

**CS FOR HOUSE BILL NO. 227(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/27/06

Referred: Judiciary

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the Alaska Small Loans Act and to the disposition of unredeemed**  
2 **property; and providing for an effective date."**

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

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

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

11 **\* Sec. 2.** AS 06.20.010(b) is repealed and reenacted to read:

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

14 (1) a bank regulated by AS 06.05;

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

3 (3) a credit union that is organized under AS 06.45;

4 (4) a BIDCO corporation licensed under AS 10.13;

5 (5) 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 (6) the Alaska Commercial Fishing and Agriculture Bank established  
10 under AS 44.81; and

11 (7) a person who

12 (A) consummates and funds a loan that is secured by real  
13 property; and

14 (B) is named as the payee in the promissory note and as the  
15 beneficiary in the deed of trust.

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

17 **Sec. 06.20.015. Types of licenses.** The department may issue a license to  
18 engage in a small loan business under this chapter at a single location or a license to  
19 engage in a small loan business at multiple locations. The department shall issue a  
20 separate license endorsement for each location where a licensee will engage in a small  
21 loan business under a license. An Internet site requires a separate endorsement under  
22 this section.

23 \* **Sec. 4.** AS 06.20.020(a) is repealed and reenacted to read:

24 (a) An application for a license must be in writing under oath, and in the form  
25 prescribed by the department. The application must contain

26 (1) the applicant's name, residence address, business address, and  
27 mailing address;

28 (2) the street address, including the municipality, if any, of each  
29 physical location where the applicant will engage in business under this chapter;

30 (3) the registered domain address of each Internet website location, if  
31 any, where the applicant will engage in business under this chapter;

1 (4) if the applicant is not a natural person, the name, residence address,  
2 and business address of each partner, director, officer, and member of the applicant;  
3 and

4 (5) any other information that the department may require.

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

6 (a) **Notwithstanding AS 06.01.010, investigation** [INVESTIGATION]  
7 expenses incurred by the department in processing an application for licensure shall be  
8 charged to and paid by the applicant **at the rate determined by the department by**  
9 **regulation** [UNDER AS 06.01.010]. At the time of submitting the application to the  
10 **department** [COMMISSIONER], the applicant shall pay to the department \$1,000 in  
11 partial payment of **the** [THOSE] investigation expenses incurred by the department.

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

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

19 \* **Sec. 7.** AS 06.20.040 is amended to read:

20 **Sec. 06.20.040. Liquid assets required.** An applicant shall prove, **on a** [IN]  
21 form satisfactory to the department, that the applicant has available for the operation  
22 of the business at the location specified in the application, liquid assets of at least  
23 **\$50,000** [\$25,000], or, in the case of a multiple **location** [OFFICE] license, **\$50,000**  
24 **for** [THAT THE EQUIVALENT AMOUNT IS AVAILABLE TO] each office **for**  
25 **which a license endorsement is issued,** from a central account maintained by the  
26 applicant.

27 \* **Sec. 8.** AS 06.20.050 is amended to read:

28 **Sec. 06.20.050. Bond.** The applicant shall file with the application a bond to be  
29 approved by the department in which the applicant shall be the obligor, in the sum of  
30 **\$50,000** [\$25,000] with one or more sureties. Only one bond is required for an  
31 application for a multiple **location** [OFFICE] license. The bond shall be for the use of

1 the **department for** [STATE AND ANY PERSON WHO MAY HAVE] a cause of  
 2 action against the obligor under this chapter. The bond must state that the obligor will  
 3 faithfully conform to and abide by the provisions of this chapter and of all regulations  
 4 lawfully adopted by the department, and will pay to the **department** [STATE AND  
 5 TO ANY PERSON] all money that may become due or owing to the **department**  
 6 [STATE OR TO THE PERSON] from the applicant under this chapter.

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

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

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

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

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

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

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

22 (1) the financial responsibility, experience, character, and general  
 23 fitness of the applicant and of its partners, directors, officers, and members support a  
 24 determination that the applicant will operate the business honestly and fairly under this  
 25 chapter; and

26 (2) grounds for disapproval of an application under AS 06.20.063 do  
 27 not exist.

