

1 IN THE HOUSE. BY MESSRS. KALAMARIDES AND TAYLOR

2 HOUSE BILL NO. 291

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to authorize mutual savings banks."

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

8 Section 1. SHORT TITLE. This Act may be cited as the
9 "Mutual Savings Bank Act."

10 Sec. 2. DECLARATION OF POLICY. In providing authority for
11 the establishment of mutual savings banks it is the intent of
12 the legislature to make available the benefits of mutual savings
13 banking, thereby encouraging the practice of thrift and promoting
14 the accumulation of funds for investment to develop the economy.
15 For the accomplishment of these purposes, the legislature intends
16 by this Act to vest in such mutual banks those powers generally
17 possessed by state-chartered mutual savings banks and to grant
18 to the Department of Commerce of the State of Alaska authority to
19 define such powers and to promulgate rules and regulations de-
20 signed to enable mutual savings banks to perform their functions
21 and to carry out the above purposes.

22 Sec. 3. DEFINITIONS. As used in this Act

23 (1) the term "Department" means the Department of
24 Commerce of the State of Alaska;

25 (2) the term "conventional loan" means a loan secured
26 by a first mortgage on unencumbered real property or leasehold
27 estates other than a loan guaranteed or insured by a Federal
28 agency;

29 (3) the term "financial institution" means a thrift

1 institution, a commercial bank, a trust company, or an insurance
2 company;

3 (4) the term "mutual bank" means a mutual savings bank
4 chartered under this Act;

5 (5) the term "thrift institution" means a cooperative
6 bank, a homestead association, a mutual savings and loan asso-
7 ciation, or a mutual bank.

8 Sec. 4. CHARTERING OF MUTUAL BANKS. a. Upon written
9 application by five signatories from among not less than 21
10 individuals acting in the capacity of qualified corporators named
11 in said application, the department may from time to time issue
12 a charter for a mutual bank.

13 b. Such a charter shall be issued whenever the department
14 finds that a mutual bank will serve a useful purpose in the
15 community in which it is proposed to be established, that there
16 is reasonable expectation of its financial success, and that its
17 operation will not unduly injure existing thrift institutions.

18 Sec. 5. QUALIFICATION OF CORPORATORS. a. Each corporator
19 of a mutual bank shall be an individual whom the department shall
20 have found to be of financial responsibility and good character
21 and not to have been adjudged a bankrupt. Without in any way
22 limiting, by enactment of this subsection, the general regulatory
23 power granted the department, by this or any other Act, the
24 department is herein expressly authorized to regulate the activi-
25 ties of corporators and to prescribe standards of conduct for
26 corporators in their dealings with their mutual bank.

27 b. No person acting as corporator of a mutual bank shall
28 hold office as a corporator, trustee, director or officer of
29 another thrift institution.

1 c. At least a majority of the corporators of a mutual bank
2 shall be residents of this state.

3 d. At their organizational meeting, the corporators shall
4 adopt rules governing their activities as corporators and may
5 amend the same from time to time. Such rules shall set forth
6 the number of corporators and shall prescribe that any number of
7 corporators not less than one-quarter of those at the time in
8 office shall constitute a quorum for the purpose of doing business.
9 At such organizational meeting, or any adjournment thereof, the
10 corporators shall, by majority vote of those present, elect one-
11 third of the total number of corporators to serve for a term of
12 four years, one-third to serve for a term of seven years; and
13 one-third to serve for a term of ten years. Thereafter each
14 corporator shall be elected for a term of ten years in such
15 manner that the term of not more than one-third of the corporators
16 will expire in any three year period. The office of any corpor-
17 ator who shall reach the age of 70 shall thereupon become vacant,
18 and any person who shall have reached the age of 70 shall be
19 ineligible for election as a corporator. Successor and addition-
20 al corporators shall be elected by majority vote of the corporators
21 present at a duly constituted meeting. Any corporator may be
22 removed from office for cause upon the affirmative vote of two-
23 thirds of the whole number of corporators.

