans Act, and Alaska Credit Union Act; and providing for an effective date."

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

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 PURPOSE. The primary purpose of this Act is to implement banking and other
9 financial institution reforms in AS 06 in response to P.L. 106-102 (Gramm-Leach-Bliley Act)
10 in order to further this state as an attractive place for investment and other commerce
11 involving banking and other financial institutions.

12 * **Sec. 2.** AS 06.01.020(a) is amended to read:

13 (a) Notwithstanding other provisions of this title, the department may by
14 order [REGULATION] authorize state financial institutions, except licensees subject

1 to AS 06.20 or AS 06.40, to exercise any of the powers conferred upon, or to be
 2 subject to any of the limitations imposed upon, a federally chartered financial
 3 institution doing business in this state with deposits insured by an agency of the
 4 federal government, if the department finds that the exercise of the power or
 5 imposition of the limitation both

6 (1) serves the public convenience and advantage; and

7 (2) equalizes and maintains the quality of competition between state
 8 financial institutions and federally chartered financial institutions.

9 * **Sec. 3.** AS 06.01 is amended by adding a new section to read:

10 **Sec. 06.01.028. Depositor and customer records confidential.** (a) The
 11 financial records of depositors and customers of financial institutions are confidential
 12 and may not be disclosed except when

13 (1) the financial institution, customer, or depositor is compelled to
 14 disclose the records by court order, administrative subpoena or order, or other process
 15 issued under supervision of a court or an administrative agency;

16 (2) their disclosure is required by federal or state statute or regulation;

17 (3) disclosure is authorized in writing by the depositor or customer;

18 (4) disclosure is made to the holder of a negotiable instrument drawn
 19 on the financial institution as to whether the drawer has sufficient funds in the
 20 financial institution to cover the instrument; or

21 (5) an inquiry has been made by a financial institution or by a credit-
 22 reporting agency regulated under 15 U.S.C. 1681-1681u (Fair Credit Reporting Act),
 23 as amended, solely for the express purpose of determining the credit worthiness of the
 24 depositor or customer as an applicant for credit, and the information disclosed by the
 25 financial institution or the entity making the inquiry under this paragraph pertains only
 26 to the payment habits of the depositor or customer in connection with loans and other
 27 credit accommodations and does not pertain to records concerning deposit balances in
 28 savings or checking accounts.

29 (b) Unless otherwise provided in this subsection, when disclosure of financial
 30 institution records is required or allowed under (a)(1) or (2) of this section, the
 31 financial institution shall notify the depositor or customer of the disclosure before the

1 disclosure is made. If notification before disclosure is not possible, the financial
 2 institution shall notify the customer or depositor of the disclosure as soon as
 3 practicable after the disclosure is made. However, notification either before or after
 4 disclosure may not be made if disclosure is made under a subpoena, subpoena duces
 5 tecum, search warrant issued by a court, or under a court order or subpoena issued at
 6 the request of a grand jury, if the document requiring disclosure by one of these
 7 processes on its face requires confidentiality.

8 (c) When disclosure of financial institution records is compelled by a court
 9 order under (a)(1) of this section, the court shall provide in the order for the
 10 reimbursement of the financial institution for the reasonable costs incurred in
 11 complying with the order.

12 (d) A financial institution or any other person is liable to the depositor or
 13 customer for intentional violations of this section in an amount equal to the greater of
 14 \$1,000 or actual damages caused by the disclosure of the confidential records of the
 15 depositor or customer of the financial institution. A financial institution or other
 16 person that takes an action under this section, relying in good faith on any provision of
 17 this section, is not liable to any person for its actions.

18 * **Sec. 4.** AS 06.01.050(3) is amended to read:

19 (3) "financial institution" means an institution subject to the regulation
 20 of the department under this title; **"financial institution" includes commercial**
 21 **banks, savings banks, credit unions, premium finance companies, small loan**
 22 **companies, bank holding companies, financial holding companies, trust**
 23 **companies, and savings and loan associations.**

24 * **Sec. 5.** AS 06.01.050 is amended by adding a new paragraph to read:

25 (4) "state financial institution" means a financial institution that is
 26 organized under this title, AS 10.13, or AS 44.81, or that is subject to examination by
 27 the department under this title.

28 * **Sec. 6.** AS 06.05.005(a) is amended to read:

29 (a) The department shall

30 (1) exercise general supervision over all state financial institutions and
 31 their subsidiaries and affiliated corporations;

1 (2) adopt regulations necessary to implement this chapter, including
2 regulations providing for the retention and preservation of state bank records;

3 (3) review and approve or disapprove applications for new state banks
4 under AS 06.05.344 [AS 06.05.345], new bank branches under AS 06.05.399, and
5 international bank branches or interstate state bank branches [BRANCH BANKS]
6 under AS 06.05.555;

7 (4) issue permits authorizing bank holding companies to do business in
8 this state under AS 06.05.235 and 06.05.570;

9 (5) determine for each state bank the amount of paid-in capital
10 necessary to operate under AS 06.05.305(a);

11 (6) review and approve transfers of state bank ownership under
12 AS 06.05.327;

13 (7) perform examinations of state banks, branch banks, and
14 subsidiaries under AS 06.01.015.

15 * **Sec. 7.** AS 06.05.050 is repealed and reenacted to read:

16 **Sec. 06.05.050. Publication of reports.** (a) Condensed forms of all reports
17 of condition required by AS 06.05.045(a) shall be immediately

18 (1) published by the state bank in a newspaper of general circulation
19 published in the place where the state bank is located; if a newspaper of general
20 circulation is not published in that place, the report shall be published in the
21 newspaper of general circulation published nearest to that place; or

22 (2) posted at

23 (A) the primary Internet website of the state bank; and

24 (B) in the lobby of the principal office and all branches of the
25 state bank.

