

HOUSE BILL NO. 227

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 3/21/05

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Small Loans Act; and providing for an effective date."**

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

3 * **Section 1.** AS 06.20.010(a) is amended to read:

4 (a) A person may not engage in the business of making loans of money, credit,
5 goods, or things in action in the amount or of the value of \$50,000 [\$25,000] or less
6 and charge, contract for, or receive on the loan a greater rate of interest, a discount, or
7 consideration than the lender would be permitted by law to charge if the person were
8 not a licensee under this chapter, except as provided by (b) of this section or as
9 authorized by this chapter, and without first obtaining a license from the department.

10 * **Sec. 2.** AS 06.20.010(b) is repealed and reenacted to read:

11 (b) The following persons are exempt from the application of (a) of this
12 section:

13 (1) a bank regulated by AS 06.05;

14 (2) a trust company that is regulated by AS 06.26, except for a trust
15 company that is exempt under AS 06.26.200;

- 1 (3) a credit union that is organized under AS 06.45;
- 2 (4) a BIDCO corporation licensed under AS 10.13;
- 3 (5) an insurance company licensed under AS 21.27 when engaging in a
- 4 small loan business; and
- 5 (6) a financial institution authorized to do business under federal law
- 6 relating to financial institutions, including a bank, trust company, savings bank,
- 7 building and loan association, savings and loan company or association, and credit
- 8 union.

9 * **Sec. 3.** AS 06.20 is amended by adding a new section to read:

10 **Sec. 06.20.015. Types of licenses.** The department may issue a license to

11 engage in a small loan business under this chapter at a single location or a license to

12 engage in a small loan business at multiple locations. The department shall issue a

13 separate license endorsement for each location where a licensee will engage in a small

14 loan business under a license.

15 * **Sec. 4.** AS 06.20.020(a) is amended to read:

16 (a) **An application** [APPLICATION] for a license shall be in writing under

17 oath, and in the form prescribed by the department, and must contain the **applicant's**

18 **name,** [AND THE] residence **address,** [AND] business address, **and mailing**

19 **address,** [OF] the [APPLICANT, THE DISTRICT AND MUNICIPALITY WITH]

20 street **address** and **municipality** [NUMBER], if any, **of each location** where **the**

21 **applicant will engage in** [THE] business **under this chapter,** [IS TO BE

22 CONDUCTED] and **any** other information **that** [AS] the department may require. If

23 the applicant is **not a natural person** [A COPARTNERSHIP OR ASSOCIATION],

24 the application must contain the **name,** residence **address,** and business address of

25 each **partner, director, officer, and** member **of the applicant** [; IF THE

26 APPLICANT IS A CORPORATION, THE APPLICATION MUST CONTAIN THE

27 RESIDENCE AND BUSINESS ADDRESS OF EACH OFFICER AND

28 DIRECTOR].

29 * **Sec. 5.** AS 06.20.030(a) is amended to read:

30 (a) **Notwithstanding AS 06.01.010, investigation** [INVESTIGATION]

31 expenses incurred by the department in processing an application for licensure shall be

1 charged to and paid by the applicant **at the rate determined by the department by**
 2 **regulation** [UNDER AS 06.01.010]. At the time of submitting the application to the
 3 **department** [COMMISSIONER], the applicant shall pay to the department \$1,000 in
 4 partial payment of **the** [THOSE] investigation expenses incurred by the department.

5 * **Sec. 6.** AS 06.20.030(b) is amended to read:

6 (b) **Notwithstanding AS 06.01.010, an** [AN] applicant shall pay to the
 7 department, at the time of submitting an application, **the** [A] sum, in addition to that
 8 **amount required by** [SPECIFIED IN] (a) of this section, of **\$2,500** [\$500] for a
 9 single **location** [OFFICE] license, or **\$5,000** [\$2,000] for a multiple **location**
 10 [OFFICE] license as an annual license fee for a period terminating on the last day of
 11 the current calendar year.

12 * **Sec. 7.** AS 06.20.040 is amended to read:

13 **Sec. 06.20.040. Liquid assets required.** An applicant shall prove, **on a** [IN]
 14 form satisfactory to the department, that the applicant has available for the operation
 15 of the business at the location specified in the application, liquid assets of at least
 16 **\$50,000** [\$25,000], or, in the case of a multiple **location** [OFFICE] license, **\$50,000**
 17 **for** [THAT THE EQUIVALENT AMOUNT IS AVAILABLE TO] each office **for**
 18 **which a license endorsement is issued,** from a central account maintained by the
 19 applicant.