24 Sec. 6. Trustees. a. The board of trustees of a mutual
25 bank shall be elected by and from the corporators and shall con-
26 sist of not less than seven nor more than 25 or one-half the
27 whole number of corporators less one, whichever shall be less.
28 At least a majority of the trustees shall be residents of this
29 state. The corporators shall by majority vote of those present at

1 their organizational meeting, elect a board of trustees in the
2 following manner: one-third for a term of one year; one-third
3 for a term of two years; and one-third for a term of three years.
4 Thereafter trustees shall be elected to serve for a term of
5 three years. The office of any trustee shall become vacant if
6 he shall cease for any reason to hold office as a corporator.

7 b. The management and control of the affairs of a mutual
8 bank shall be vested in the trustees. The trustees may adopt,
9 amend and repeal by-laws governing the affairs of the mutual bank.

10 c. The office of a trustee shall become vacant whenever he
11 shall have failed to attend regular meetings of the trustees for
12 a period of six months, unless excused during such period by a
13 resolution duly adopted by the trustees.

14 d. It shall be unlawful for any trustee

15 (1) to receive remuneration as trustee except reason-
16 able fees for attendance at meetings of trustees or for services
17 as a member of a committee of trustees;

18 (2) to borrow funds or in any manner become an obligor
19 for funds borrowed from the mutual bank for which he is trustee;

20 (3) to make a profit from any property sold to or
21 services performed for the mutual bank for which he is trustee; or

22 (4) to use his position as trustee, or knowingly allow
23 it to be used, to induce any actual or prospective borrower from
24 the mutual bank for which he is trustee to purchase goods or
25 services at a direct or indirect profit to him.

26 e. Nothing contained in subsec. d shall be deemed to pro-
27 hibit or in any way limit any right of a trustee who is also an
28 officer or attorney of the mutual bank from receiving compensa-
29 tion for services as an officer or attorney.

1 f. Upon application by a mutual bank, exceptions may be
2 granted to any prohibition contained in subsec. d following a
3 determination by the department that the exception sought is
4 equitable, is supported by evidence, and that such exception is
5 in the best interests of the depositors of the mutual bank.

6 g. No mutual bank shall deposit any of its funds except
7 with a depository approved by vote of a majority of all trustees
8 of the mutual bank, exclusive of any trustee who is an officer,
9 partner, director or trustee of the depository so designated.

10 Sec. 7. COMMENCEMENT OF OPERATION. No mutual bank may
11 commence operations except upon approval by the department, which
12 shall not be granted prior to qualification by such mutual bank
13 as an insured bank under the Federal Deposit Insurance Act. No
14 mutual bank shall continue operations if it shall at any time
15 cease to be so qualified.

16 No mutual bank may commence operations until there shall be
17 deposited in cash to the credit of such mutual bank as an expense
18 fund such sums as the department may require, to be evidenced by
19 transferable deferred payment certificates.

20 Sec. 8. SURPLUS. a. Prior to authorizing the issuance of
21 a charter for a mutual bank, the department shall require that
22 there be deposited in cash to the credit of such mutual bank not
23 less than \$50,000.00, which shall constitute the initial surplus.
24 All sums so advanced as initial surplus shall be evidenced by
25 transferable deferred payment certificates. Outstanding certifi-
26 cates may have such maturities and may be repaid pro rata in such
27 installments, and shall be entitled to receive interest at such
28 rate, as may be approved by the department.

29 b. As soon as practicable following the close of each of its

1 first 10 years, each mutual bank shall credit to surplus an
2 amount not less than 10 per cent of its net earnings before in-
3 terest for such preceding fiscal year and at the close of each
4 fiscal year following the first 10 years shall credit to surplus
5 such proportion of its net earnings for such preceding fiscal
6 year, not exceeding 10 per cent, as the department may by regula-
7 tion prescribe: Provided, that such credits to surplus need be
8 made only until surplus shall be equal to 12 per cent of deposit
9 liabilities, and thereafter and so long as surplus shall be equal
10 to 12 per cent of deposit liabilities such mutual bank may credit
11 such further amounts to surplus as it may determine.

12 c. The surplus of an operating mutual bank shall be avail-
13 able only for the purpose of meeting losses.