26 (b) Notice of the publication or posting of the reports of condition under (a) of
27 this section shall be posted in the lobby of the principal office and all branches of the
28 state bank. Upon request, a copy of a report of condition shall be supplied to any
29 person at no cost.

30 * **Sec. 8.** AS 06.05.065(a) is amended to read:

31 (a) A bank examiner of the department who deals with the regulation of

1 financial institutions, a special agent selected by the department to do work relating to
 2 financial institutions, the commissioner or deputy commissioner, or the director of
 3 banking may not be an officer, employee, director, trustee, attorney, shareholder, or
 4 partner of a financial institution, or receive, directly or indirectly, a payment or
 5 gratuity from a financial institution. A person subject to this section may not borrow
 6 money from a **state** financial institution [THAT HAS A CERTIFICATE OF
 7 AUTHORITY UNDER THIS TITLE], except as provided in this section.

8 * **Sec. 9.** AS 06.05.065(b) is amended to read:

9 (b) A person subject to this section may

- 10 (1) be a depositor in a financial institution;
- 11 (2) purchase shares of a savings and loan association on the same
 12 terms available to the public;
- 13 (3) be a member of an employee credit union;
- 14 (4) be indebted to a state financial institution upon an installment debt
 15 incurred by the employee in the purchase of goods for personal use only and
 16 transferred to the financial institution in the regular course of business, including debts
 17 for household goods, mobile homes, motor vehicles, or boats; or
- 18 (5) **retain a pre-existing extension of credit that was incurred**
 19 **before commencement of the employment that subjected the person to this**
 20 **section; any renegotiation of a pre-existing extension of credit shall be treated as**
 21 **a new extension of credit that is subject to the prohibitions of this section** [BE
 22 INDEBTED TO A STATE FINANCIAL INSTITUTION FOR A MORTGAGE
 23 LOAN SECURED BY THE PERSON'S PRIMARY RESIDENCE, IF THE LOAN
 24 CLOSED BEFORE THE PERSON BECAME AN EMPLOYEE SUBJECT TO THIS
 25 SECTION].

26 * **Sec. 10.** AS 06.05.205 is repealed and reenacted to read:

27 **Sec. 06.05.205. Loans and extensions of credit.** (a) The total loans and
 28 extensions of credit by a state bank to a person outstanding at one time and not fully
 29 secured, as determined in a manner consistent with (b) of this section, by collateral
 30 having a market value at least equal to the amount of the loan or extension of credit
 31 may not exceed 15 percent of the unimpaired capital and unimpaired surplus of the

1 state bank.

2 (b) The total loans and extensions of credit by a state bank to a person
3 outstanding at one time and fully secured by readily marketable collateral having a
4 market value, as determined by reliable and continuously available price quotations, at
5 least equal to the amount of the money outstanding, may not exceed 10 percent of the
6 unimpaired capital and unimpaired surplus of the state bank. The limitation in this
7 subsection is separate from and in addition to the limitation contained in (a) of this
8 section.

9 (c) The limitations contained in (a) and (b) of this section are subject to the
10 following exceptions:

11 (1) loans or extensions of credit arising from the discount of
12 commercial or business paper evidencing an obligation to the person negotiating it
13 with recourse are not subject to a limitation based on unimpaired capital and
14 unimpaired surplus;

15 (2) the purchase of bankers' acceptances described in AS 06.05.275
16 and issued by other banks are not subject to a limitation based on unimpaired capital
17 and unimpaired surplus;

18 (3) loans or extensions of credit secured by bills of lading, warehouse
19 receipts, or similar documents transferring or securing title to readily marketable
20 staples are subject to a limitation of 35 percent of unimpaired capital and unimpaired
21 surplus in addition to the general limitations if the market value of the staples securing
22 each additional loan or extension of credit at all times equals or exceeds 115 percent of
23 the outstanding amount of the loan or extension of credit; in order to be considered
24 under this paragraph, the staples must be fully covered by insurance whenever it is
25 customary to insure those staples;

26 (4) loans or extensions of credit secured by bonds, notes, certificates of
27 indebtedness, or treasury bills of the United States or by other such obligations fully
28 guaranteed as to principal and interest by the United States are not subject to a
29 limitation based on unimpaired capital and unimpaired surplus;

30 (5) loans or extensions of credit to, or secured by unconditional takeout
31 commitments or guarantees of, any department, agency, bureau, board, commission,

1 or establishment of the United States or a corporation wholly owned directly or
2 indirectly by the United States are not subject to a limitation based on unimpaired
3 capital and unimpaired surplus;

4 (6) loans or extensions of credit secured by a segregated deposit
5 account in the lending state bank are not subject to a limitation based on unimpaired
6 capital and unimpaired surplus;

7 (7) loans or extensions of credit to a bank or to a receiver, conservator,
8 superintendent of banks, or other agent in charge of the business and property of that
9 bank, if approved by the department, are not subject to a limitation based on
10 unimpaired capital and unimpaired surplus;

11 (8) loans or extensions of credit arising from the discount of negotiable
12 or non-negotiable installment consumer paper that carries a full recourse endorsement
13 or unconditional guarantee by the person transferring the paper are subject under this
14 section to a maximum limitation equal to 25 percent of unimpaired capital and
15 unimpaired surplus, notwithstanding the collateral requirements set out in (b) of this
16 section; however, if the state bank's files or the knowledge of its officers of the
17 financial condition of each maker of that consumer paper is reasonably adequate, and
18 an officer of the state bank designated for that purpose by the board of directors of the
19 state bank certifies in writing that the state bank is relying primarily upon the
20 responsibility of each maker for payment of the loans or extensions of credit and not
21 upon any full or partial recourse endorsement or guarantee by the transferor, the
22 limitations of (a) and (b) of this section as to the loans or extensions of credit of each
23 such maker are the sole applicable loan limitations;