20 * **Sec. 8.** AS 06.20.050 is amended to read:

21 **Sec. 06.20.050. Bond.** The applicant shall file with the application a bond to
 22 be approved by the department in which the applicant shall be the obligor, in the sum
 23 of **\$50,000** [\$25,000] with one or more sureties. Only one bond is required for an
 24 application for a multiple **location** [OFFICE] license. The bond shall be for the use of
 25 the **department for** [STATE AND ANY PERSON WHO MAY HAVE] a cause of
 26 action against the obligor under this chapter. The bond must state that the obligor will
 27 faithfully conform to and abide by the provisions of this chapter and of all regulations
 28 lawfully adopted by the department, and will pay to the **department** [STATE AND
 29 TO ANY PERSON] all money that may become due or owing to the **department**
 30 [STATE OR TO THE PERSON] from the applicant under this chapter.

31 * **Sec. 9.** AS 06.20.050 is amended by adding a new subsection to read:

1 (b) A licensee shall continue the bond required by (a) of this section until the
2 license is revoked or otherwise terminated by the department and

3 (1) until all loans made by the licensee have been paid in full,
4 including payment by renewal; and

5 (2) while litigation about a loan made by the licensee is pending.

6 * **Sec. 10.** AS 06.20.060 is repealed and reenacted to read:

7 **Sec. 06.20.060. Issuance of license.** (a) The department shall, within 60 days
8 after the date of filing the application required by AS 06.20.020 and the applicant's
9 payment of the amounts required by AS 06.20.030, disapprove the application or issue
10 a license to the applicant to make loans under this chapter at the location identified in
11 the application. The license is conditioned on the licensee's compliance with the
12 requirements of this chapter.

13 (b) In order to issue a license, the department shall find, after investigation,
14 that

15 (1) the financial responsibility, experience, character, and general
16 fitness of the applicant and of its partners, directors, officers, and members support a
17 determination that the applicant will operate the business honestly, fairly, and
18 efficiently under this chapter;

19 (2) grounds for disapproval of an application under AS 06.20.063 do
20 not exist; and

21 (3) in the judgment of the department, there are not other reasons or
22 conditions that justify refusing to issue the license.

23 * **Sec. 11.** AS 06.20 is amended by adding new sections to read:

24 **Sec. 06.20.063. Grounds for disapproval of application.** In addition to the
25 department's findings under AS 06.20.060(b), with regard to a person named in the
26 application, the department may disapprove an application for a license under
27 AS 06.20.060 if

28 (1) the person's liabilities exceed the person's assets, the person cannot
29 meet the person's obligations as the obligations mature, or the person cannot continue
30 in business with safety for the person's customers due to the person's financial
31 condition;

1 (2) the person has engaged in dishonest, fraudulent, or illegal practices
2 or conduct in a business or profession;

3 (3) the person has been convicted of a crime in which fraud is an
4 essential element;

5 (4) the person is permanently or temporarily enjoined by a court of
6 competent jurisdiction from engaging in or continuing to engage in conduct in
7 business if the conduct is related to providing money or monetary assistance to
8 consumers; or

9 (5) a federal or state regulatory agency has prohibited the person from
10 engaging in, participating in, or controlling activities that involve providing financial
11 services to the public.

12 **Sec. 06.20.065. Notice of disapproval and hearing.** (a) If the department
13 disapproves an application for a license, the department shall notify the applicant in
14 writing of the disapproval within 60 days after receiving the completed application
15 and the payments required by AS 06.20.030(a) and (b). The notification under this
16 subsection must state the grounds found under AS 06.20.063 for the disapproval.

17 (b) If the department disapproves an application for a license, the applicant
18 may request a hearing within 10 days after receiving notification of the disapproval. If
19 the applicant requests a hearing, the department shall conduct the hearing under
20 AS 44.62.

21 **Sec. 06.20.067. Duration of license and license endorsements.** A license
22 issued under AS 06.20.060 is a continuing license and the license and its license
23 endorsements remain in effect until they are surrendered by the licensee under
24 AS 06.20.130, revoked under AS 06.20.110, or suspended under AS 06.20.110.

