

ALASKA STATE LEGISLATURE
SENATE LABOR & COMMERCE COMMITTEE

February 20, 2001
1:30 p.m.

MEMBERS PRESENT

Senator Randy Phillips, Chair
Senator Alan Austerman
Senator Loren Leman
Senator John Torgerson
Senator Bettye Davis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 66

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

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 66 - No previous action to consider.

WITNESS REGISTER

Mr. Terry Elder, Director
Division of Banking, Securities, and Corporations
Department of Commerce and Community Development
P.O. Box 110807
Juneau AK 99811-0807

POSITION STATEMENT: Commented on SB 66.

Mr. Terry Lutz, Supervisor
Banking Section
Division of Banking, Securities and Corporations
Department of Commerce and Community Development
P.O. Box 110807

Juneau AK 99811

POSITION STATEMENT: Commented on SB 66.

Ms. Lisa Bell, Sr. Vice President
Chief Operating Officer of Alaska Pacific Bank
Alaska Bankers Association
9359 Turn St.
Juneau AK 99801

POSITION STATEMENT: Commented on SB 66.

ACTION NARRATIVE

TAPE 01-6, SIDE A

Number 001

#SB66

SB 66-FINANCIAL INSTITUTIONS

CHAIRMAN RANDY PHILLIPS called the Senate Labor & Commerce Committee meeting to order at 1:30 p.m. and announced SB 66 to be up for consideration. He announced that he intended to hold the bill and discuss various amendments. He said there were four amendments from the DCEC and letters of support. There was a \$0 fiscal note.

MR. TERRY ELDER, Director, Division of Banking, Securities, and Corporations, said that SB 66 has a couple of objectives. One is to remove the differences in current statutes from state and federal law as provided under Gramm-Leach-Bliley Act. This is a federal law that was enacted to allow banks, insurance companies, and securities firms to combine in offering financial services. There are prohibitions in the banking code and certain insurance activities that need to be deleted. The federal law also creates a new type of holding company called a "financial holding company" which is provided for in this bill.

MR. ELDER explained another important objective is to remove any unnecessary burdens on the industry like the requirement for interstate national banks to get a permit from the Division to branch into the state. This isn't necessary since they don't have the authority to examine those national banks. This bill simply requires a notice.

Automated teller machines are also addressed. Under current statute, the Department has to approve those and they propose to change that to a notice, also.

A few sections were inserted to correct some problems with state chartered financial institutions.

He highlighted section 3, page 2, privacy of the financial institution's records (with a letter of proposed amendments). Currently, the banking code has a privacy requirement saying that customer information may not be disclosed without permission of the customer. Gramm-Leach-Bliley is more broad than that. Institutions are allowed to share non-public information with affiliates and to share them with non-affiliated third parties unless the customer opts out. However, they are not proposing to do that in Alaska, but to keep the law as it is. Our law has an opt in provision rather than opt out. The difference is that a customer actually has to agree to it; the opt provision means that an institution is able to disclose personal information unless they get specific denial of that request from the customer.

Another issue in section 11, page 8, removes the 17 percent cap on credit cards issued by state banks. This is for a number of reasons: first the credit cards available in Alaska from national banks and other banks that operate in other states can be offered to Alaskans at any rate, not subject to the 17 percent cap. The fact is that the only thing the 17 percent cap does is prohibit Alaska state banks from competing in the credit card market. It doesn't affect the interest rates on credit cards that people already have. It's a very competitive market and the rates are best governed in the market and not by statute.

SENATOR LEMAN said that interest rates in excess of 17 percent don't indicate to him that the forces of competition have really driven them down to where the consumer benefits. He asked if the reason the rates are high is that so many of the cards are offered and the people who are picking them up shouldn't be issued credit cards.

MR. ELDER answered that he couldn't give him a definitive statement about why interest rates are as high as they are, but what he points out is true.

SENATOR LEMAN said that he gets about three to five credit card offers per week.