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

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

1 AS 06.20.060 if

2 (1) the person's liabilities exceed the person's assets, the person cannot  
3 meet the person's obligations as the obligations mature, or the person cannot continue  
4 in business with safety for the person's customers due to the person's financial  
5 condition;

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

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

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

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

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

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

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

30 \* **Sec. 12.** AS 06.20.070 is amended to read:

31 **Sec. 06.20.070. Form, posting, and transfer of license.** The license must be

1 **in a form prescribed by the department and** state the address **where** [AT WHICH]  
 2 the business is to be conducted and the full name of the licensee. [IF THE LICENSEE  
 3 IS A COPARTNERSHIP OR ASSOCIATION, THE LICENSE MUST STATE THE  
 4 NAMES OF ITS MEMBERS, AND IF A CORPORATION, THE DATE AND  
 5 PLACE OF ITS INCORPORATION.] The license **endorsement** shall be  
 6 conspicuously posted in **each** [THE] place of business of the licensee. The license **and**  
 7 **the license endorsement are** [IS] not transferable or assignable.

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

9 (b) If a licensee conducts business through an Internet website, the license  
 10 must also state the registered domain address through which the licensee conducts the  
 11 business and the address of the physical location, if any, of the principal place where  
 12 the licensee conducts the business.

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

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

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

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

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

30 (2) the licensee has violated a provision of this chapter or a regulation  
 31 [LAWFULLY] adopted by the department under [AND WITHIN THE AUTHORITY

1 OF] this chapter; or

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

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

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

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

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

22 \* **Sec. 18.** AS 06.20.130 is amended to read:

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

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

28 (b) Unless the licensee complies with the bond requirement of AS 06.20.050,  
 29 the annual report requirement of AS 06.20.190, and the annual license fee requirement  
 30 of AS 06.20.030(b), the licensee shall surrender a license endorsement for a location if  
 31 the licensee has not engaged in loan activity under the license endorsement at the

1 location for a period of 24 consecutive months.

2 (c) A licensee may not surrender a license until all outstanding loans made by  
3 the licensee under this chapter have been

4 (1) transferred to another location at which the licensee engages in a  
5 small loan business under a multiple location license;

6 (2) sold to another licensee; or

7 (3) if the licensee is a corporation, transferred to another licensee who  
8 is owned by the same parent corporation as the licensee who is surrendering the  
9 license.

10 \* **Sec. 20.** AS 06.20.140 is amended to read:

11 **Sec. 06.20.140. Effect of revocation, suspension, or surrender.** A  
12 revocation, suspension, or surrender of a license or of a license endorsement does not  
13 impair or affect the rights or obligations [LEGALLY ENFORCEABLE  
14 OBLIGATION] of any preexisting lawful [PRE-EXISTING] contract between the  
15 licensee and a [ANY] borrower.

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

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

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

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

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

27 **Sec. 06.20.155. Procedure for revocation or suspension.** If the department  
28 proposes to revoke or suspend a license or a license endorsement, the department shall  
29 proceed under AS 44.62 (Administrative Procedure Act) to revoke or suspend the  
30 license or license endorsement.

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

1           **Sec. 06.20.160. Inspection and examination of licensees.** (a) A licensee is  
 2 subject to inspection by the department. The department shall conduct an examination  
 3 of each licensee to determine whether the licensee is complying with the provisions of  
 4 this chapter and the regulations adopted under this chapter and to secure information  
 5 required by the department under this chapter. The department shall make the first  
 6 examination of a licensee within 18 months after the licensee receives a license, and,  
 7 notwithstanding AS 06.01.015(a), the examinations of a licensee shall be conducted a  
 8 maximum of 18 months apart.

9           (b) In addition to examinations under (a) of this section, the department may  
 10 conduct examinations or investigations of a licensee at other times that the department  
 11 considers necessary.

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

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

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

19           (f) Notwithstanding AS 06.01.010, the licensee shall pay the department \$75  
 20 for each examiner hour used for an examination under this section, plus any expenses  
 21 incurred by the department for travel, housing, and meals.

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

23           **Sec. 06.20.180. Books, accounts, and records of licensee.** (a) A licensee shall  
 24 keep and use in the small loan business licensed under this chapter those books,  
 25 accounts, and records that will enable the department to determine whether the  
 26 licensee is complying with this chapter and with the regulations adopted by the  
 27 department under this chapter.

