

CS FOR SENATE BILL NO. 66(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/4/01

Referred: Judiciary, Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the authorizations for certain state financial institutions of certain**
2 **powers and limitations; relating to confidential records of depositors and customers of**
3 **certain financial institutions; relating to the Alaska Banking Code, Mutual Savings**
4 **Bank Act, Alaska Small Loans Act, and Alaska Credit Union Act; amending Rule 45,**
5 **Alaska Rules of Civil Procedure, Rules 17 and 37, Alaska Rules of Criminal Procedure,**
6 **and Rule 24, Alaska Bar Rules; and providing for an effective date."**

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

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

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

1 * **Sec. 2.** AS 06.01.015(a) is amended to read:

2 (a) Financial institutions regulated under this title are subject to at least one
3 examination **every 18 months** [EACH YEAR]. The department may conduct
4 additional examinations at its discretion.

5 * **Sec. 3.** AS 06.01.020(a) is amended to read:

6 (a) Notwithstanding other provisions of this title, the department may by
7 **order** [REGULATION] authorize **state** financial institutions, except licensees subject
8 to AS 06.20 or AS 06.40, to exercise any of the powers conferred upon, or to be
9 subject to any of the limitations imposed upon, a federally chartered financial
10 institution doing business in this state with deposits insured by an agency of the
11 federal government [,] if the department finds that the exercise of the power or
12 imposition of the limitation both

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

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

16 * **Sec. 4.** AS 06.01 is amended by adding a new section to read:

17 **Sec. 06.01.028. Depositor and customer records confidential.** (a) The
18 records of financial institutions relating to their depositors and customers and the
19 information in the records are confidential. A financial institution may not disclose
20 the records and information to another person except when, and only to the extent that,

21 (1) the disclosure is authorized in writing by the depositor or customer;

22 (2) the disclosure is required by federal or state statute or regulation or
23 by an order directed to the financial institution and issued by a court or administrative
24 agency of competent jurisdiction;

25 (3) the disclosure is made in compliance with 15 U.S.C. 6801 - 6809
26 and the regulations adopted under those sections;

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

30 (5) an inquiry has been made by a financial institution or by a credit-
31 reporting agency regulated under 15 U.S.C. 1681-1681u (Fair Credit Reporting Act),

1 as amended, solely for the express purpose of determining the credit worthiness of the
2 depositor or customer as an applicant for credit, and the information disclosed by the
3 financial institution or the entity making the inquiry under this paragraph pertains only
4 to the payment habits of the depositor or customer in connection with loans and other
5 credit accommodations and does not pertain to records concerning deposit balances in
6 savings or checking accounts.

7 (b) When disclosure of financial institution records is compelled by a
8 subpoena, a search warrant, or another court or administrative agency order under
9 (a)(2) of this section, the court or administrative agency shall provide in the order for
10 the reimbursement of the financial institution for the reasonable costs incurred in
11 complying with the order.

12 (c) Unless otherwise provided in this subsection, when disclosure of financial
13 institution records is required under a court or administrative agency order under
14 (a)(2) of this section, the financial institution shall notify the depositor or customer of
15 the disclosure before the disclosure is made. If notification before disclosure is not
16 possible, the financial institution shall notify the customer or depositor of the
17 disclosure as soon as practicable after the disclosure is made. However, notification
18 either before or after disclosure may not be made if disclosure is made under a court or
19 administrative agency order under (a)(2) of this section and the document requiring
20 disclosure requires on its face that the financial institution not notify or inform the
21 depositor or customer, or the document requiring disclosure is, or is accompanied by,
22 a court order that expressly directs the financial institution not to notify or inform the
23 depositor or customer.

24 (d) Nothing in (a) - (c) of this section prohibits a financial institution from
25 disclosing information to a person if

26 (1) the disclosure is necessary to provide the services of the financial
27 institution to a depositor or customer; and

28 (2) the person receiving the information has a written agreement with
29 the financial institution to be bound by the requirements of (a) - (c) of this section.

30 (e) A financial institution or any other person who intentionally violates this
31 section is liable to a depositor or customer in an amount equal to the actual damages

1 caused by the disclosure of the confidential records or information of the financial
 2 institution pertaining to the depositor or customer. A financial institution or other
 3 person who takes an action under this section while relying in good faith on any
 4 provision of this section is not liable under this section to any person for the action.

5 (f) In this section, "financial institution" means a person subject to the
 6 regulation of the department under this title, including a BIDCO licensed under
 7 AS 10.13 (Alaska BIDCO Act).