25 * **Sec. 12.** AS 06.20.070 is amended to read:

26 **Sec. 06.20.070. Form, posting, and transfer of license.** The license must **be**
27 **in a form prescribed by the department and** state the address **where** [AT WHICH]
28 the business is to be conducted and the full name of the licensee. [IF THE LICENSEE
29 IS A COPARTNERSHIP OR ASSOCIATION, THE LICENSE MUST STATE THE
30 NAMES OF ITS MEMBERS, AND IF A CORPORATION, THE DATE AND
31 PLACE OF ITS INCORPORATION.] The license **endorsement** shall be

1 conspicuously posted in each [THE] place of business of the licensee. The license
2 and the license endorsement are [IS] not transferable or assignable.

3 * **Sec. 13.** AS 06.20.070 is amended by adding a new subsection to read:

4 (b) If a licensee conducts business through the Internet, the license must also
5 state the registered domain address through which the licensee conducts the business
6 and the address of the physical location of the principal place where the licensee
7 conducts the business.

8 * **Sec. 14.** AS 06.20.090 is repealed and reenacted to read:

9 **Sec. 06.20.090. Change of business location.** When a licensee wishes to
10 change a location where the licensee engages in a small loan business, the licensee
11 shall submit a written notice to the department 45 days before the proposed change.
12 Within 45 days after receiving the written notice, the department may approve the
13 change of location and issue a new license endorsement to the licensee to reflect the
14 new location.

15 * **Sec. 15.** AS 06.20.110 is amended to read:

16 **Sec. 06.20.110. Grounds for revocation or suspension of license.** The
17 department may [SHALL, UNDER THE ADMINISTRATIVE PROCEDURE ACT
18 (AS 44.62),] revoke or suspend a [ANY] license issued under this chapter if it finds
19 that

20 (1) the licensee has failed to pay the annual license fee or to
21 [MAINTAIN THE REQUIRED BOND IN EFFECT OR HAS FAILED TO] comply
22 with any [LAWFUL] demand, ruling, or requirement of the department made under
23 [AND WITHIN THE AUTHORITY OF] this chapter or to comply with this
24 chapter;

25 (2) the licensee has violated a provision of this chapter or a regulation
26 [LAWFULLY] adopted by the department under [AND WITHIN THE AUTHORITY
27 OF] this chapter; or

28 (3) a [ANY] fact or condition exists that, if it had existed at the time of
29 the original application for the license, clearly would have warranted the
30 department's refusal to issue the original [CONSTITUTED GROUND FOR
31 DENIAL OF THE ISSUANCE OF THE] license.

1 * **Sec. 16.** AS 06.20.120 is repealed and reenacted to read:

2 **Sec. 06.20.120. Revocation or suspension for multiple location license.** If a
3 licensee has a multiple location license, the department may only revoke or suspend
4 the license endorsement that applies to the location for which grounds for revocation
5 or suspension exist. However, if the department finds that the grounds for revocation
6 or suspension apply generally to more than one of the locations authorized by the
7 license, the department may revoke or suspend the entire license and all license
8 endorsements.

9 * **Sec. 17.** AS 06.20 is amended by adding a new section to read:

10 **Sec. 06.20.125. Conditions during suspension or revocation proceedings.**
11 During a suspension or during revocation proceedings, the department may place
12 restrictions on the business activities of the licensee that the department determines are
13 necessary to protect the public. These restrictions may include requiring the licensee
14 to sell the loans made by the licensee to another licensee or, if the licensee is a
15 corporation, to transfer the loans to another licensee who is owned by the same parent
16 corporation as the licensee who is surrendering the license.

17 * **Sec. 18.** AS 06.20.130 is amended to read:

18 **Sec. 06.20.130. Surrender.** A licensee may surrender a license or a license
19 endorsement by delivering written notice of the surrender to the department. [THE
20 SURRENDER DOES NOT AFFECT THE LICENSEE'S CIVIL OR CRIMINAL
21 LIABILITY FOR ACTS COMMITTED BEFORE THE SURRENDER.]

22 * **Sec. 19.** AS 06.20.130 is amended by adding new subsections to read:

23 (b) A licensee shall surrender a license endorsement for a location if the
24 licensee has not engaged in loan activity under the license endorsement at the location
25 for a period of 24 consecutive months.

26 (c) A licensee may not surrender a license until all outstanding loans made by
27 the licensee under this chapter have been sold to another licensee or, if the licensee is a
28 corporation, transferred to another licensee who is owned by the same parent
29 corporation as the licensee who is surrendering the license.