24 (9) loans or extensions of credit secured by shipping documents or
25 instruments transferring or securing title covering livestock or giving a lien on
26 livestock when the market value of the livestock securing the obligation is not at any
27 time less than 115 percent of the face amount of the note covered, are subject under
28 this section, notwithstanding the collateral requirements set out in (b) of this section,
29 to a maximum limitation equal to 25 percent of unimpaired capital and unimpaired
30 surplus;

31 (10) loans or extensions of credit, arising from the discount by dealers

1 in dairy cattle of paper given in payment for dairy cattle and carrying a full recourse
 2 endorsement or unconditional guarantee of the seller, that are secured by the cattle
 3 being sold, are subject under this section, notwithstanding the collateral requirements
 4 set out in (b) of this section, to a maximum limitation equal to 25 percent of
 5 unimpaired capital and unimpaired surplus.

6 (d) Except with the written prior approval of the department for an acquisition
 7 or merger with another financial institution, or except with the written prior approval
 8 of the department in order to prevent loss upon an indebtedness previously contracted
 9 in good faith, a state bank may not

10 (1) accept as security for a loan the capital stock of the state bank;

11 (2) accept as security for a loan the capital stock of the state bank's
 12 parent holding companies, unless the stock of the holding companies is publicly traded
 13 on a nationally recognized exchange; or

14 (3) loan money that is to be used to purchase the capital stock of the
 15 state bank or a parent holding company of the state bank.

16 (e) The department may adopt regulations to administer and carry out the
 17 purposes of this section, including, notwithstanding any contrary provision of this
 18 section, regulations to define or further define terms used in this section in order to
 19 establish limits or requirements other than those specified in this section for particular
 20 classes or categories of loans or extensions of credit.

21 (f) For purposes of this section, the department may determine when a loan
 22 putatively made to a person shall be attributed to another person.

23 (g) In this section, "person" means an individual, sole proprietorship,
 24 partnership, joint venture, association, trust, estate, business trust, corporation, or any
 25 similar entity or organization.

26 * **Sec. 11.** AS 06.05.209(b) is amended to read:

27 (b) A **state** bank may issue a credit card or other similar credit granting device
 28 to a customer for obtaining money, goods, services, or anything else of value, and
 29 **notwithstanding AS 45.45.010**, the **state** bank, when credit is extended under this
 30 section, may impose a service charge at a monthly rate **as agreed upon by contract**
 31 **between the state bank and the customer receiving the credit granting device**

1 [THAT RESULTS IN AN ANNUAL RATE NOT IN EXCESS OF 17 PERCENT ON
 2 THE OUTSTANDING BALANCE. HOWEVER, IN ADDITION, WHEN CASH IS
 3 ADVANCED UNDER THIS SECTION, THE BANK MAY IMPOSE A SETUP
 4 CHARGE THAT DOES NOT EXCEED THREE PERCENT OF THE FUNDS
 5 ADVANCED, OR \$12, WHICHEVER IS LESS, EXCEPT THAT ON LOANS OF
 6 UNDER \$100 A MINIMUM NOT EXCEEDING \$3 MAY BE CHARGED].

7 * **Sec. 12.** AS 06.05.210(a) is amended to read:

8 (a) Subject to the same terms and conditions applicable to other loans, a
 9 director or executive [,] officer[, OR EMPLOYEE] of a state bank may borrow up to
 10 \$100,000, or up to \$250,000 for the director's or executive [,] officer's [, OR
 11 EMPLOYEE'S] primary residence from the state bank at the discretion of the chief
 12 executive or managing officer of the state bank. A loan to a director or executive [,]
 13 officer [, OR EMPLOYEE] that makes the total amount owed to the state bank by the
 14 director or executive [,] officer [, OR EMPLOYEE] in excess of the limits in this
 15 subsection, or loans of any amount to the chief executive or managing officer of the
 16 state bank, shall have the prior approval of the board of directors, shall be reported to
 17 the department within 30 days, and shall be secured by adequate collateral.

18 * **Sec. 13.** AS 06.05.210 is amended by adding a new subsection to read:

19 (c) Notwithstanding (a) of this section, loans to directors, executive officers,
 20 and other officers and employees of a state bank are subject to the lending limits
 21 imposed by AS 06.05.205 and any regulations adopted under that section.

22 * **Sec. 14.** AS 06.05 is amended by adding a new section to read:

23 **Sec. 06.05.237. Financial holding company.** Notwithstanding the provisions
 24 of AS 06.05.235 and regulations adopted under that section, a holding company
 25 formed under this title may apply to the Federal Reserve System for status as a
 26 financial holding company. If the status is granted, the financial holding company has
 27 powers as a financial holding company authorized by the Federal Reserve System if

28 (1) at the time of application, the holding company provides the
 29 department with a complete copy of the application;

30 (2) the holding company provides the department copies of all
 31 correspondence concerning the application;

1 (3) the holding company provides the department a copy of the
 2 approval by the Federal Reserve System within 10 days after the holding company
 3 receives that approval; and

4 (4) the department does not issue a letter denying financial holding
 5 company status within 30 days after the approval by the Federal Reserve System.

6 * **Sec. 15.** AS 06.05.245 is amended to read:

7 **Sec. 06.05.245. Disposition of property not needed in the conduct of a**
 8 **banking business.** All investments in real and personal property, regardless of how
 9 acquired, not permitted [NECESSARY FOR THE CONVENIENT
 10 TRANSACTION OR PROMOTION OF A BANKING BUSINESS] under
 11 AS 06.05.230 that come [COMES] into the possession of a state bank shall be
 12 disposed of as soon as possible. If the real or personal property is not sold within the
 13 time limit set [PRESCRIBED] by the department in regulations, it shall be written off
 14 and may not be carried as an asset of the state bank.