8 * **Sec. 5.** AS 06.01.050(3) is amended to read:

9 (3) "financial institution" means an institution subject to the regulation
 10 of the department under this title; **in this paragraph, "institution" includes a**
 11 **commercial bank, savings bank, credit union, premium finance company, small**
 12 **loan company, bank holding company, financial holding company, trust company**
 13 **and savings and loan association.**

14 * **Sec. 6.** AS 06.01.050 is amended by adding a new paragraph to read:

15 (4) "state financial institution" means a financial institution that is
 16 organized under this title or that is subject to examination by the department under this
 17 title.

18 * **Sec. 7.** AS 06.05.005(a) is amended to read:

19 (a) The department shall

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

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

24 (3) review and approve or disapprove applications for new state banks
 25 under **AS 06.05.344** [AS 06.05.345], new bank branches under AS 06.05.399, and
 26 international **bank branches** or interstate **state bank branches** [BRANCH BANKS]
 27 under AS 06.05.555;

28 (4) issue permits authorizing **certain acquisitions by** bank holding
 29 companies [TO DO BUSINESS IN THIS STATE] under AS 06.05.235 and
 30 06.05.570;

31 (5) determine for each state bank the amount of paid-in capital

1 necessary to operate under AS 06.05.305(a);

2 (6) review and approve transfers of state bank ownership under
3 AS 06.05.327;

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

6 * **Sec. 8.** AS 06.05.050 is repealed and reenacted to read:

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

9 (1) published by the state bank in a newspaper of general circulation
10 published in the place where the state bank is located; if a newspaper of general
11 circulation is not published in that place, the report shall be published in the
12 newspaper of general circulation published nearest to that place; or

13 (2) posted

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

15 (B) in the lobby of the principal office and all branches of the
16 state bank.

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

21 * **Sec. 9.** AS 06.05.065(a) is amended to read:

22 (a) A bank examiner of the department who deals with the regulation of
23 financial institutions, a special agent selected by the department to do work relating to
24 financial institutions, the commissioner or deputy commissioner, or the director of
25 banking may not be an officer, employee, director, trustee, attorney, shareholder, or
26 partner of a financial institution, or receive, directly or indirectly, a payment or
27 gratuity from a financial institution. A person subject to this section may not borrow
28 money from a state financial institution [THAT HAS A CERTIFICATE OF
29 AUTHORITY UNDER THIS TITLE], except as provided in this section.

30 * **Sec. 10.** AS 06.05.065(b) is amended to read:

31 (b) A person subject to this section may

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

17 * **Sec. 11.** AS 06.05.205 is repealed and reenacted to read:

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

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

31 (c) The limitations contained in (a) and (b) of this section are subject to the

1 following exceptions:

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

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

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

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

21 (5) loans or extensions of credit to, or secured by unconditional takeout
22 commitments or guarantees of, any department, agency, bureau, board, commission,
23 or establishment of the United States or a corporation wholly owned directly or
24 indirectly by the United States are not subject to a limitation based on unimpaired
25 capital and unimpaired surplus;

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

29 (7) loans or extensions of credit to a bank or to a receiver, conservator,
30 superintendent of banks, or other agent in charge of the business and property of that
31 bank, if approved by the department, are not subject to a limitation based on

1 unimpaired capital and unimpaired surplus;

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

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

22 (10) loans or extensions of credit, arising from the discount by dealers
23 in dairy cattle of paper given in payment for dairy cattle and carrying a full recourse
24 endorsement or unconditional guarantee of the seller, that are secured by the cattle
25 being sold are subject under this section, notwithstanding the collateral requirements
26 set out in (b) of this section, to a maximum limitation equal to 25 percent of
27 unimpaired capital and unimpaired surplus.

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

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

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

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

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

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

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

17 * **Sec. 12.** AS 06.05.209(b) is amended to read:

18 (b) A **state** bank may issue a credit card or other similar credit granting device
19 to a customer for obtaining money, goods, services, or anything else of value, and,
20 **notwithstanding AS 45.45.010,** the **state** bank, when credit is extended under this
21 section, may impose a service charge at a monthly rate **as agreed upon by contract**
22 **between the state bank and the customer receiving the credit granting device**
23 [THAT RESULTS IN AN ANNUAL RATE NOT IN EXCESS OF 17 PERCENT ON
24 THE OUTSTANDING BALANCE. HOWEVER, IN ADDITION, WHEN CASH IS
25 ADVANCED UNDER THIS SECTION, THE BANK MAY IMPOSE A SETUP
26 CHARGE THAT DOES NOT EXCEED THREE PERCENT OF THE FUNDS
27 ADVANCED, OR \$12, WHICHEVER IS LESS, EXCEPT THAT ON LOANS OF
28 UNDER \$100 A MINIMUM NOT EXCEEDING \$3 MAY BE CHARGED].