30 * **Sec. 20.** AS 06.20.140 is amended to read:

31 **Sec. 06.20.140. Effect of revocation, suspension, or surrender.** A

1 revocation, suspension, or surrender of a license **or of a license endorsement** does not
 2 impair or affect the **rights or obligations** [LEGALLY ENFORCEABLE
 3 OBLIGATION] of any **preexisting lawful** [PRE-EXISTING] contract between the
 4 licensee and **a** [ANY] borrower.

5 * **Sec. 21.** AS 06.20.140 is amended by adding a new subsection to read:

6 (b) Surrender of a license **or a license endorsement** under AS 06.20.130 does
 7 not affect the licensee's civil or criminal liability for acts committed before the
 8 surrender.

9 * **Sec. 22.** AS 06.20.150 is repealed and reenacted to read:

10 **Sec. 06.20.150. Reinstatement of license.** The department may reinstate a
 11 license or license endorsement revoked under this chapter if the licensee complies
 12 with this chapter and with any demand, ruling, or other requirement made by the
 13 department under this chapter. For reinstatement of the revoked license or license
 14 endorsement, the licensee shall pay the department a fee that may not exceed \$500.

15 * **Sec. 23.** AS 06.20 is amended by adding a new section to article 2 to read:

16 **Sec. 06.20.155. Procedure for revocation or suspension.** If the department
 17 proposes to revoke or suspend a license or a license endorsement, the department shall
 18 proceed under AS 44.62 (Administrative Procedure Act) to revoke or suspend the
 19 license or license endorsement.

20 * **Sec. 24.** AS 06.20.160 is repealed and reenacted to read:

21 **Sec. 06.20.160. Inspection and examination of licensees.** (a) A licensee is
 22 subject to inspection by the department. The department shall conduct an examination
 23 of each licensee to determine whether the licensee is complying with the provisions of
 24 this chapter and the regulations adopted under this chapter and to secure information
 25 required by the department under this chapter. The department shall make the first
 26 examination of a licensee within 18 months after the licensee receives a license, and,
 27 notwithstanding AS 06.01.015(a), the examinations of a licensee shall be conducted a
 28 maximum of 18 months apart.

29 (b) In addition to examinations under (a) of this section, the department may
 30 conduct examinations of a licensee at other times that the department considers
 31 necessary.

1 (c) During an examination under this section, the licensee shall provide the
2 department with free access to the licensee's place of business and the books,
3 accounts, safes, and vaults of the licensee.

4 (d) The department may conduct an examination under this section without
5 giving prior notice to the licensee.

6 (e) The department may examine under oath all persons whose testimony the
7 department may require in order to conduct an examination under this section.

8 (f) Notwithstanding AS 06.01.010, the licensee shall pay the department \$75
9 an hour for the examination, plus any expenses incurred by the department for travel,
10 housing, and meals.

11 * **Sec. 25.** AS 06.20.180 is repealed and reenacted to read:

12 **Sec. 06.20.180. Books and records of licensee.** (a) A licensee shall keep
13 and use in the business licensed under this chapter accounting records that are
14 consistent with sound and accepted accounting practices.

15 (b) A licensee shall maintain a separate electronic record or a separate paper
16 record for the account of each borrower who receives a loan from the licensee and for
17 each loan that the borrower receives. In each record, the licensee shall state the
18 amount of the cash advance, the total amount of interest and charges, the interest rate,
19 the repayment amount, the date and amount of each payment received from the
20 borrower, a description of the collateral, if any, that secures the loan, any insurance
21 coverage, and any fees or other charges allowed under this chapter.

22 (c) A licensee shall preserve all of its accounting records for at least two years
23 after making the final entry in the records.

24 (d) A licensee who operates in another state a business similar to a small loan
25 business shall, if requested by the department, make available at a location within this
26 state the accounting records and files of the business to the department or a
27 representative of the department.

28 * **Sec. 26.** AS 06.20.190 is amended to read:

29 **Sec. 06.20.190. Annual reports of licensees.** Each licensee shall, on or
30 before March 15 of each year or on another annual date established by the
31 department by regulation, file a report with the department containing relevant

1 information **that** [AS] the department **requires** [MAY REASONABLY REQUIRE]
 2 concerning the business and operations during the preceding calendar year of each
 3 licensed place of business conducted by the licensee inside the state. The report shall
 4 be made under oath and **must** [SHALL] be in the form prescribed by the department [,
 5 AND SHALL BE KEPT AVAILABLE AS A PUBLIC RECORD].