15 * **Sec. 16.** AS 06.05.272(b) is amended to read:

16 (b) Under this section, a state bank's total investment in its subsidiaries
 17 may not exceed that which is permissible for a federally chartered bank's total
 18 investment in all subsidiaries as set out in 12 U.S.C. 24a, as amended [BANK
 19 MAY INVEST IN SUBSIDIARIES AN AMOUNT EQUAL TO THE LESSER OF
 20 20 PERCENT OF ITS TOTAL ASSETS OR 50 PERCENT OF ITS TOTAL
 21 CAPITAL ACCOUNTS]. Loans to subsidiaries are considered investments subject to
 22 the limitations of this subsection.

23 * **Sec. 17.** AS 06.05.301(a) is amended to read:

24 (a) Except for national banks with a principal place of business in the state,
 25 and interstate state banks and international banks with a certificate of authority under
 26 AS 06.05.555, a corporation may not engage in the banking business unless the
 27 corporation is organized under AS 10.06 (Alaska Corporations Code) and this title.

28 * **Sec. 18.** AS 06.05.350(d) is amended to read:

29 (d) Except as authorized under this section, a person may not
 30 (1) engage in the business of receiving deposits, discounting evidences
 31 of indebtedness, or receiving money for transmission;

1 (2) represent that the person is [, OR ACTS FOR,] a bank; or

2 (3) use any form of the word "bank" in its name unless it is a state
 3 bank formed under this title or a bank formed under the authority of another
 4 state or an agency of the federal government, or unless it is clear that the use does
 5 not represent that the person is a bank; the prohibition in this paragraph does
 6 not apply to a food bank, blood bank, or similar organization that cannot readily
 7 be confused with a bank [AN ARTIFICIAL OR CORPORATE NAME THAT
 8 PURPORTS TO BE OR SUGGESTS THAT IT IS THE NAME OF A BANK].

9 * **Sec. 19.** AS 06.05.350 is amended by adding a new subsection to read:

10 (e) A person prohibited by (d) of this section from using any form of the word
 11 "bank" in its name may apply to the commissioner for authority to do so.

12 * **Sec. 20.** AS 06.05.426(b) is amended to read:

13 (b) A state bank may establish, maintain, and operate an automated teller
 14 machine at a location other than bank premises by notifying the department 30 days
 15 before the date of establishment [WITH THE PRIOR APPROVAL OF THE
 16 DEPARTMENT]. An automated teller machine operated off bank premises shall be
 17 made available on a nondiscriminatory basis for use by other depository institutions
 18 [BANKS] authorized to do business in the state and their customers, upon the
 19 agreement of the other depository institutions [BANKS] to pay a fair and equitable
 20 amount for the use of the machine.

21 * **Sec. 21.** AS 06.05.426(c) is repealed and reenacted to read:

22 (c) The notice required in (b) of this section shall include

23 (1) the location and general description of the surrounding area,
 24 including a description of the business establishment, if any, in which the machine will
 25 be located;

26 (2) the manner of operation and the kinds of transactions that the
 27 machine will perform;

28 (3) the names of the other depository institutions that will share the
 29 machine's services; and

30 (4) other information required by the department.

31 * **Sec. 22.** AS 06.05.426(d) is amended to read:

1 (d) A state bank may invest in a corporation organized to operate machines
 2 that perform automated teller services for two or more **depository institutions**
 3 [BANKS, IF EACH BANK OWNS PART OF THE CAPITAL STOCK OF THE
 4 CORPORATION].

5 * **Sec. 23.** AS 06.05.426 is amended by adding a new subsection to read:

6 (e) A person may not establish or operate an automated teller machine that
 7 accepts deposits unless those deposits are insured by the Federal Deposit Insurance
 8 Corporation or another agency of the United States that insures deposits.

9 * **Sec. 24.** AS 06.05.435(c) is amended to read:

10 (c) Unless otherwise approved by the department, each director of a **state**
 11 bank shall own, in the director's own right or jointly with the director's spouse, free of
 12 any encumbrance, **common or preferred stock of the state bank or of a company**
 13 **that controls the state bank that has an aggregate par value of at least \$1,000, an**
 14 **aggregate shareholder's equity of at least \$1,000, or an aggregate fair market**
 15 **value of at least \$1,000** [CAPITAL STOCK OF THE BANK IN AN AMOUNT
 16 EQUAL TO AT LEAST \$1,000 IN PAR VALUE].

17 * **Sec. 25.** AS 06.05.435 is amended by adding new subsections to read:

18 (h) In the case of a company that owns more than one bank, a director may use
 19 the director's equity interest in the controlling company to satisfy, in whole or in part,
 20 the equity interest requirement for one or all of the controlled banks.

21 (i) The value of the common or preferred stock held by a director of a state
 22 bank or of a company that controls the state bank is valued as of the date purchased, or
 23 as of the date on which the individual became a director, whichever value is greater.

24 * **Sec. 26.** AS 06.05.550 is amended to read:

25 **Sec. 06.05.550. Authority of international bank, [OR] interstate state**
 26 **bank, or interstate national bank to branch.** (a) An international bank, or an
 27 interstate **state** bank **or interstate national bank** whose deposits are insured by the
 28 Federal Deposit Insurance Corporation[,] may acquire a branch bank as the result of a
 29 merger or consolidation of the international **bank**, [OR] interstate **state** bank, **or**
 30 **interstate national bank** with, or the purchase of all or substantially all of the assets
 31 of, a state bank, a national bank with its principal office in this state, or a branch of the

1 state [BANK] or national bank, unless the state [BANK] or national bank is a recently
2 formed bank.