29 * **Sec. 13.** AS 06.05.210(a) is amended to read:

30 (a) Subject to the same terms and conditions applicable to other loans, a
31 director **or executive** [,] officer [, OR EMPLOYEE] of a state bank may borrow up to

1 \$100,000, or up to \$250,000 for the director's or executive [,] officer's [, OR
 2 EMPLOYEE'S] primary residence, from the state bank at the discretion of the chief
 3 executive or managing officer of the state bank. A loan to a director or executive [,]
 4 officer [, OR EMPLOYEE] that makes the total amount owed to the state bank by the
 5 director or executive [,] officer [, OR EMPLOYEE] in excess of the limits in this
 6 subsection, or loans of any amount to the chief executive or managing officer of the
 7 state bank, shall have the prior approval of the board of directors, shall be reported to
 8 the department within 30 days, and shall be secured by adequate collateral.

9 * **Sec. 14.** AS 06.05.210 is amended by adding a new subsection to read:

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

13 * **Sec. 15.** AS 06.05 is amended by adding a new section to read:

14 **Sec. 06.05.237. Financial holding companies.** Notwithstanding the
 15 provisions of AS 06.05.235 and regulations adopted under that section, a holding
 16 company formed under this title may apply to the Federal Reserve System for status as
 17 a financial holding company. If the status is granted, the financial holding company
 18 has powers as a financial holding company authorized by the Federal Reserve System
 19 if

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

22 (2) the holding company provides the department with copies of all
 23 correspondence concerning the application;

24 (3) the holding company provides the department with a copy of the
 25 approval by the Federal Reserve System within 10 days after the holding company
 26 receives the approval; and

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

29 * **Sec. 16.** AS 06.05.245 is amended to read:

30 **Sec. 06.05.245. Disposition of property not needed in the conduct of a**
 31 **banking business.** All investments in real and personal property, regardless of how

1 **acquired,** not **permitted** [NECESSARY FOR THE CONVENIENT
 2 TRANSACTION OR PROMOTION OF A BANKING BUSINESS] under
 3 AS 06.05.230 that **come** [COMES] into the possession of a state bank shall be
 4 disposed of as soon as possible. If the real or personal property is not sold within the
 5 time limit **set** [PRESCRIBED] by the department in regulations, it shall be written off
 6 and may not be carried as an asset of the **state** bank.

7 * **Sec. 17.** AS 06.05.272(b) is amended to read:

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

15 * **Sec. 18.** AS 06.05.301(a) is amended to read:

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

20 * **Sec. 19.** AS 06.05.350(d) is amended to read:

21 (d) Except as authorized under this section, a person may not
 22 (1) engage in the business of receiving deposits, discounting evidences
 23 of indebtedness, or receiving money for transmission;
 24 (2) represent that the person is [, OR ACTS FOR,] a bank; or
 25 (3) use **any form of the word "bank" in the person's name unless**
 26 **the person is a state bank formed under this title or a bank formed under the**
 27 **authority of another state or an agency of the federal government, or unless it is**
 28 **clear that the use does not represent that the person is a bank; the prohibition in**
 29 **this paragraph does not apply to a food bank, blood bank, or similar**
 30 **organization that cannot readily be confused with a bank** [AN ARTIFICIAL OR
 31 CORPORATE NAME THAT PURPORTS TO BE OR SUGGESTS THAT IT IS

1 THE NAME OF A BANK].

2 * **Sec. 20.** AS 06.05.350 is amended by adding a new subsection to read:

3 (e) A person prohibited by (d)(3) of this section from using any form of the
4 word "bank" in its name may apply to the commissioner for authority to use a form of
5 the word "bank" in its name.

6 * **Sec. 21.** AS 06.05.426(b) is amended to read:

7 (b) A state bank may establish, maintain, and operate an automated teller
8 machine at a location other than bank premises **by notifying the department 30 days**
9 **before the date of establishment** [WITH THE PRIOR APPROVAL OF THE
10 DEPARTMENT]. An automated teller machine operated off bank premises shall be
11 made available on a nondiscriminatory basis for use by **depositors of** other
12 **depository institutions** [BANKS] authorized to do business in the state [AND THEIR
13 CUSTOMERS], upon the agreement of the other **depository institutions** [BANKS] to
14 pay a fair and equitable amount for the use of the machine.