6 * **Sec. 27.** AS 06.20.200(a) is amended to read:

7 (a) A **licensee** [PERSON] may not advertise, print, display, publish, distribute,
 8 or broadcast or cause or permit to be advertised, printed, displayed, published,
 9 distributed, or broadcast, in any manner any statement or representation with regard to
 10 the rates, terms, or conditions for **loans that** [THE LENDING OF MONEY, CREDIT,
 11 GOODS, OR THINGS IN ACTION IN THE AMOUNT OR OF THE VALUE OF
 12 \$25,000 OR LESS, WHICH] is false, misleading, or deceptive. [THE
 13 DEPARTMENT MAY ORDER A LICENSEE TO DESIST FROM CONDUCT
 14 THAT IT FINDS TO BE IN VIOLATION OF THIS SECTION.]

15 * **Sec. 28.** AS 06.20.210 is repealed and reenacted to read:

16 **Sec. 06.20.210. Restriction on operation of business of making loans.** (a)

17 A licensee may not conduct the business of making loans under this chapter as a
 18 common operation unless the licensee notifies the department 45 days before engaging
 19 in the common operation and the department does not prohibit the licensee from
 20 engaging in the common operation within 45 days after receiving the notification.

21 (b) If the department finds that the common operation facilitates evasion of
 22 this chapter or the regulations adopted under this chapter, the department shall, within
 23 45 days after receiving the licensee's notification, inform the licensee that the common
 24 operation is not allowed.

25 (c) In this section, "common operation" means operating a small loan business
 26 in an office, a suite, a room, or another place in which another business is solicited or
 27 engaged in, or in association with another business.

28 * **Sec. 29.** AS 06.20.230 is repealed and reenacted to read:

29 **Sec. 06.20.230. Maximum interest permitted.** (a) A licensee may charge,
 30 contract for, and receive on a loan under this chapter interest at a rate that does not
 31 exceed the greater of

- 1 (1) 24 percent; or
- 2 (2) 10 percent above the annual rate charged member banks for
- 3 advances by the 12th Federal Reserve District on the day on which the contract or loan
- 4 commitment is made.

5 (b) The computation of interest authorized under of this section shall be based
 6 on a 365-day year and calculated as required by 12 C.F.R. 226.15.

7 * **Sec. 30.** AS 06.20.250(c) is amended to read:

8 (c) Except for open-end loans under AS 06.20.285, a licensee may not enter
 9 into a contract for a loan that provides for a scheduled repayment of principal over
 10 more than the maximum terms set out below opposite the respective size of loans.

Principal amount of loan	Maximum term
11 up to \$1,000.....	24 and 1/2 months
12 Over \$1,000 to \$2,500.....	48 and 1/2 months
13 Over \$2,500 to \$5,000.....	60 and 1/2 months
14 Over \$5,000 to \$25,000.....	<u>180 and 1/2 months</u>
15 <u>Over \$25,000</u>	as agreed to by the parties

16 * **Sec. 31.** AS 06.20.260 is repealed and reenacted to read:

17 **Sec. 06.20.260. Charges.** (a) A licensee may not directly or indirectly charge,
 18 contract for, or receive a higher, an additional, or another charge or amount for an
 19 examination, service, brokerage commission, expense, fee, bonus, or other thing for a
 20 loan subject to this chapter, except

- 21 (1) a fee authorized by law and actually paid out by the licensee
 - 22 (A) to a public officer for filing, recording, or releasing an
 - 23 instrument securing the loan, or for transferring a certificate of title to a motor
 - 24 vehicle to secure the loan or to add a lien to the certificate of title; or
 - 25 (B) to an insurance company for a premium for insurance
 - 26 obtained in place of perfecting a security interest if the premiums do not
 - 27 exceed the fees that would otherwise normally be incurred for perfecting,
 - 28 filing, recording, and releasing the security interest;
- 29 (2) premiums actually paid out for insurance for property of the
- 30 borrower securing the loan or for consumer credit insurance; in this paragraph,
- 31

1 "consumer credit insurance" means credit insurance, credit disability insurance, credit
 2 unemployment insurance, or another insurance product the department authorizes by
 3 regulation;

4 (3) for loans secured by an interest in real estate, reasonable costs and
 5 fees paid by a licensee for appraisals, surveys, title reports, and title insurance;