14 Sec. 9. BORROWING. Each mutual bank may borrow from any
15 source and in any manner such amounts without limit as may be
16 required to satisfy its obligations to its depositors and may
17 borrow for other purposes an aggregate outstanding amount not to
18 exceed five per cent of its total assets at the time of borrowing,
19 exclusive of any sums borrowed pursuant to sections 7 and 8.

20 Sec. 10. DEPOSITS. a. A mutual bank may accept any savings
21 deposit unless its liability to any depositor, including his pro
22 rata share of all amounts credited to him and others would thereby
23 exceed \$25,000.00, exclusive of interest credited thereon. In
24 computing such liability, there may be excluded all amounts cre-
25 dited to such depositor as a trustee, provided that the aggregate
26 of all amounts credited to a depositor as a trustee under volun-
27 tary trusts shall not exceed \$25,000.00, exclusive of interest
28 credited thereon. Deposits to the credit of any non-profit organ-
29 ization may be accepted by a mutual bank without limitation, but

1 no mutual bank shall accept any deposit to the credit of any
2 partnership, corporation, association or other organization for
3 profit.

4 b. Each mutual bank may (1) reject any sums offered for
5 deposit; (2) repay any deposit at any time; and (3) classify and
6 differentiate among deposits on such bases as it may determine.

7 c. Except as otherwise provided in this Act, a mutual bank
8 may pay interest on deposits from net earnings and undivided
9 profits at such rates and at such intervals as shall be approved
10 by its trustees, provided that no mutual bank shall contract with
11 its depositors in advance to pay any specific rate of interest.

12 d. A mutual bank may at any time by resolution of its board
13 of trustees require that up to 90 days' advance notice be given
14 to it by each depositor before the withdrawal of any deposit or
15 portion thereof, and whenever the board of trustees shall adopt
16 such resolution, no deposit need be paid until the expiration of
17 the notice period applicable thereto in accordance with such
18 resolution. A mutual bank shall notify the department in writing
19 on the day of the adoption of such resolution. Notwithstanding
20 adoption of such resolution, a mutual bank may, in its discretion,
21 permit withdrawal of all or any part of any deposit prior to the
22 expiration of the notice period prescribed by such resolution.
23 Any such resolution may be rescinded at any time.

24 Sec. 11. INVESTMENTS. a. Subject to the provisions of this
25 Act and any regulation hereunder, a mutual bank may invest in the
26 following:

27 (1) obligations of the United States and those for
28 which the faith of the United States is pledged to provide for the
29 payment of the interest and principal, obligations for which

1 annual contributions to be paid pursuant to contract by the United
2 States government or any of its instrumentalities in accordance
3 with an Act of Congress entitled the "Housing Act of 1949", are
4 pledged as security for the payment of the interest and principal,
5 and obligations of any agency of the United States;

6 (2) obligations of any state of the United States and
7 those for which the faith of any state of the United States is
8 pledged to provide for the payment of the interest and principal;

9 (3) obligations issued by a city, village, town, county,
10 department, agency, district, authority, commission or other
11 public body of any state of the United States, but in so doing
12 shall exercise the same degree of care and prudence that persons
13 prompted by self-interest generally exercise in their own affairs;

14 (4) any property improvement note issued pursuant to
15 the provisions of Title 1, of the National Housing Act;

16 (5) obligations of the Dominion of Canada or Provinces
17 of the Dominion of Canada payable in United States funds;

18 (6) first mortgages on unencumbered real property,
19 including leasehold estates, subject to the following:

20 (a) no investment in mortgages executed by any one
21 mortgagor shall in the aggregate exceed two per cent of the
22 assets of the mutual bank at the time the investment is
23 made or \$25,000.00, whichever is greater;

24 (b) no investment in any one mortgage shall exceed
25 two per cent of the assets of the mutual bank at the time the
26 investment is made, or \$25,000.00, whichever is greater, or
27 more than 80 per cent of the appraised value of a one-to-four
28 family residence securing a conventional loan or more than
29 75 per cent of the appraised value of any other real property

1 securing a conventional loan;