3 (b) An international bank may establish a new branch bank in this state or
4 acquire a recently formed bank, if the department approves the establishment or
5 acquisition before the establishment or acquisition occurs. An interstate **state bank or**
6 **interstate national bank** may not establish a branch bank in this state unless the
7 establishment occurs through an acquisition under (a) of this section of a bank located
8 in the state. An interstate **state bank or interstate national bank** may not establish a
9 new branch bank in this state.

10 (c) An interstate **state bank, interstate national bank,** or international bank
11 that opens, occupies, or maintains a branch bank in the state has the same powers
12 under the laws of the state as a state or national bank of the same type.

13 * **Sec. 27.** AS 06.05.555(a) is amended to read:

14 (a) Before acquiring a branch bank under AS 06.05.550(a) or establishing a
15 branch bank under AS 06.05.550(b), an interstate **state bank** or international bank
16 shall file an application with the department for and receive a certificate of authority to
17 operate a branch bank. The application must include

- 18 (1) all information and fees required under AS 06.05.399;
- 19 (2) the name of the bank and the address of its principal office;
- 20 (3) if an international bank, the country under whose laws it is
21 organized;
- 22 (4) the amount of the bank's capital actually paid in cash and the
23 amount subscribed for and unpaid;
- 24 (5) a complete and detailed statement of the bank's financial condition;
- 25 (6) the names of all other states and countries in which the bank is
26 admitted or qualified to do business;
- 27 (7) a copy of the bank's charter, articles of incorporation, and bylaws,
28 as applicable;
- 29 (8) if an international bank, evidence satisfactory to the department
30 that the bank is authorized to conduct a banking business under the laws of the country
31 of its organization, and the nature of the bank's business;

1 (9) a properly executed designation of the department as the bank's
 2 agent for service of process in an action or proceeding arising out of a transaction
 3 involving the branch bank; the designation must include the name and address of the
 4 officer, agent, or other person to whom the department is to forward the process; and

5 (10) other information necessary or appropriate for the department to
 6 determine whether the bank is entitled to a certificate of authority from the
 7 department.

8 * **Sec. 28.** AS 06.05.555(b) is amended to read:

9 (b) The department shall notify the interstate **state bank** or international bank
 10 of its action on the application. If the application and the accompanying documents do
 11 not comply with the requirements of (a) of this section, the department shall return
 12 them with an explanation of the noncompliance. If the department does not respond
 13 within 30 days of its receipt of the application, the application is considered to be
 14 accepted.

15 * **Sec. 29.** AS 06.05.555(c) is amended to read:

16 (c) The interstate **state bank** or international bank shall publish notice of the
 17 application in the manner provided in AS 06.05.344(d) - (e). The notice must state the
 18 proposed location of the branch bank.

19 * **Sec. 30.** AS 06.05.555(d) is amended to read:

20 (d) Upon acceptance of the application, the department shall conduct an
 21 investigation to determine that

22 (1) if an interstate **state** bank,

23 (A) the laws of the home state of the bank authorize a state
 24 bank of this state to acquire a branch bank in the home state without conditions
 25 or restrictions on the operations of the branch bank; and

26 (B) the bank supervisor of the home state of the bank has
 27 agreed to provide to the department the examination reports that the
 28 department determines sufficient to permit the department to determine on a
 29 current basis the financial condition of the bank;

30 (2) the proposal is consistent with a sound and competitive banking
 31 system;

1 (3) the capital structure of the bank is adequate in relation to the
2 anticipated business and costs of operating the branch bank;

3 (4) the name of the bank is not deceptively similar to the name of
4 another branch bank or state bank and is not otherwise misleading; and

5 (5) the other requirements of this chapter have been met.

6 * **Sec. 31.** AS 06.05.555(e) is amended to read:

7 (e) Not later than 150 days after the department accepts an application by an
8 interstate **state bank** or international bank for a certificate of authority to operate a
9 branch bank, the department shall make a determination whether to approve the
10 application. Within 30 days after the second publication of the notice referred to in (c)
11 of this section, a person opposing the pending application may file written objections
12 with the department. When it approves or denies the application, the department shall
13 notify the bank and any other person who requested in writing to be notified, and if the
14 application is denied, the department shall state the reasons for its decision.

15 * **Sec. 32.** AS 06.05.555(f) is amended to read:

16 (f) The department shall issue a certificate of authority to an interstate **state**
17 **bank** or international bank to operate a branch bank if

18 (1) the conditions imposed by the department in granting the certificate
19 have been fulfilled; and

20 (2) the requirements of this chapter are satisfied.

21 * **Sec. 33.** AS 06.05 is amended by adding a new section to read:

22 **Sec. 06.05.557. Notice filing for interstate national banks.** An interstate
23 national bank acquiring a branch in this state under AS 06.05.550 shall file a notice of
24 the acquisition with the department along with a copy of the application filed with the
25 agency that primarily regulates the interstate national bank. The notice and copy of
26 the application shall be filed with the department at the same time the application is
27 filed with the agency that primarily regulates the interstate national bank.

28 * **Sec. 34.** AS 06.05.565(a) is amended to read:

29 (a) An interstate **state bank** or international bank operating a branch bank in
30 the state is subject to the provisions of this title, and the regulations adopted and orders
31 issued under this title, except for the residency requirements in AS 06.05.435(a).

1 * **Sec. 35.** AS 06.05.565(c) is amended to read:

2 (c) A branch bank of an interstate **state bank** or international bank operating
3 in the state is subject to examination under AS 06.01.015 and assessments under
4 AS 06.01.010. Assessments under AS 06.01.010(d) are based on the branch bank's
5 total deposits in the state.