6 (4) if a payment is not received by a licensee within 10 days after the
 7 day on which the payment is due, a late fee of five percent of the payment amount, or
 8 \$15, whichever amount is greater; if a late fee is charged, the licensee shall disclose
 9 the charge to the borrower on the monthly statement or by first class mail;

10 (5) a fee for dishonored checks not to exceed \$25 for each dishonored
 11 check;

12 (6) reasonable attorney fees and actual expenses incurred in connection
 13 with the collection of a delinquent debt or a foreclosure if the collection or foreclosure
 14 is referred to an attorney who is not a salaried employee of the licensee; and

15 (7) actual expenses and costs incurred in connection with a
 16 repossession of property that secures the loan.

17 (b) A licensee may collect the charges permitted under (a)(1) - (3) of this
 18 section when the loan is made or at any time after the loan is made. If interest,
 19 consideration, or charges in excess of those permitted by AS 06.20.230 and 06.20.250
 20 are charged, contracted for, or received, except as the result of an accidental and good
 21 faith error in computation, the loan contract is modified so that all interest,
 22 consideration, or charges involved are voided and the same amount is credited to the
 23 debtor on the principal of the loan. If the unpaid principal is less than the total of the
 24 interest, consideration, and charges, the lender shall refund the difference to the
 25 borrower.

26 (c) In addition to the other charges allowed under this section, the licensee
 27 may charge an origination fee at the time a loan contract is signed by the borrower.
 28 The amount of the origination fee may not exceed three percent of the loan amount or
 29 \$500, whichever amount is less.

30 (d) In addition to the other charges allowed under this section, the licensee
 31 may impose a charge that does not exceed \$5 for each payment if the borrower

1 requests that payments be originated and processed by the licensee through an
 2 automated clearing house electronic payment process or a similar process, but the
 3 lender may not require the borrower to have loan payments processed in this manner.

4 * **Sec. 32.** AS 06.20.270 is repealed and reenacted to read:

5 **Sec. 06.20.270. Licensee duties toward borrowers.** (a) A licensee shall, at
 6 the time a loan is made, deliver to the borrower a contract that is in the form approved
 7 by the department, is in the English language, and shows, in clear and distinct terms,

8 (1) the names and addresses of the borrower and of the licensee;

9 (2) the amount and the date of the loan and its maturity or terms of
 10 payment;

11 (3) the rate of interest agreed to or consideration to be charged
 12 including the annual percentage rate;

13 (4) all charges and fees that may be assessed by the licensee; and

14 (5) the nature of the security for the loan.

15 (b) A licensee shall make available to the borrower on request of the borrower
 16 a plain and complete receipt for all payments made on account of the loan at the time
 17 the payments are received by the licensee. The receipt must specify the amount, if
 18 any, applied to interest, the date to which the interest is paid, the amount, if any,
 19 applied to the principal, and the unpaid principal balance, if any, of the loan.

20 (c) A licensee shall permit a borrower to make payment in advance in any
 21 amount on any loan at any time.

22 (d) A licensee shall, when the borrower repays a loan in full, including
 23 repayment by renewal,

24 (1) to the extent and in the manner required by law, release a lien that
 25 secured the loan if the lien does not secure another loan, and restore any property held
 26 as security for the loan to the borrower if the property does not secure another loan;

27 (2) release any financing statement under AS 45.29 that secured the
 28 loan if the financing statement does not secure another loan, to the extent and in the
 29 manner required by AS 45.29; in this paragraph, "financing statement" has the
 30 meaning given under AS 45.29.102;

31 (3) return an assignment given by the borrower;

1 (4) return to the borrower the canceled note that evidenced the loan
2 and mark the contract that represents the obligation

3 (A) "paid in full" if the loan is paid in full other than by
4 renewal;

5 (B) "paid by renewal" if the loan is paid in full by renewal.

6 (e) In this section, "renewal" means paying off the balance owed on a loan and
7 replacing that loan obligation with a new loan

8 (1) when the loan reaches its maturity date with a balance due; or

9 (2) at any time during the life of the original loan.

10 * **Sec. 33.** AS 06.20.285 is repealed and reenacted to read:

11 **Sec. 06.20.285. Open-end loan plans.** (a) A licensee may make loans under
12 an open-end loan plan and may contract for and receive interest or consideration as
13 provided in AS 06.20.230 and 06.20.250.