2 (c) no investment shall be made in a conventional
3 loan secured by a mortgage on a one-to-four family residence
4 unless the mortgaged property is located within this state
5 and unless the mortgage has a maturity of not longer than
6 25 years from the date the loan is made;

7 (d) no investment shall be made in a conventional
8 loan if the aggregate unpaid principal of all conventional
9 loans exceed 80 per cent of deposits;

10 (e) no participation in mortgage loans with others
11 as co-mortgagees shall be permitted except with one or more
12 financial institutions, trusts, or pension funds;

13 (f) no investment shall be made in a mortgage upon
14 a leasehold unless (i) such leasehold has an unexpired term
15 of not less than 21 years, (ii) the principal amount of the
16 mortgage loan is not in excess of 70 per cent of the appraised
17 value of the leasehold, and (iii) provision is made for com-
18 plete amortization of the loan within such unexpired term
19 by periodic payments as the department may prescribe.

20 (7) bankers' acceptances which have been accepted by a
21 bank, a trust company, a national bank, an investment company, or
22 a banking corporation, organized under the laws of the United
23 States or of any state thereof, which is a member of the Federal
24 Reserve System.

25 (8) corporate securities, but in so doing shall exercise
26 the same degree of care and prudence that persons prompted by
27 self-interest generally exercise in their own affairs, and subject
28 to the following further conditions:

29 (a) no mutual bank shall invest in any corporate

1 obligation, other than pursuant to subsec. 9, that will mature
2 by its terms within one year from the date of its issuance,
3 or if issued or made in series, or repayable in installments,
4 will have an average maturity of less than one year;

5 (b) no mutual bank shall (i) invest in stocks an
6 amount greater than 10 per cent of its assets or 100 per
7 cent of its surplus and undivided profits, whichever is the
8 lesser, (ii) invest in common stock an amount greater than
9 6 per cent of its assets or 60 per cent of its surplus and
10 undivided profits, whichever is the lesser, (iii) invest in
11 the common and preferred stocks of one issuer an amount
12 greater than one per cent of its assets, or (iv) invest in
13 more than two percent of the total issued and outstanding
14 shares of stock of any one issuer.

15 (9) promissory notes, subject to the following
16 restrictions:

17 (a) any promissory note payable to the order of
18 the mutual bank within 90 days from date, which is:

19 1. secured by one or more mortgages in which
20 a mutual bank may invest, if the amount so invested in
21 any such note shall not exceed 90 per cent of the
22 principal sum secure by such mortgage or mortgages.

23 The assignment of every mortgage taken as security for
24 any such note shall be recorded or registered in the
25 office of the proper recording officer of the county in
26 which the real property described in such mortgage is
27 located, unless such mortgage or mortgages have been so
28 assigned by a mutual bank;

29 2. secured by any of the bonds in which a

1 mutual bank may invest, if the amount so invested in
2 any such note shall not exceed _____ per cent of
3 the market value of such bonds at the time of such
4 investment;

5 3. secured by an insurance policy, to the
6 extent of such policy's cash surrender value;

7 4. made by a savings and loans association
8 which has been incorporated three years or more and has
9 an accumulated capital of at least \$50,000.00;

10 (b) any promissory note payable to the order of
11 the mutual bank within one year from its date which is
12 secured by the assignment of a deposit in any mutual bank,
13 if the amount of the investment in any such note is not in
14 excess of the amount of such deposit.

15 Sec. 12. BRANCHES. a. A mutual bank may, with the approval
16 of the department, establish and operate one or more branches
17 within this state.

18 b. Before approving establishment and operation of a branch
19 office by a mutual bank, the department shall make with respect
20 thereto the findings required prior to the granting of a charter
21 to a mutual bank.

22 Sec. 13. CONVERSION. a. With the approval of the depart-
23 ment, any thrift institution other than a mutual bank may convert
24 itself into a mutual bank upon the affirmative vote of not less
25 than a majority of the votes cast by those entitled to vote upon
26 the affairs of such thrift institution at a meeting duly called
27 and held, and shall thereupon possess the powers of, and be subject
28 to the duties imposed upon mutual banks under the provisions of
29 this Act.