6 * **Sec. 36.** AS 06.05.565(d) is amended to read:

7 (d) When the department considers it necessary to protect the public interest,
8 the department or a competent person designated by the department may examine an
9 interstate **state bank** or international bank with a branch in the state. The interstate
10 **state bank** or international bank shall pay an examination fee established under
11 AS 06.01.010.

12 * **Sec. 37.** AS 06.05.565(e) is amended to read:

13 (e) The department may require periodic reports from an **interstate state**
14 **bank or an interstate national bank** [OUT-OF-STATE DEPOSITORY
15 INSTITUTION] that maintains a branch in this state and from a bank holding
16 company that controls the **interstate state bank or interstate national bank** [OUT-
17 OF-STATE DEPOSITORY INSTITUTION]. The reports shall be made under oath
18 and filed as frequently as required by the department. The reports must contain the
19 information and detail that the department determines to be appropriate to assure
20 continuing compliance of the **interstate state bank or interstate national bank**
21 [OUT-OF-STATE DEPOSITORY INSTITUTION] with the **provisions**
22 [PROVISION] of this title.

23 * **Sec. 38.** AS 06.05.565 is amended by adding a new subsection to read:

24 (g) An interstate national bank operating a branch bank in this state is subject
25 to the provisions of AS 06.05.548 and 06.05.550, and the regulations adopted and
26 orders issued under these sections.

27 * **Sec. 39.** AS 06.05.570(a) is amended to read:

28 (a) An out-of-state bank holding company may acquire and own all or a
29 portion of the voting securities or other capital stock of, or all or substantially all of the
30 assets of, one or more state banks, domestic bank holding companies, or national
31 banks conducting a banking business in the state, unless the state bank or national

1 bank is a recently formed bank. Before an out-of-state bank holding company may
 2 acquire a state bank or bank holding company of a state bank doing business in this
 3 state, the out-of-state bank holding company shall apply for and obtain a permit from
 4 the department. In considering whether to issue a permit, the department shall
 5 consider the benefits to the public, the preservation of a competitive banking industry,
 6 and the maintenance of a safe and sound bank industry. To assure full protection of
 7 the public, the department may require an out-of-state bank holding company that
 8 directly or indirectly owns, holds, or controls stock in a state bank or domestic bank
 9 holding company to post a bond with the department under conditions established by
 10 the department. The amount of the bond may not be more than the product obtained
 11 by multiplying the amount of paid-in capital and paid-in surplus of the state bank or
 12 domestic bank holding company by the percentage of state bank or domestic bank
 13 holding company stock directly or indirectly owned, held, or controlled by the out-of-
 14 state bank holding company.

15 * **Sec. 40.** AS 06.05.990(11) is amended to read:

16 (11) "domestic bank holding company" means a corporation subject to
 17 AS 06.05.235 that maintains its principal office and place of business in the state and
 18 that has control over a bank or another domestic bank holding company in one of the
 19 following ways:

20 (A) the corporation directly or indirectly or acting through one
 21 or more other persons owns, controls, or has power to vote 25 percent or more
 22 of a class of voting securities of the bank or holding company;

23 (B) the corporation controls in any manner the election of a
 24 majority of the directors or trustees of the bank or holding company; [OR]

25 (C) the department determines, after notice and opportunity for
 26 hearing, that the corporation directly or indirectly exercises a controlling
 27 influence over the management of the policies of the bank or holding
 28 company;

29 * **Sec. 41.** AS 06.05.990(13) is amended to read:

30 (13) "financial institution" means an institution subject to the
 31 regulation of the department under this title; "financial institution" includes

1 **commercial banks, savings banks, credit unions, premium finance companies,**
 2 **small loan companies, bank holding companies, financial holding companies,**
 3 **trust companies, and savings and loan associations;**

4 * **Sec. 42.** AS 06.05.990(19) is repealed and reenacted to read:

5 (19) "loan" includes an extension of credit resulting from direct or
 6 indirect negotiations between a lender and a debtor;

7 * **Sec. 43.** AS 06.05.990(22) is amended to read:

8 (22) "recently formed bank" means a state bank or national bank that
 9 conducts a banking business in the state and that commenced the banking business in
 10 the state on or after July 1, 1982, and that has not been in existence and continuously
 11 operating in the state for a period of three years or more; "recently formed bank" does
 12 not include

13 (A) a bank organized solely for the purpose of facilitating
 14 acquisition of a bank that either has been in existence and continuously
 15 operating in the state as a bank for a three-year period, or was conducting a
 16 banking business in the state on or before June 30, 1982;

17 (B) a state bank that the department determines was not created
 18 directly or indirectly by an acquiring interstate **state** bank, **interstate national**
 19 **bank**, international bank, or out-of-state bank holding company, and that does
 20 not have the capacity to continue to conduct its business independently in a
 21 manner consistent with the public interest and the interest of depositors,
 22 creditors, and shareholders; or

23 (C) a national bank that the board of governors of the Federal
 24 Reserve System, or their designee, determines is not chartered directly or
 25 indirectly by an acquiring out-of-state bank holding company, and that does
 26 not have the capacity to conduct its business independently in a manner
 27 consistent with the public interest of depositors, creditors, and shareholders;

28 * **Sec. 44.** AS 06.05.990(24) is amended to read:

29 (24) "state financial institution" means a financial institution **that is**
 30 **organized under this title, AS 10.13, or AS 44.81, or that is subject to examination**
 31 **by the department under this title;**

1 * **Sec. 45.** AS 06.05.990 is amended by adding new paragraphs to read:

2 (29) "affiliates" with respect to a state bank, means

3 (A) a company that controls the state bank and another
4 company that is controlled by the company that controls the state bank;

5 (B) a bank subsidiary of the state bank;

6 (C) a company

7 (i) that is controlled directly or indirectly, by a trust or
8 otherwise, by or for the benefit of the shareholders who beneficially or
9 otherwise control, direct or indirectly, by trust or otherwise, the state
10 bank or a company that controls the state bank; or