Number 700

MR. ELDER said that Section 20 is the ATM section on page 11 which changes current law from requiring approval for placing ATMs to requiring a notice. Sections 26 - 38 cover pages 12 - 16 and deal with branching into the state and this doesn't change any requirements except under current law the Division issues permits to national banks that want to branch into the state. It doesn't

make any sense, because the Division of Banking can't examine a national bank.

Pages 20 - 24 deal with mutual savings banks and credit unions and those changes put the trustees of mutual savings banks on the same basis and treat credit unions the same as banks in terms of charge cards and ATMs.

Number 1000

SENATOR TORGERSON asked if he had met with the banking community on this.

MR. ELDER said they met early on with the state banks and credit unions. We met recently with members of the Bankers Association.

SENATOR TORGERSON noted there were a few amendments from that meeting and asked if those would bring them in agreement with the bill.

MR. ELDER replied that it brought them into conformity with the meeting they had. Based on the meeting, the Banks are still looking at provisions and they may or may not have other wording changes. He personally didn't believe there would be significant disagreements with the potential exception of the privacy provision.

SENATOR TORGERSON asked on page 2, line 15 what they were referring to with "under supervision of a court or an administrative agency."

MR. ELDER said his Department would be one of those administrative agencies.

SENATOR TORGERSON asked if there were others.

MR. ELDER answered the Federal Deposit Insurance Corporation (FDIC) might be.

SENATOR TORGERSON asked what a premium finance company was (page 3).

MR. ELDER answered that it is one that finances insurance premiums. They have to be licensed in the state to do that.

SENATOR TORGERSON asked if "small loan companies" excluded pawn shops.

MR. ELDER answered that small loan companies are defined under the

Small Loans Act which excludes pawn shops.

Number 1150

SENATOR TOGERSON asked how many banks were being regulated in the state.

MR. ELDER answered, "Not as many as we used to. We have three state chartered commercial banks, one state chartered mutual savings banks, two state chartered credit unions, and assorted small loan companies."

CHAIRMAN PHILLIPS asked if he could name them.

MR. ELDER replied, "First Bank of Ketchikan, North Rim, Denali State Bank, the Mount McKinley Mutual, Credit Union One and North Country Credit Union."

SENATOR TOGERSON said he had the same concerns as Senator Lemman in taking off the 17 percent cap since the legislature had just required it a couple of years ago. He'd like to see more discussion on that at a future time. He referred to page 9, and said it appears to him that the Department is holding veto power over the federal reserve system if a person put in an application to be a holding company. He didn't understand that paragraph.

MR. ELDER explained that, "This paragraph is fairly friendly toward the financial holding companies. We are simply asking someone who is already a bank holding company and who is applying to the Federal Reserve and the Federal Reserve makes that determination for designation as a financial holding company - thereby getting all the powers of a financial holding company. We're simply saying give us a notice. Section 4 allows us 30 days after Federal Reserve approval to deny it if there's any reason they can see. The only basis they could have would that it would be a safety and soundness basis or it be contrary to some other provision of state law. My guess is that in practice it would be very rare that we would deny it."

SENATOR TOGERSON asked if it wasn't a backwards process where the Federal Reserve acknowledges them and the Department has 30 days to reject that.

MR. ELDER replied that these are state entities and they were not controlling in any way whether or not a national entity is formed under the Federal Reserve. They want to maintain state control of state entities.

SENATOR TORGERSON said he didn't think it really said that.

SENATOR TORGERSON asked if foreclosure would come under disposition of property under all investments regardless of how acquired on page 10, section 15.

MR. ELDER replied that he thought it would.

SENATOR TORGERSON said he didn't know why he would authorize them to write it off if they had a foreclosure.