1 b. Before approving any such conversion, the department
2 shall find that the thrift institution seeking conversion has the
3 ability to discharge the duties and conform to the restrictions
4 upon mutual banks and has previously so conformed to the extent
5 required by the department. However, such institution may retain
6 and service all accounts lawfully held by it on the date of its
7 conversion.

8 c. Any mutual bank upon the affirmative vote of a majority
9 of its incorporators may convert itself into any type of thrift
10 institution organized pursuant to federal law or the laws of this
11 state, but subject to requisite approval of any regulatory
12 authority having jurisdiction over the creation of the thrift
13 institution.

14 Sec. 14. MERGER AND CONSOLIDATION. a. Any two or more
15 mutual banks may, with the approval of the department, and upon
16 the affirmative vote of not less than two-thirds of the incorporators
17 of each such mutual bank, enter into an agreement of merger or
18 consolidation. Thereafter, the merger or consolidation shall be
19 effective in accordance with the terms of such agreement.

20 b. Before approving a merger or consolidation the department
21 shall give consideration to the purposes of this Act and the pros-
22 pects of the surviving or consolidated mutual bank for financial
23 success and ability to discharge the duties and conform to the
24 restrictions imposed upon a mutual bank.

25 c. All rights, franchises and property interests of the
26 merged or consolidating mutual bank or banks shall be transferred
27 to and vested in the surviving or consolidated mutual bank by
28 virtue of the merger or consolidation without the requirement
29 under this Act of any deed or other instrument of transfer; and

1 the surviving or consolidated mutual bank shall be entitled to
2 exercise all rights and privileges of the merged or consolidating
3 mutual bank or banks in accordance with the terms of the merger
4 or consolidation agreement.

5 d. The surviving or consolidated mutual bank shall be
6 responsible for all debts and obligations of the merged or consoli-
7 dating mutual bank or banks in accordance with the terms of the
8 merger or consolidation agreement.

9 Sec. 15. GENERAL POWERS. a. For the purpose of carrying
10 out its functions under this Act, a mutual bank

11 (1) shall have indefinite succession;

12 (2) may adopt and use a seal;

13 (3) may sue and be sued;

14 (4) may adopt, amend and repeal rules and regulations
15 governing the manner in which its business may be conducted and
16 the powers vested in it may be exercised;

17 (5) may make and carry out such contracts and agree-
18 ments, provide such benefits to its personnel and take such other
19 action, as it may deem necessary or desirable in the conduct
20 of its business;

21 (6) may appoint and fix the compensation of such
22 officers, attorneys, and employees as may be desirable for the
23 conduct of its business, define their authority and duties,
24 delegate to them such powers as the trustees may determine, require
25 bonds of such of them as the trustees may designate and fix the
26 penalties and pay the premiums on such bonds; and

27 (7) acquire by purchase or lease such real property or
28 interest therein as the trustees may deem necessary or desirable
29 for the conduct of its business, and sell, lease or otherwise

1 dispose of such real property or interest therein.

2 b. The foregoing enumeration of powers shall not be deemed
3 to exclude other powers appropriate for the achievement of the
4 objects and purposes of a mutual bank under the provisions of this
5 Act, and a mutual bank may provide for the exercise of such other
6 powers in its by-laws, rules or regulations, with the approval of
7 the department.

8 Sec. 16. BOARD POWERS: PROHIBITED PRACTICES: SANCTIONS.
9 For the purposes of Article II of the Alaska Banking Code, except
10 Secs. 2.101, 2.102, 2.103, and 2.105, and for the purposes of
11 Title 4 of Article III of the Alaska Banking Code, the words
12 "bank" or "territorial bank" in the singular or plural shall be
13 deemed to include a mutual bank; the word "banking" shall be
14 deemed to include mutual savings banking, and the word "act"
15 shall be deemed to include this Act.

16 Sec. 17. AUTHORIZATION OF APPROPRIATIONS. There are hereby
17 authorized to be appropriated such sums as may be necessary and
18 appropriate for carrying out the provisions and purposes of this
19 Act.

20 Sec. 18. RIGHT TO AMEND. The right to alter, amend or
21 repeal this Act is hereby expressly reserved.

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