28           (b) A licensee shall maintain a separate electronic record or a separate paper  
 29 record for the account of each borrower who receives a loan from the licensee and for  
 30 each loan that the borrower receives. In each record, the licensee shall state the  
 31 amount of the cash advance, the total amount of interest and charges, the interest rate,

1 the repayment amount, the date and amount of each payment received from the  
 2 borrower, a description of the collateral, if any, that secures the loan, any insurance  
 3 coverage, and any fees or other charges allowed under this chapter.

4 (c) A licensee shall preserve all of its books, accounts, and records for at least  
 5 two years after making the final entry in the books, accounts, and records.

6 (d) A licensee who operates in another state a business similar to a small loan  
 7 business shall, if requested by the department, make available at a physical location  
 8 within this state the books, accounts, records, and files of the business to the  
 9 department or a representative of the department.

10 \* **Sec. 26.** AS 06.20.190 is amended to read:

11 **Sec. 06.20.190. Annual reports of licensees.** Each licensee shall, on or before  
 12 March 15 of each year or on another annual date established by the department by  
 13 regulation, file a report with the department containing relevant information that  
 14 [AS] the department requires [MAY REASONABLY REQUIRE] concerning the  
 15 business and operations during the preceding calendar year of each licensed place of  
 16 business conducted by the licensee inside the state. The report shall be made under  
 17 oath and must [SHALL] be in the form prescribed by the department [, AND SHALL  
 18 BE KEPT AVAILABLE AS A PUBLIC RECORD].

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

20 (a) A licensee [PERSON] may not advertise, print, display, publish, distribute,  
 21 or broadcast or cause or permit to be advertised, printed, displayed, published,  
 22 distributed, or broadcast, in any manner any statement or representation with regard to  
 23 the rates, terms, or conditions for the lending of money, credit, goods, or things in  
 24 action in the amount or of the value of \$50,000 [\$25,000] or less, that [WHICH] is  
 25 false, misleading, or deceptive. [THE DEPARTMENT MAY ORDER A LICENSEE  
 26 TO DESIST FROM CONDUCT THAT IT FINDS TO BE IN VIOLATION OF THIS  
 27 SECTION.]

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

29 **Sec. 06.20.210. Restriction on operation of business of making loans.** (a) A  
 30 licensee may not conduct the business of making loans under this chapter as a  
 31 common operation unless the licensee notifies the department 45 days before engaging

1 in the common operation and the department does not prohibit the licensee from  
2 engaging in the common operation within 45 days after receiving the notification.

3 (b) If the department finds that the common operation facilitates evasion of  
4 this chapter or the regulations adopted under this chapter, the department shall, within  
5 45 days after receiving the licensee's notification, inform the licensee that the common  
6 operation is not allowed.

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

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

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

14 (1) 24 percent; or

15 (2) 10 percent above the annual rate charged member banks for  
16 advances by the 12th Federal Reserve District on the day on which the contract or loan  
17 commitment is made.

18 (b) The computation of interest authorized under this section shall be  
19 calculated as provided by 12 C.F.R. 226.17.

20 \* **Sec. 30.** AS 06.20.240 is amended to read:

21 **Sec. 06.20.240. Loans for purpose of obtaining higher interest.** A licensee  
22 may not induce or permit a person, or a husband and wife jointly or severally, to split  
23 up or divide a loan or to become obligated, directly or contingently or both, under  
24 more than one loan contract at the same time, for the purpose or with the result of  
25 obtaining a higher rate of interest than would otherwise be permitted by **this chapter**  
26 [AS 06.20.230]. However, a licensee may enter into new or different loan transactions  
27 with the borrower or the borrower's spouse at a different time so long as the purpose of  
28 the additional transaction does not violate this section.

29 \* **Sec. 31.** AS 06.20.250(c) is amended to read:

30 (c) Except for open-end loans under AS 06.20.285, a licensee may not enter  
31 into a contract for a loan that provides for a scheduled repayment of principal over

1 more than the maximum terms set out below opposite the respective size of loans.