14 (b) A licensee may take a security interest in real or personal property to
15 secure an open-end loan plan. A licensee shall promptly release a security interest in
16 real or personal property if

17 (1) the borrower has not incurred a loan on the open-end loan plan for
18 24 months and the borrower does not have or surrenders a right to create a new
19 outstanding balance;

20 (2) the borrower terminates the account and the account is paid in full;
21 or

22 (3) the licensee terminates the account.

23 (c) The licensee shall deliver a copy of the open-end loan agreement to the
24 borrower at the time the open-end loan account is opened. The open-end loan
25 agreement must contain the name and address of the licensee and the borrower and
26 must contain disclosures of finance charges and agreed terms as may be required by
27 regulations adopted by the department and the Board of Governors of the Federal
28 Reserve System.

29 (d) At the end of each billing cycle in which there is an outstanding balance in
30 the account for which a finance charge is imposed, the licensee shall deliver to the
31 borrower a statement in the form required by regulations adopted by the department

1 and the Board of Governors of the Federal Reserve System. This subsection does not
 2 apply to accounts that the licensee considers uncollectible or for which an action to
 3 collect past due amounts has been filed.

4 * **Sec. 34.** AS 06.20.290 is repealed and reenacted to read:

5 **Sec. 06.20.290. Assignment of earnings.** (a) For the purposes of this
 6 chapter, the payment of \$50,000 or less in money, credit, goods, or things in action by
 7 a licensee as consideration for the assignment of earnings, whether earned or to be
 8 earned, is considered a loan and governed by this chapter, and the difference between
 9 the payment and the amount of the compensation assigned is considered to be interest
 10 or a charge on the loan from the date of the payment to the date the compensation is
 11 payable.

12 (b) A licensee may not take an assignment of earnings as payment of or as
 13 security for payment of a loan. This subsection is not intended to prevent an employee
 14 from authorizing deductions from the earnings of the employee if the authorization is
 15 revocable.

16 (c) If a licensee violates (b) of this section, the licensee may not enforce the
 17 assignment, and the assignor may revoke the assignment.

18 (d) In this section, "earnings" means salary, wages, or other compensation for
 19 service.

20 * **Sec. 35.** AS 06.20.320 is repealed and reenacted to read:

21 **Sec. 06.20.320. Civil penalties.** (a) The department may assess a civil
 22 penalty in an amount determined by the director and consistent with AS 06.01.035
 23 against a person who violates a provision of this chapter, a regulation adopted under
 24 this chapter, or an order of the department under this chapter.

25 (b) In addition to any other penalty provided by law, the director may assess a
 26 civil penalty in an amount equal to the interest received that exceeds the interest rate
 27 authorized under AS 45.45.010 against a person who engages in a small loan business
 28 without the license required under this chapter.

29 (c) Under (a) of this section, the department may assess a civil penalty of \$100
 30 a day for each day that a licensee fails to file a report under AS 06.20.190 within the
 31 time specified.

1 * **Sec. 36.** AS 06.20.340 is repealed and reenacted to read:

2 **Sec. 06.20.340. Notice.** In addition to the notice requirements of AS 06.01,
3 before the department adopts a regulation under this chapter, the department shall
4 submit a copy of the proposed regulation to each licensee.

5 * **Sec. 37.** AS 06.20 is amended by adding new sections to read:

6 **Sec. 06.20.370. Removal or suspension of officer.** If the department finds
7 that an owner, partner, officer, director, or member of a licensee is dishonest or
8 reckless in the operation of a small loan business of a licensee or refuses or fails to
9 comply with this chapter, the regulations adopted under this chapter, or an order of the
10 department, the department may issue a written order to the

11 (1) individual who is the owner, partner, officer, director, or member
12 that removes or suspends the individual from the individual's office or position with
13 the licensee;

14 (2) licensee to remove the owner, partner, officer, director, or member
15 of the licensee from working in the business authorized by the license.

16 **Sec. 06.20.380. Cease and desist order.** (a) Notwithstanding AS 06.01.030,
17 the department may issue and serve upon a licensee or a partner, a director, an officer,
18 a member, an employee, or an agent of a licensee an order to cease and desist from a
19 violation when the department has reasonable cause to believe that the person to
20 whom the order is directed is violating, has violated, or is about to violate a provision
21 of this chapter, a regulation adopted under this chapter, or an order of the department.