15 * **Sec. 22.** AS 06.05.426(c) is repealed and reenacted to read:

16 (c) The notice required in (b) of this section must include

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

20 (2) the manner of operation and the kinds of transactions that the
21 machine will perform;

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

24 (4) other information required by the department.

25 * **Sec. 23.** AS 06.05.426(d) is amended to read:

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

30 * **Sec. 24.** AS 06.05.426 is amended by adding a new subsection to read:

31 (e) A person may not establish or operate an automated teller machine that

1 accepts deposits unless those deposits are insured by the Federal Deposit Insurance
2 Corporation or another agency of the United States that insures deposits.

3 * **Sec. 25.** AS 06.05.435(c) is amended to read:

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

11 * **Sec. 26.** AS 06.05.435 is amended by adding new subsections to read:

12 (h) In the case of an entity that owns more than one bank, a director may use
13 the director's equity interest in the controlling entity to satisfy, in whole or in part, the
14 equity interest requirement for one or all of the controlled banks.

15 (i) The value of the common or preferred stock held by a director of a state
16 bank or of an entity that controls the state bank is valued as of the date purchased, or
17 as of the date on which the individual became a director, whichever value is greater.

18 * **Sec. 27.** AS 06.05.550 is amended to read:

19 **Sec. 06.05.550. Authority of international bank, [OR] interstate state**
20 **bank, or interstate national bank to branch.** (a) An international bank, [OR] an
21 interstate **state** bank, **or an interstate national bank** whose deposits are insured by
22 the Federal Deposit Insurance Corporation [,] may acquire a branch bank as the result
23 of a merger or consolidation of the international **bank**, [OR] interstate **state** bank, **or**
24 **interstate national bank** with, or the purchase of all or substantially all of the assets
25 of, a state bank, a national bank with its principal office in this state, or a branch of the
26 state bank or national bank, unless the state bank or national bank is a recently formed
27 bank.

28 (b) An international bank may establish a new branch bank in this state or
29 acquire a recently formed bank [,] if the department approves the establishment or
30 acquisition before the establishment or acquisition occurs. An interstate **state** bank **or**
31 **interstate national bank** may not establish a branch bank in this state unless the

1 establishment occurs through an acquisition under (a) of this section of a bank located
 2 in the state. An interstate state bank or interstate national bank may not establish a
 3 new branch bank in this state.

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

7 * **Sec. 28.** AS 06.05.555(a) is amended to read:

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

- 12 (1) all information and fees required under AS 06.05.399;
- 13 (2) the name of the bank and the address of its principal office;
- 14 (3) if an international bank, the country under whose laws it is
 15 organized;
- 16 (4) the amount of the bank's capital actually paid in cash and the
 17 amount subscribed for and unpaid;
- 18 (5) a complete and detailed statement of the bank's financial condition;
- 19 (6) the names of all other states and countries in which the bank is
 20 admitted or qualified to do business;
- 21 (7) a copy of the bank's charter, articles of incorporation, and bylaws,
 22 as applicable;
- 23 (8) if an international bank, evidence satisfactory to the department
 24 that the bank is authorized to conduct a banking business under the laws of the country
 25 of its organization, and the nature of the bank's business;
- 26 (9) a properly executed designation of the department as the bank's
 27 agent for service of process in an action or proceeding arising out of a transaction
 28 involving the branch bank; the designation must include the name and address of the
 29 officer, agent, or other person to whom the department is to forward the process; and
 30 (10) other information necessary or appropriate for the department to
 31 determine whether the bank is entitled to a certificate of authority from the

1 department.

2 * **Sec. 29.** AS 06.05.555(b) is amended to read:

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

9 * **Sec. 30.** AS 06.05.555(c) is amended to read:

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

13 * **Sec. 31.** AS 06.05.555(d) is amended to read:

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

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

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

20 (B) the bank supervisor of the home state of the bank has
21 agreed to provide to the department the examination reports that the
22 department determines sufficient to permit the department to determine on a
23 current basis the financial condition of the bank;

24 (2) the proposal is consistent with a sound and competitive banking
25 system;

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

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

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

31 * **Sec. 32.** AS 06.05.555(e) is amended to read:

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

9 * **Sec. 33.** AS 06.05.555(f) is amended to read:

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

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

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

15 * **Sec. 34.** AS 06.05 is amended by adding a new section to read:

16 **Sec. 06.05.557. Notice filing for interstate national banks.** An interstate
 17 national bank acquiring a branch in this state under AS 06.05.550 shall file a notice of
 18 the acquisition with the department along with a copy of the application filed with the
 19 agency that primarily regulates the interstate national bank. The notice and copy of
 20 the application shall be filed with the department at the same time the application is
 21 filed with the agency that primarily regulates the interstate national bank.

