

Introduced: 2/9/70
Referred: Commerce and
Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 643

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the Alaska Banking Code."

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

8 * Section 1. AS 06.05.005(3) is amended to read:

9 (3) authorize a state bank [UNTIL THE CLOSE OF THE NEXT
10 REGULAR SESSION OF THE LEGISLATURE]

11 (A) to participate in a public agency created under
12 the laws of this state or of the United States, for the purpose
13 of affording advantages or safeguards to banks or to depositors
14 and to comply with all requirements and conditions imposed upon
15 such participants;

16 (B) to engage in any banking activity in which a bank
17 subject to the jurisdiction of the federal government may be
18 authorized by federal legislation to engage;

19 * Sec. 2. AS 06.05.015 is amended by adding a new subsection to read:

20 (11) charge off all debts owed to the bank in which interest
21 due has been unpaid for a period of six months unless the debt prin-
22 cipal is adequately secured and the bank is in process of collection.

23 * Sec. 3. AS 06.05.025 is amended to read:

24 AS 06.05.025. BANK EXAMINATIONS. (a) The department shall
25 select one or more competent persons [A COMPETENT PERSON] to make a
26 detailed examination of banks. A report [THE RESULT] of each [HIS]
27 examination and findings shall be transmitted to the department. A
28 copy of the report of examination shall be sent to the organization
29 examined.

1 (b) Irregularities in the conduct of a bank's business and any
2 violation of law shall be promptly called to the attention of the
3 directors of the bank by the department.

4 (c) Banks regulated under this chapter are subject to at least
5 one examination a year. Additional examinations may be conducted if,
6 in the discretion of the commissioner, they are deemed necessary to
7 process applications for mergers or branch banks. to determine whether
8 orders issued by the department after a previous examination have
9 been complied with or to carry out any duty imposed on the department
10 by this chapter.

11 * Sec. 4. AS 06.05.035 is repealed and re-enacted to read:

12 Sec. 06.05.035. EXAMINATION FEE. A bank examined under the pro-
13 visions of sec. 25 of this chapter shall pay a fee to the department
14 of \$125 per examiner for each day or part of a day required for the
15 examination. The total amount of the fee shall be paid by the bank
16 promptly upon completion of the examination and receipt of billing
17 from the department.

18 * Sec. 5. AS 06.05 is amended by adding a new section to read:

19 Sec. 06.05.206. LEASEHOLD AND DEVELOPMENT LOANS. (a) A bank
20 may, subject to the requirements of this chapter, make or acquire a
21 loan secured by a first lien on a leasehold in improved real estate
22 if

23 (1) the lease does not expire, or is renewable at the
24 option of the bank, for at least 10 years after the maturity date of
25 the loan;

26 (2) the loan satisfies the criteria governing amount, terms
27 and security as provided by secs. 207(a)(1), (2) or (4) of this
28 chapter;

29 (3) the lease does not contain covenants or restrictions

1 that are more onerous or burdensome than the provisions of leases in
2 general use in the area where the property is located;

3 (4) the lease and any agreement effecting possession of the
4 leasehold estate permit the bank to acquire possession of the premises
5 by voluntary conveyance, assignment, or judicial process, pursuant
6 to the security instrument, without restrictions likely to jeopardize
7 the security value of the leasehold;

8 (5) existing liens on real estate constituting the leasehold
9 are subordinated to the bank lien against the leasehold at or before
10 the loan is made or acquired.

11 (b) The provisions of (a) of this section do not apply to loans
12 insured or guaranteed by a government agency or a mortgage insurer
13 authorized to do business in Alaska.

14 (c) A bank may, subject to the requirements of this chapter,
15 make or acquire a loan, the proceeds of which are used to improve
16 undeveloped real estate if

17 (1) the loan satisfies the criteria governing amount, terms
18 and security as provided in sec. 207(a)(1), (2) or (4) of this
19 chapter;

20 (2) the loan is secured by a first lien on the real estate;
21 and

22 (3) the undeveloped property is improved by adding

23 (A) streets, water, sewer, and other utilities for
24 lots in a housing subdivision;

25 (B) fill, gravel, topping, bulkheads, piling or similar
26 improvements that make the property more suitable for industrial
27 uses; or

28 (C) paved streets, utilities or transportation
29 facilities on or available to prime industrial properties.