Principal amount of loan	Maximum term
2 up to \$1,000.....	24 and 1/2 months
3 Over \$1,000 to \$2,500.....	48 and 1/2 months
4 Over \$2,500 to \$5,000.....	60 and 1/2 months
5 Over \$5,000 to \$25,000.....	<b><u>180 and 1/2 months</u></b>
6 <b><u>Over \$25,000</u></b> .....	as agreed to by the parties

7  
8 \* **Sec. 32.** AS 06.20.260 is repealed and reenacted to read:

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

13 (1) a fee authorized by law and actually paid out by the licensee

14 (A) to a public officer for filing, recording, or releasing an  
15 instrument securing the loan, or for transferring a certificate of title to a motor  
16 vehicle to secure the loan or to add a lien to the certificate of title; or

17 (B) to an insurance company for a premium for insurance  
18 obtained in place of perfecting a security interest if the premiums do not  
19 exceed the fees that would otherwise normally be incurred for perfecting,  
20 filing, recording, and releasing the security interest;

21 (2) premiums actually paid out for insurance for property of the  
22 borrower securing the loan or for consumer credit insurance; in this paragraph,  
23 "consumer credit insurance" means credit insurance, credit disability insurance, credit  
24 unemployment insurance, or another insurance product the department authorizes by  
25 regulation;

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

28 (4) if a payment is not received by a licensee within 10 days after the  
29 day on which the payment is due, a late fee of five percent of the payment amount, or  
30 \$15, whichever amount is greater; if a late fee is charged, the licensee shall disclose  
31 the charge to the borrower on the monthly statement or by first class mail;

1 (5) damages for dishonored checks not to exceed, for each dishonored  
2 check, the amount allowed under AS 09.68.115;

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

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

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

17 (c) In addition to the other charges allowed under this section, the licensee  
18 may charge an origination fee at the time a loan contract is signed by the borrower.  
19 The amount of the origination fee may not exceed three percent of the loan amount or  
20 \$500, whichever amount is less, except that this limitation on the amount of the  
21 origination fee does not apply if the loan amount is over \$25,000 but less than \$50,000.

22 (d) In addition to the other charges allowed under this section, the licensee  
23 may impose a charge that does not exceed \$5 for each payment if the borrower  
24 requests that payments be originated and processed by the licensee through an  
25 automated clearing house electronic payment process or a similar process, but the  
26 lender may not require the borrower to have loan payments processed in this manner.

27 \* **Sec. 33.** AS 06.20.270 is repealed and reenacted to read:

28 **Sec. 06.20.270. Licensee duties toward borrowers.** (a) A licensee shall  
29 display prominently at each location where the licensee engages in a small loan  
30 business a full and accurate schedule that is approved by the department of all of the  
31 charges that may be made by the licensee under this chapter and the method of

1 computing the charges.

2 (b) A licensee shall, at the time a loan is made, deliver to the borrower a  
3 contract that is in the form approved by the department, is in the English language, and  
4 shows, in clear and distinct terms,

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

6 (2) the amount and the date of the loan and its maturity or terms of  
7 payment;

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

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

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

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

17 (d) A licensee shall permit a borrower to make payment in advance in any  
18 amount on any loan at any time.

19 (e) A licensee shall, when the borrower repays a loan in full, including  
20 repayment by renewal,

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

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

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

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

31 (A) "paid in full" if the loan is paid in full other than by

1 renewal;

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

3 (f) In this section, "renewal" means paying off the balance owed on a loan and  
4 replacing that loan obligation with a new loan

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

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

7 \* **Sec. 34.** AS 06.20.285 is repealed and reenacted to read:

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

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

14 (1) the borrower has not incurred a loan on the open-end loan plan for  
15 24 months and the borrower does not have or surrenders a right to create a new  
16 outstanding balance;

17 (2) the borrower terminates the account and the account is paid in full;  
18 or

19 (3) the licensee terminates the account.

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

26 (d) At the end of each billing cycle in which there is an outstanding balance in  
27 the account for which a finance charge is imposed, the licensee shall deliver to the  
28 borrower a statement in the form required by regulations adopted by the department  
29 and the Board of Governors of the Federal Reserve System. This subsection does not  
30 apply to accounts that the licensee considers uncollectible or for which an action to  
31 collect past due amounts has been filed.

1 \* **Sec. 35.** AS 06.20.290 is repealed and reenacted to read:

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

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

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

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

17 \* **Sec. 36.** AS 06.20.320 is repealed and reenacted to read:

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

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

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

29 \* **Sec. 37.** AS 06.20.340 is repealed and reenacted to read:

30 **Sec. 06.20.340. Notice.** In addition to the notice requirements of AS 06.01,  
31 before the department adopts a regulation under this chapter, the department shall

1 submit a copy of the proposed regulation to each licensee.