22 * **Sec. 35.** AS 06.05.565(a) is amended to read:

23 (a) An interstate **state bank** or international bank operating a branch bank in
 24 the state is subject to the provisions of this title [,] and the regulations adopted and
 25 orders issued under this title, except for the residency requirements in
 26 AS 06.05.435(a).

27 * **Sec. 36.** AS 06.05.565(c) is amended to read:

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

1 * **Sec. 37.** AS 06.05.565(d) is amended to read:

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

7 * **Sec. 38.** AS 06.05.565(e) is amended to read:

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

18 * **Sec. 39.** AS 06.05.565 is amended by adding a new subsection to read:

19 (g) An interstate national bank operating a branch bank in this state is subject
20 to the provisions of AS 06.05.548 and 06.05.550 and the regulations adopted and
21 orders issued under those sections.

22 * **Sec. 40.** AS 06.05.570(a) is amended to read:

23 (a) An out-of-state bank holding company may acquire and own all or a
24 portion of the voting securities or other capital stock of, or all or substantially all of the
25 assets of, one or more state banks, domestic bank holding companies, or national
26 banks conducting a banking business in the state, unless the state bank or national
27 bank is a recently formed bank. Before an out-of-state bank holding company may
28 acquire a **state** bank or bank holding company **of a state bank** doing business in this
29 state, the out-of-state bank holding company shall apply for and obtain a permit from
30 the department. In considering whether to issue a permit, the department shall
31 consider the benefits to the public, the preservation of a competitive banking industry,

1 and the maintenance of a safe and sound bank industry. To assure full protection of
 2 the public, the department may require an out-of-state bank holding company that
 3 directly or indirectly owns, holds, or controls stock in a state bank or domestic bank
 4 holding company to post a bond with the department under conditions established by
 5 the department. The amount of the bond may not be more than the product obtained
 6 by multiplying the amount of paid-in capital and paid-in surplus of the state bank or
 7 domestic bank holding company by the percentage of state bank or domestic bank
 8 holding company stock directly or indirectly owned, held, or controlled by the out-of-
 9 state bank holding company.

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

11 (13) "financial institution" means an institution subject to the
 12 regulation of the department under this title; **in this paragraph, "institution"**
 13 **includes a commercial bank, savings bank, credit union, premium finance**
 14 **company, small loan company, bank holding company, financial holding**
 15 **company, trust company, and savings and loan association;**

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

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

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

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

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

29 (B) a state bank that the department determines was not created
 30 directly or indirectly by an acquiring interstate **state** bank, **interstate national**
 31 **bank**, international bank, or out-of-state bank holding company, and that does

1 not have the capacity to continue to conduct its business independently in a
 2 manner consistent with the public interest and the interest of depositors,
 3 creditors, and shareholders; or

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

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

10 (24) "state financial institution" means a financial institution **that is**
 11 organized under this title **or that is subject to examination by the department**
 12 **under this title;**

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

14 (29) "extension of credit" means a negotiable instrument, and includes
 15 promissory notes, acknowledgments of advance, due bills, invoices, overdrafts,
 16 acceptances, and similar written or oral obligations or evidence of debt whether
 17 secured or unsecured; in this paragraph, "negotiable instrument" has the meaning
 18 given in AS 45.03.104;

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

23 (31) "interstate national bank" means a national bank whose principal
 24 office, as designated in its articles of incorporation, is not located in this state;

25 (32) "interstate state bank" means a person organized under the laws of
 26 another state and holding a charter, license, or certificate of authority from another
 27 state to engage in a banking business.

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

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

30 (1) receive remuneration as trustee except reasonable fees for
 31 attendance at meetings of trustees or for services as a member of a committee of

1 trustees;

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

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

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

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

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

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

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

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

21 (1) the name of the credit union;

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

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

26 (4) the par value of the shares, which **must** [SHALL] be **a minimum**
27 **of** \$5 each;

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

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

31 (7) the fact that the articles of incorporation are adopted to enable the

1 persons to avail themselves of the advantages of this chapter.