11 (ii) in which a majority of its directors or trustees
12 constitute a majority of the persons holding that office with the state
13 bank or a company that controls the state bank;

14 (D) a company, including a real estate investment trust, that is
15 sponsored and advised on a contractual basis by the state bank or a subsidiary
16 or affiliate of the state bank; or a investment company with respect to which a
17 state bank or any affiliate of the state bank is an investment advisor as defined
18 in 15 U.S.C. 80a-2(a)(20), as amended; and

19 (E) a company that the department determines by order to have
20 a relationship with the state bank or a subsidiary or affiliate of the state bank,
21 such that covered transactions by the state bank or its subsidiary with that
22 company may be affected by the relationship of the state bank or its subsidiary;

23 (30) "extension of credit" means a negotiable instrument as defined in
24 AS 45.03.104; "extension of credit" includes promissory notes, acknowledgments of
25 advance, due bills, invoices, overdrafts, acceptances, and similar written or oral
26 obligations or evidence of debt whether secured or unsecured;

27 (31) "financial holding company" means an existing, or newly formed,
28 domestic bank holding company that has been approved as a financial holding
29 company by the Federal Reserve System and not denied that status by the department
30 under AS 06.05.237;

31 (32) "interstate national bank" means a national bank whose principal

1 office, as designated in its articles of incorporation, is not located in this state;

2 (33) "interstate state bank" means a corporation, partnership, or
3 association organized under the laws of another state and holding a charter, license, or
4 certificate of authority from another state to engage in a banking business.

5 * **Sec. 46.** AS 06.15.100 is repealed and reenacted to read:

6 **Sec. 06.15.100. Prohibited conduct of trustees.** A trustee may not

7 (1) receive remuneration as trustee except reasonable fees for
8 attendance at meetings of trustees or for services as a member of a committee of
9 trustees;

10 (2) use the position as trustee, or knowingly allow it to be used, to
11 obtain preferential terms in dealings with the mutual bank for which the person is
12 trustee;

13 (3) use the position as trustee, or knowingly allow it to be used, to
14 induce any actual or prospective borrower from the mutual bank for which the person
15 is trustee to purchase goods or services at a direct or indirect profit to the trustee.

16 * **Sec. 47.** AS 06.15 is amended by adding a new section to read:

17 **Sec. 06.15.105. Trustee borrowing.** A person may borrow money from the
18 mutual bank for which the person is trustee to the same extent that a director may
19 borrow money under AS 06.05.210.

20 * **Sec. 48.** AS 06.20.010 is amended by adding a new subsection to read:

21 (b) A person who is doing business under and as permitted by any law of the
22 state or of the United States relating to banks, savings banks, trust companies, building
23 and loan associations, or credit unions and who is exempt from the licensing
24 requirement in (a) of this section shall comply with all other provisions of this chapter.

25 * **Sec. 49.** AS 06.45.020(a) is amended to read:

26 (a) Seven or more natural persons who desire to form a credit union shall
27 subscribe before an officer competent to administer oaths, articles of incorporation in
28 duplicate that must state

29 (1) the name of the credit union;

30 (2) the location of the credit union and the territory in which it will
31 operate;

1 (3) the names and addresses of the subscribers to the certificate and the
2 number of shares each subscribed;

3 (4) the par value of the shares, which shall be **a minimum of** \$5 each;

4 (5) the proposed field of membership specified in detail;

5 (6) the term of the existence of the credit union, which may be
6 perpetual; and

7 (7) the fact that the articles of incorporation are adopted to enable the
8 persons to avail themselves of the advantages of this chapter.

9 * **Sec. 50.** AS 06.45.060(5) is amended to read:

10 (5) make loans, the maturities of which may not exceed **20** [12] years
11 except as provided in this chapter, and extend lines of credit to its members, to other
12 credit unions, and to credit union organizations and participate with other credit
13 unions, credit union organizations, or financial organizations in making loans to credit
14 union members in accordance with the following:

15 (A) loans to members shall be made in conformity with
16 regulations adopted by the commissioner, except that

17 (i) a residential real estate loan which is made to finance
18 the acquisition of a one- to four-family dwelling for the principal
19 residence of a credit union member which is secured by a first lien on
20 the dwelling may have a maturity not exceeding 30 years;

21 (ii) a loan to finance the purchase of a mobile home,
22 which is secured by a first lien on the mobile home, to be used as the
23 residence of a credit union member, or for the repair, alteration, or
24 improvement of a residential dwelling that is the residence of a credit
25 union member shall have a maturity not to exceed **20** [15] years unless
26 the loan is insured or guaranteed under (iii) of this subparagraph;

27 (iii) a loan secured by the insurance or guarantee of the
28 federal government, of a state government, or an agency of either may
29 be made for the maturity and under the terms and conditions specified
30 in the law under which the insurance or guarantee is provided;

31 (iv) a loan or aggregate of loans to a director or member

1 of the supervisory or credit committee of the credit union making the
2 loan which exceeds \$5,000 plus pledged shares shall be approved by
3 the board of directors;

4 (v) loans to other members for which directors or
5 members of the supervisory or credit committee act as guarantor or
6 endorser shall be approved by the board of directors when the loans
7 standing alone or when added to an outstanding loan or loans of the
8 guarantor or endorser exceed \$5,000;

9 (vi) the rate of interest may not exceed the greater of 15
10 percent a year or the rate specified in AS 45.45.010(b);