2 \* **Sec. 38.** AS 06.20 is amended by adding new sections to read:

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

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

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

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

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

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

28 **Sec. 06.20.400. Department rulings.** The department may make rulings,  
29 demands, and findings that are necessary for the proper conduct of the business  
30 regulated by this chapter and for the enforcement of this chapter.

31 **Sec. 06.20.410. Enforcement actions.** (a) The department may file an action

1 in court or begin another proceeding that the department considers necessary for  
 2 enforcing a provision of this chapter, a regulation adopted under this chapter, an order  
 3 of the department, or another action taken by the department under this chapter.

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

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

10 \* **Sec. 39.** AS 06.20.900 is amended by adding new paragraphs to read:

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

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

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

14 (7) "license endorsement" means a license endorsement issued under  
 15 AS 06.20.015;

16 (8) "location" means a physical location or an Internet website;

17 (9) "member" means a member of a limited liability company;

18 (10) "multiple location license" means a license that entitles a licensee  
 19 to engage in a small loan business at more than one location;

20 (11) "single location license" means a license that entitles a licensee to  
 21 engage in a small loan business at one location;

22 (12) "small loan business" means a business for which a license is  
 23 required under AS 06.20.010.

24 \* **Sec. 40.** AS 08.76.040(b) is amended to read:

25 (b) If a pawnbroker sells property bought or received in pledge and not  
 26 redeemed within 30 days after the date of mailing notice under (a) of this section, the  
 27 pawnbroker shall pay the pledgor one-half of the amount **that is** [IN EXCESS OF  
 28 \$400] received for the property **and that exceeds two times the maximum amount**  
 29 **allowed under AS 06.20.330 for individual loans by pawnbrokers and loan shops**  
 30 **to be exempt from AS 06.20.**

31 \* **Sec. 41.** AS 18.80.250(c) is amended to read:

1 (c) An action by a financial institution or other commercial institution  
 2 extending credit taken in compliance with (a) of this section, including the extension  
 3 of credit or the making of a loan, is not a violation of AS 06.20.240, unless done with  
 4 the intent or purpose of obtaining a higher rate of interest than would otherwise be  
 5 permitted by AS 06.20 [AS 06.20.230].

6 \* **Sec. 42.** AS 43.70.020(a) is amended to read:

7 (a) For the privilege of engaging in a business in the state, a person shall first  
 8 apply, upon forms prescribed by the commissioner, and obtain a license, and, **except**  
 9 **as provided in AS 06.20.030(c)**, pay the license fee provided for in AS 43.70.030. A  
 10 license issued to a firm for a particular line of business covers all its operations in the  
 11 state in the line of business regardless of the number of its establishments. A license  
 12 issued under this subsection must include

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

17 \* **Sec. 43.** AS 06.20.080, 06.20.100, 06.20.170, 06.20.200(b), 06.20.220, 06.20.250(b),  
 18 06.20.280, 06.20.300, and 06.20.310 are repealed.

19 \* **Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to  
 20 read:

21 REGULATIONS. The Department of Commerce, Community, and Economic  
 22 Development may proceed to adopt regulations to implement secs. 1 - 43, and 45 of this Act.  
 23 A regulation adopted under this section takes effect under AS 44.62 (Administrative  
 24 Procedure Act) but not before the effective date of secs. 1 - 43, and 45 of this Act.

25 \* **Sec. 45.** The uncodified law of the State of Alaska is amended by adding a new section to  
 26 read:

27 TRANSITION. The Department of Commerce, Community, and Economic  
 28 Development shall issue a license under AS 06.20.010, as amended by secs. 1 and 2 of this  
 29 Act, to a person who is licensed under AS 06.20 immediately before the effective date of secs.  
 30 1 - 43, and 45 of this Act and who applies to the department under AS 06.20.020, as amended  
 31 by secs. 4 and 43 of this Act, on or before July 1, 2009. A person who, immediately before the

1 effective date of secs. 1 - 43, and 45 of this Act, holds a license issued under AS 06.20, as that  
2 chapter exists before the effective date of secs. 1 - 43, and 45 of this Act, may continue to  
3 operate until July 1, 2009, under the license issued under AS 06.20 before the effective date of  
4 secs. 1 - 43, and 45 of this Act.

5 \* **Sec. 46.** Section 44 of this Act takes effect immediately under AS 01.10.070(c).

6 \* **Sec. 47.** Sections 1 - 43 and 45 of this Act take effect January 1, 2007.