

HOUSE BILL NO. 145

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES WRIGHT, Groh, Mina, Tomaszewski, Himschoot, Armstrong, McCormick, Mears, Gray, Galvin, Story, Josephson, Fields

Introduced: 3/29/23

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to loans in an amount of \$25,000 or less; relating to deferred deposit**
2 **advances; and providing for an effective date."**

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

4 *** Section 1.** AS 06.01.020(a) is amended to read:

5 (a) Notwithstanding other provisions of this title, the department may by order
6 authorize state financial institutions, except licensees subject to AS 06.20 or [,]
7 AS 06.40 [, OR AS 06.50], to exercise any of the powers conferred on [UPON], or to
8 be subject to any of the limitations imposed on [UPON], a federally chartered
9 financial institution doing business in this state with deposits insured by an agency of
10 the federal government if the department finds that the exercise of the power or
11 imposition of the limitation both

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

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

1 * **Sec. 2.** AS 06.01.050(3) is amended to read:

2 (3) "financial institution" means an institution subject to the regulation
3 of the department under this title; in this paragraph, "institution" includes a
4 commercial bank, savings bank, credit union, premium finance company, small loan
5 company, bank holding company, financial holding company, trust company, savings
6 and loan association, [DEFERRED DEPOSIT ADVANCE LICENSEE UNDER
7 AS 06.50,] and a licensee under AS 06.60;

8 * **Sec. 3.** AS 06.20.010 is amended by adding a new subsection to read:

9 (c) A person, including the agent or service provider of another person, is a
10 lender subject to the requirements of this chapter if the interest rate on a loan exceeds
11 the maximum interest rate permitted under AS 06.20.230 and

12 (1) the person directly or indirectly holds, acquires, or maintains the
13 predominant economic interest in a loan in the amount of \$25,000 or less;

14 (2) the person offers, markets, brokers, arranges, facilitates, or services
15 a loan in the amount of \$25,000 or less and holds the right, requirement, or first right
16 of refusal to purchase the loan, a receivable in the loan, or interest in the loan;

17 (3) the person makes a loan disguised as a personal property sale or
18 leaseback transaction; or

19 (4) the totality of the circumstances indicate that the person is a lender
20 in a loan in the amount of \$25,000 or less and the transaction is structured to evade the
21 requirements of this chapter.

22 * **Sec. 4.** AS 06.20.230 is amended to read:

23 **Sec. 06.20.230. Maximum interest permitted.** (a) A licensee may lend any
24 sum of money not exceeding \$25,000 and may charge, contract for, and receive on the
25 loan interest at a rate not exceeding three percent a month [ON THAT PART OF THE
26 UNPAID PRINCIPAL BALANCE OF A LOAN NOT IN EXCESS OF \$850; TWO
27 PERCENT A MONTH ON THE UNPAID PRINCIPAL BALANCE EXCEEDING
28 \$850 BUT NOT EXCEEDING \$10,000; AND AT A RATE AGREED BY
29 CONTRACT ON THE REMAINDER OF ANY UNPAID PRINCIPAL BALANCE
30 EXCEEDING \$10,000 BUT NOT EXCEEDING \$25,000].

31 (b) Notwithstanding the provisions of (a) of this section, a licensee who makes

1 open-end loans under this chapter may charge, contract for, and receive interest at a
 2 rate not exceeding three percent a month on that part of the unpaid principal balance of
 3 a loan not in excess of [\$850; TWO PERCENT A MONTH ON THE UNPAID
 4 PRINCIPAL BALANCE EXCEEDING \$850 BUT NOT EXCEEDING \$10,000;
 5 AND AT A RATE AGREED BY CONTRACT ON THE REMAINDER OF ANY
 6 UNPAID PRINCIPAL BALANCE EXCEEDING \$10,000 BUT NOT EXCEEDING]
 7 \$25,000.

8 (c) Interest on loans under (b) of this section shall be computed according to
 9 the actuarial method on the entire unpaid principal balance as determined under
 10 AS 06.20.285(b). **The interest rate on loans under (a) or (b) of this section shall be**
 11 **computed by including all fees, costs, and premiums charged under**
 12 **AS 06.20.260(a)(1) - (5).**

13 * **Sec. 5.** AS 06.20.310 is amended to read:

14 **Sec. 06.20.310. Effect of illegal interest rate.** A loan of the amount or value
 15 of \$25,000 or less for which a greater rate of interest, consideration, or charge than is
 16 permitted by this chapter has been charged, contracted for, or received, wherever
 17 made, may not be enforced in the state, and every person participating in such a loan
 18 in the state is subject to this chapter. This section does not apply to loans legally made
 19 in a state or territory of the United States that has in effect a regulatory small loan law
 20 similar in principle to this chapter **but does apply to loans made by a person subject**
 21 **to this chapter under AS 06.20.010(c).**

22 * **Sec. 6.** AS 08.76.500 is amended to read:

23 **Sec. 08.76.500. Exemptions.** This chapter does not apply to

24 (1) a financial institution that is subject to the regulation of the
 25 department under AS 06, including a commercial bank, savings bank, credit union,
 26 premium finance company, small loan company, bank holding company, financial
 27 holding company, trust company, **or** savings and loan association [, AND
 28 DEFERRED DEPOSIT ADVANCE LICENSEE UNDER AS 06.50]; or

29 (2) a financial institution organized under federal law.

30 * **Sec. 7.** AS 45.45.020 is amended by adding a new subsection to read:

31 (b) Interest under AS 45.45.010 - 45.45.070 shall be computed by including

1 all service charges paid by the borrower, debtor, or mortgagor. In this subsection,
2 "service charge" means a fee charged by the lender, creditor, or mortgagee for
3 opening, renewing, or continuing an account but does not include a late payment fee, a
4 fee for a dishonored check, reasonable attorney fees or other actual expenses and costs
5 incurred in connection with the collection of a delinquent debt or a foreclosure, or
6 actual expenses and costs incurred in connection with a repossession.

7 * **Sec. 8.** AS 06.01.035(j); AS 06.20.330; AS 06.50.010, 06.50.020, 06.50.030, 06.50.040,
8 06.50.050, 06.50.060, 06.50.070, 06.50.080, 06.50.090, 06.50.200, 06.50.210, 06.50.220,
9 06.50.230, 06.50.300, 06.50.310, 06.50.320, 06.50.330, 06.50.400, 06.50.410, 06.50.420,
10 06.50.430, 06.50.440, 06.50.450, 06.50.460, 06.50.470, 06.50.480, 06.50.490, 06.50.500,
11 06.50.510, 06.50.520, 06.50.530, 06.50.540, 06.50.550, 06.50.560, 06.50.600, 06.50.610,
12 06.50.900; AS 44.62.330(a)(40); and AS 47.24.900(10)(K) are repealed.

13 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).