MR. TERRY LUTZ, Supervisor, Banking Section, answered this has been in the banking code for some time. "We don't want a financial institution to have a piece of property which they wrote off at \$100,000, they foreclosed on it and got a property worth \$100,000. It shouldn't be there for 20 years at \$100,000. If it's there for that long, it's clearly not worth \$100,000. Or it's bank property that is used for banking business in which case it needs to be classified differently and purchased by the bank."

SENATOR TORGERSON asked if that was for reporting net worth, so it can't be inflated by having a bunch of property on their books.

MR. LUTZ answered yes.

SENATOR TORGERSON asked on page 11, line 19 regarding ATMs and the agreement with other institutions to pay an equitable amount for use of the machine, if banks had exchanges where you don't pay anything.

MR. ELDER responded that they are not changing language from current law. This simply is talking about the machines, themselves. They can be placed off premises, but they have to be available to the customers of other depository institutions. "It would require an agreement between the institutions, not the customers using it." It doesn't mean that there has to be a charge to the customer.

Number 1500

CHAIRMAN PHILLIPS said that staff had contacted members of the Bankers Association, the Alaska Mortgage Bankers, all 14 credit unions, as well as the department on this issue. He said that Credit Union One had two suggestions and he was really considering number two, section 50, AS 06.45.060.

MR. ELDER commented that Credit Union One didn't raise that issue when he was discussing it with them, but is raising it now. He didn't have any particular objection. It talks about changing the

dollar limits of certain loans to directors and certain other people in authority that have to be reviewed and approved by the Board of Directors. On page two, they mention that would give them parity with the federal charter credit unions. He generally agrees that state banks and state credit unions should be on a level playing field with federal credit unions and international banks.

SENATOR TORGERSON said they deviate from the Gramm-Leach-Bliley Act under the confidentiality clauses.

MR. ELDER said, "Yes, it is correct, we deviated, though with permission of Gramm-Leach-Bliley. It specifically allows states to adopt more restrictive privacy."

Number 1600

SENATOR TORGERSON asked if there were any other areas where the state deviates from that law.

MR. ELDER answered, "Not to my knowledge."

CHAIRMAN PHILLIPS asked if this legislation affected international banks.

MR. ELDER answered that nothing in this proposal changes current requirements of international banks to get permission to branch here.

SENATOR TORGERSON asked if he had any more meetings scheduled with the Banking Association.

MR. ELDER answered that he didn't have anything else scheduled, but their door was always open and he had invited them to talk any time.

MS. LISA BELL, Alaska Bankers Association, said they represent nine banks across the state which includes both state and federally chartered institutions. She wanted to focus today on Section 3, page 2, the confidentiality section. "The proposed legislation would move this provision from its current location under the Alaska Banking Code, which is applicable only to state chartered institutions, into the administration section where it would apply to all financial institutions operating within the state. That is a significant change. I want to point out that the privacy and confidentiality of customer information is not a new concept to banks. Banks already have internal policies and procedures that deal with safeguarding of customer information and we believe that the biggest asset a bank can have is integrity."

MS. BELL said that the Gramm-Leach-Bliley Act's privacy provision contains important new disclosure requirements and other requirements that pertain to the sharing of non-public personal information with third parties. "The rule is quite complicated and, in fact, the FDIC has just published on February 5 guidelines to assist banks with complying before the mandatory date of July 1, 2001." She added that all banks are under intense regulatory scrutiny as they work on their compliance and privacy programs. The first round of examinations has already begun. It is a heavily monitored process.

MS. BELL said ABA supports the intent of SB 66, but their preliminary review of the confidentiality provisions has disclosed some inconsistencies between the proposed state statutes and Gramm-Leach-Bliley. There are additional restrictions in state statute which are confusing and not necessarily in the customers' best interest. She said that they have been talking with Mr. Elder and Mr. Lutz and they do intend to meet with them again as soon as their review is finished.

SENATOR TORGERSON asked when her review would be done.

MS. BELL answered in about three weeks.

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CHAIRMAN PHILLIPS thanked everyone for their participation and adjourned the meeting at 2:10 p.m.