22 (b) Notwithstanding AS 06.01.030, if a person named in an order issued under
23 this section fails to comply with the order, the department may issue an order
24 removing or suspending the person from the office or position held by the individual.
25 The removal or suspension is in addition to any penalty provided by AS 06.20.320 for
26 failure to comply with an order issued under this section.

27 **Sec. 06.20.390. False information prohibited.** A person may not knowingly
28 give or cause to be given to the department a document, an oral statement, or a written
29 statement or report that is false in any respect in the course of an investigation or
30 examination by the department under this chapter.

31 **Sec. 06.20.400. Department rulings.** The department may make rulings,

1 demands, and findings that are necessary for the proper conduct of the business
2 regulated by this chapter and for the enforcement of this chapter.

3 **Sec. 06.20.410. Enforcement actions.** (a) The department may file an action
4 in court or begin another proceeding that the department considers necessary for
5 enforcing a provision of this chapter, a regulation adopted under this chapter, an order
6 of the department, or another action taken by the department under this chapter.

7 (b) A person, including a partner, a member, an officer, a director, an agent,
8 and an employee of the person, who knowingly violates or participates in the violation
9 of a provision of this chapter is guilty of a class A misdemeanor.

10 **Sec. 06.20.420. Relationship to federal law.** If a provision of this chapter is
11 preempted by or conflicts with federal law in a particular situation, the provision does
12 not apply to the extent of the preemption or conflict.

13 * **Sec. 38.** AS 06.20.900 is amended by adding new paragraphs to read:

14 (4) "knowingly" has the meaning given in AS 11.81.900(4);

15 (5) "license" means a license issued under this chapter;

16 (6) "licensee" means a person licensed under this chapter;

17 (7) "license endorsement" means a license endorsement issued under
18 AS 06.20.015;

19 (8) "member" means a member of a limited liability company;

20 (9) "multiple location license" means a license that entitles a licensee
21 to engage in a small loan business at more than one location;

22 (10) "single location license" means a license that entitles a licensee to
23 engage in a small loan business at one location;

24 (11) "small loan business" means a business for which a license is
25 required under AS 06.20.010.

26 * **Sec. 39.** AS 43.70.020(a) is amended to read:

27 (a) For the privilege of engaging in a business in the state, a person shall first
28 apply, upon forms prescribed by the commissioner, and obtain a license, and, **except**
29 **as provided in AS 06.20.030(c)**, pay the license fee provided for in AS 43.70.030. A
30 license issued to a firm for a particular line of business covers all its operations in the
31 state in the line of business regardless of the number of its establishments. A license

1 issued under this subsection must include

- 2 (1) the name and address of the licensee;
- 3 (2) the line of business to be conducted;
- 4 (3) the dates for which the license is issued; and
- 5 (4) the business name to be used by the licensee.

6 * **Sec. 40.** AS 06.20.020(b), 06.20.080, 06.20.100, 06.20.170, 06.20.200(b), 06.20.220,
7 06.20.250(b), 06.20.280, 06.20.300, and 06.20.310 are repealed.

8 * **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 REGULATIONS. The Department of Commerce, Community, and Economic
11 Development may proceed to adopt regulations to implement secs. 1 - 38, 40 and 42 of this
12 Act. A regulation adopted under this section takes effect under AS 44.62 (Administrative
13 Procedure Act) but not before the effective date of secs. 1 - 38, 40, and 42 of this Act.

14 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 TRANSITION. The Department of Commerce, Community, and Economic
17 Development shall issue a license under AS 06.20.010, as amended by secs. 1 and 2 of this
18 Act, to a person who is licensed under AS 06.20 immediately before the effective date of secs.
19 1 - 38, 40, and 42 of this Act and who applies to the department under AS 06.20.020, as
20 amended by secs. 4 and 40 of this Act, on or before July 1, 2008. A person who, immediately
21 before the effective date of secs. 1 - 38, 40, and 42 of this Act, holds a license issued under
22 AS 06.20, as that chapter exists before the effective date of secs. 1 - 38, 40, and 42 of this Act,
23 may continue to operate until July 1, 2008, under the license issued under AS 06.20 before the
24 effective date of secs. 1 - 38, 40, and 42 of this Act.

25 * **Sec. 43.** Section 41 of this Act takes effect immediately under AS 01.10.070(c).

26 * **Sec. 44.** Sections 1 - 40 and 42 of this Act take effect January 1, 2006.