11 (vii) the taking, receiving, reserving, or charging of a
12 rate of interest greater than is allowed by this paragraph, when
13 knowingly done, is considered a forfeiture of the entire interest that the
14 note, bill, or other evidence of debt carries with it, or that has been
15 agreed to be paid on the note, bill, or other evidence of debt; if a greater
16 rate of interest has been paid, the person by whom it has been paid or
17 the person's legal representatives may recover back from the credit
18 union taking or receiving it the entire amount of interest paid, but the
19 action must be commenced within two years from the time the usurious
20 collection was made;

21 (viii) a borrower may repay a loan before maturity in
22 whole or in part on any business day without penalty;

23 (ix) loans shall be paid or amortized under regulations
24 adopted by the commissioner that consider the needs or conditions of
25 the borrowers, the amounts and duration of the loans, the interests of
26 the members and the credit union, and other factors established in
27 regulations adopted by the commissioner;

28 (x) the total dollar amount of real estate loans and
29 mobile home loans outstanding may not exceed 25 percent of the assets
30 of the credit union without the written approval of the commissioner;

31 (xi) a credit union with assets of less than \$3,000,000

1 may make real estate loans with maturities in excess of 15 years only
2 with the approval of the commissioner;

3 (B) a self-replenishing line of credit to a borrower may be
4 established to a stated maximum amount on terms and conditions that may be
5 different from terms and conditions established for another borrower;

6 (C) loans to other credit unions require the approval of the
7 board of directors of the loaning credit union;

8 (D) loans to credit union associations require the approval of
9 the board of directors of the credit union and may not exceed one percent of
10 the paid-in and unimpaired capital and surplus of the credit union;

11 (E) participation loans with other credit unions, credit union
12 associations, or financial organizations shall be made in accordance with
13 written policies of the board of directors of the credit union, except that a credit
14 union that originates a loan for which participation arrangements are made in
15 accordance with this section shall retain an interest not less than 10 percent of
16 the face amount of the loan;

17 * **Sec. 51.** AS 06.45.060(7) is amended by adding new subparagraphs to read:

18 (L) in bankers' acceptances issued by a financial institution
19 whose accounts are insured by an agency of the federal government;

20 (M) stock of a federal home loan bank; the investment must be
21 limited to the minimum amount of stock required for membership in a federal
22 home loan bank, plus any additional stock purchase required to obtain an
23 advance of funds from a federal home loan bank;

24 (N) in obligations of, or issued by, any state or political
25 subdivision of the state, except that a credit union may not invest more than 10
26 percent of its unimpaired capital and surplus in the obligations of any one
27 issuer, exclusive of general obligations of the issuer; in this subparagraph,
28 "political subdivision of the state" includes an agency, corporation, or
29 instrumentality of a state or political subdivision;

30 * **Sec. 52.** AS 06.45.060 is amended by adding a new paragraph to read:

31 (16) issue solicited or unsolicited credit cards or other similar credit

1 granting devices to a member for obtaining money, goods, services or anything else of
 2 value; notwithstanding (5)(A)(vi) of this section and AS 45.45.010, when credit is
 3 extended under this section, the credit union may impose a service charge at a monthly
 4 rate as agreed upon by contract between the credit union and the member receiving the
 5 credit granting device, but the credit union may not hold the member liable for charges
 6 made on a credit card or other credit granting device before its acceptance by the
 7 member; before an unsolicited card is considered accepted by the member, the
 8 member shall execute and furnish to the credit union a written statement of
 9 acceptance; in addition, a credit union may charge fees for credit cards or other similar
 10 credit granting devices.

11 * **Sec. 53.** AS 06.45 is amended by adding a new section to read:

12 **Sec. 06.45.295. Automated teller machines.** (a) A state credit union may
 13 establish, maintain, and operate an automated teller machine on the premises of the
 14 main office or a branch office of the state credit union.

15 (b) A state credit union may establish, maintain, and operate an automated
 16 teller machine at a location other than credit union premises by notifying the
 17 department 30 days before the date of establishment. An automated teller machine
 18 operated off credit union premises shall be made available on a nondiscriminatory
 19 basis for use by other depository institutions authorized to do business in the state and
 20 their customers, upon the agreement of the other depository institutions to pay a fair
 21 and equitable amount for the use of the machine.

22 (c) The notice required in (b) of this section shall include

23 (1) the location and general description of the surrounding area,
 24 including a description of the business establishment, if any, in which the machine will
 25 be located;

26 (2) the manner of operation and the kinds of transactions that the
 27 machine will perform;

28 (3) the names of the other depository institutions that will share the
 29 machine's services; and

30 (4) other information required by the department.

31 (d) A state credit union may invest in a corporation organized to operate

1 machines that perform automated teller services for two or more depository
2 institutions.

3 (e) A person may not establish or operate an automated teller machine that
4 accepts deposits unless those deposits are insured by the National Credit Union Share
5 Insurance Fund or another agency of the United States that insures deposits.

6 * **Sec. 54.** AS 06.05.175, 06.05.005(4), 06.05.272(d), 06.05.990(18); and AS 06.20.330(a)
7 are repealed.

8 * **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to

11 (1) change the heading of AS 06.05.555 from "Certificate of authority for
12 interstate and international branching" to "Certificate of authority for interstate state bank and
13 international bank branching"; and

14 (2) change the heading of AS 06.05.565 from "Applicability of title to
15 interstate or international banks, to out-of-state depository institutions, and to bank holding
16 companies" to "Applicability of title to interstate state banks, interstate national banks,
17 international banks, and bank holding companies".

18 * **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 TRANSITION: REGULATIONS. Notwithstanding sec. 58 of this Act, the
21 Department of Community and Economic Development may immediately proceed to adopt
22 regulations necessary to implement the changes made by this Act. The regulations take effect
23 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
24 statutory changes.

25 * **Sec. 57.** Section 56 of this Act takes effect immediately under AS 01.10.070(c).

26 * **Sec. 58.** Except as provided in sec. 57 of this Act, this Act takes effect July 1, 2001.