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

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

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

10 (i) a residential real estate loan **that** [WHICH] is made
11 to finance the acquisition of a one- to four-family dwelling for the
12 principal residence of a credit union member **that** [WHICH] is secured
13 by a first lien on the dwelling may have a maturity not exceeding 30
14 years;

15 (ii) a loan to finance the purchase of a mobile home
16 **that** [, WHICH] is secured by a first lien on the mobile home, to be
17 used as the residence of a credit union member, or for the repair,
18 alteration, or improvement of a residential dwelling that is the residence
19 of a credit union member **must** [SHALL] have a maturity not to exceed
20 **20** [15] years unless the loan is insured or guaranteed under (iii) of this
21 subparagraph;

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

26 (iv) a loan or aggregate of loans to a director or member
27 of the supervisory or credit committee of the credit union making the
28 loan **that** [WHICH] exceeds **\$20,000** [\$5,000] plus pledged shares shall
29 be approved by the board of directors;

30 (v) loans to other members for which directors or
31 members of the supervisory or credit committee act as guarantor or

1 endorser shall be approved by the board of directors when the loans
2 standing alone or when added to an outstanding loan or loans of the
3 guarantor or endorser exceed **\$20,000** [\$5,000];

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

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

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

18 (ix) loans shall be paid or amortized under regulations
19 adopted by the commissioner that consider the needs or conditions of
20 the borrowers, the amounts and duration of the loans, the interests of
21 the members and the credit union, and other factors established in
22 regulations adopted by the commissioner;

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

26 (xi) a credit union with assets of less than \$3,000,000
27 may make real estate loans with maturities in excess of 15 years only
28 with the approval of the commissioner;

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

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

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

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

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

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

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

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

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

26 (16) issue solicited or unsolicited credit cards or other similar credit
27 granting devices to a member for obtaining money, goods, services or anything else of
28 value; notwithstanding (5)(A)(vi) of this section and AS 45.45.010, when credit is
29 extended under this section, the credit union may impose a service charge at a monthly
30 rate as agreed upon by contract between the credit union and the member receiving the
31 credit granting device, but the credit union may not hold the member liable for charges

1 made on a credit card or other credit granting device before its acceptance by the
 2 member; before an unsolicited card is considered accepted by the member, the
 3 member shall execute and furnish to the credit union a written statement of
 4 acceptance; in addition, a credit union may charge fees for credit cards or other similar
 5 credit granting devices.

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

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

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

17 (c) The notice required by (b) of this section must include

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

21 (2) the manner of operation and the kinds of transactions that the
 22 machine will perform;

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

25 (4) other information required by the department.

26 (d) A state credit union may invest in a corporation organized to operate
 27 machines that perform automated teller services for two or more depository
 28 institutions.

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

1 * **Sec. 54.** AS 06.05.005(b)(3), 06.05.175, 06.05.272(d), 06.05.990(18); and
2 AS 06.20.330(a) are repealed.

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

5 **INDIRECT COURT RULE AMENDMENTS.** AS 06.01.028(b), added by sec. 4 of
6 this Act, has the effect of changing Rule 45, Alaska Rules of Civil Procedure, Rules 17 and
7 37, Alaska Rules of Criminal Procedure, and Rule 24, Alaska Bar Rules, because
8 AS 06.01.028(b) requires court orders compelling disclosure to provide for reimbursement of
9 a financial institution's reasonable costs of complying with the order.

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

12 **TRANSITION: REGULATIONS.** Notwithstanding sec. 59 of this Act, the
13 Department of Community and Economic Development may immediately proceed to adopt
14 regulations necessary to implement the changes made by this Act. The regulations take effect
15 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
16 statutory changes.

17 * **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **INSTRUCTION TO REVISOR.** The revisor of statutes is instructed to change the
20 heading of

21 (1) AS 06.05.555 from "Certificate of authority for interstate and international
22 branching" to "Certificate of authority for interstate state bank and international bank
23 branching"; and

24 (2) AS 06.05.565 from "Applicability of title to interstate or international
25 banks, to out-of-state depository institutions, and to bank holding companies" to
26 "Applicability of title to interstate state banks, interstate national banks, international banks,
27 and bank holding companies."

28 * **Sec. 58.** Section 56 of this Act takes effect immediately under AS 01.10.070(c).

29 * **Sec. 59.** Except as provided in sec. 58 of this Act, this Act takes effect July 1, 2001.