1 * Sec. 6. AS 06.05.207 is repealed and re-enacted to read:

2 Sec. 06.05.207. REAL ESTATE LOANS. (a) A bank may, subject to
3 the requirements of this chapter, make or acquire a loan secured by
4 a first lien on improved real estate if

5 (1) the amount of the loan does not exceed $66\frac{2}{3}$ per cent
6 of the appraised value of the real estate offered as security and the
7 term of the loan does not exceed five years;

8 (2) the amount of the loan does not exceed $66\frac{2}{3}$ per cent
9 of the appraised value of the real estate offered as security, the
10 term of the loan does not exceed 10 years, and the loan is secured by
11 an amortized mortgage, deed of trust, or other such instrument under
12 the terms of which the installment payments are sufficient to amortize
13 40 per cent or more of the principal of the loan within 10 years or
14 less;

15 (3) Repealed by Sec. 16 Ch 63 SLA 1969;

16 (4) the amount of the loan does not exceed 80 per cent of
17 the appraised value of the real estate offered as security, the term
18 of the loan does not exceed 25 years, and the loan is secured by an
19 amortized mortgage, deed of trust, or other such instruments under
20 the terms of which the installment payments are sufficient to amortize
21 the entire principal of the loan within the period ending on the date
22 of its maturity; or

23 (5) the amount of the loan does not exceed 90 per cent of
24 the appraised value of the real estate offered as security, the term
25 of the loan does not exceed 30 years, and the loan is secured by an
26 amortized mortgage, deed of trust, or other instrument under the
27 terms of which the installment payments are sufficient to amortize
28 the entire principal of the loan within the period ending on the date
29 of its maturity and, in addition, the loan is either (A) insured by

1 a mortgage insurer authorized to do business in Alaska; or (B)
2 secured in addition to the amortized mortgage by a savings account
3 held by the lending institution in an amount equal to 10 per cent of
4 the loan or other collateral acceptable to the department.

5 (b) A bank may, subject to the requirements of this chapter,
6 make or acquire a loan secured by a second lien on improved real
7 estate if

8 (1) payments on the loan secured by the first mortgage are
9 current and the bank retains in its records a written report of the
10 status and balance of the first lien loan as of the date the second
11 lien loan is made or acquired;

12 (2) the total of the balance of the loan secured by the
13 first lien and the loan secured by the first lien and the loan secured
14 by the second lien does not exceed the maximum percentage of
15 appraised value permitted under (a) of this section; and,

16 (3) the loan is amortized as provided in (a) of this section
17 for loans secured by a first lien.

18 (c) The provisions of (a) of this section do not apply to real
19 estate loans which are insured under the provisions of the National
20 Housing Act, or to guaranteed or participating loans under the Small
21 Business Administration.

22 (d) As conditions precedent to making a real estate loan

23 (1) the value of the real estate shall be determined by an
24 employee of the bank or other person familiar with real estate values
25 in the vicinity where the real estate is located, and a written report
26 of the appraisal preserved in the records of the bank; and

27 (2) insurance against loss from fire on all buildings on
28 the real estate which are included in the appraised value shall be
29 acquired by the borrower or the bank and may not be allowed to lapse.

1 (e) The provisions of this section do not apply to a home
2 improvement loan if the proceeds of the loan are used to improve the
3 collateral of the loan.

4 (f) In this section "improved real estate" means improved farm
5 land that is useful for agricultural purposes without further sub-
6 stantial improvements, improved business and residential property
7 where substantial and permanent improvements have been constructed or
8 developed or when the value has been enhanced by other improvements
9 in the immediate vicinity.

10 (g) The provisions of this section do not apply to a loan made
11 before August 6, 1968, if the loan is reduced and paid according to
12 its terms provided the loan may be extended in compliance with this
13 section.

14 * Sec. 7. AS 06.05 is amended by adding a new section to read:

15 Sec. 06.05.211. LOANS SECURED BY FOREST TRACTS. (a) A bank
16 may, subject to the requirements of this chapter, make or acquire a
17 loan secured by a first lien on a forest tract if

18 (1) the amount of the loan does not exceed 60 per cent of
19 the appraised value of the growing timber, lands and improvements
20 thereon offered as security;

21 (2) the terms and conditions of the loan are adequate to
22 insure that the loan balance will not at any time exceed 60 per cent
23 of the original appraised value of the property remaining as security;

24 (3) the term of the loan does not exceed 15 years and the
25 installment payments equal at least $6\frac{2}{3}$ per cent of the original
26 principal per annum; and

27 (4) the loan is secured by an amortized mortgage, deed of
28 trust, or assignment of a federal or state timber sale contract.

29 (b) The aggregate of all loans made or acquired by a bank under

1 this section may not exceed 50 per cent of its combined capital,
2 surplus and undivided profits.

3 (c) In this section "forest tract" means a reasonably accessible
4 tract of land primarily covered with marketable or potentially
5 marketable growing timber having a recognized commercial value, which
6 is safeguarded by fire protection, insect, pest and disease control.

7 * Sec. 8. AS 06.05 is amended by adding a new section to read:

8 Sec. 06.05.231. BANK SERVICE CORPORATIONS. (a) A bank may,
9 invest not more than 10 per cent of its paid-in and unimpaired
10 capital and surplus in a bank service corporation if

11 (1) the bank submits an application requesting permission
12 to invest in a bank service corporation to the department, accompan-
13 ied by complete information concerning feasibility, rates and com-
14 petitive organizations, and the department consents in writing to
15 the investment before it is made; and

16 (2) the total investment under this section and secs. 230
17 (1) and 232 of this chapter does not exceed the combined capital,
18 surplus and undivided profits.

19 (b) A bank may not employ or use the services of a bank service
20 corporation unless the service corporation provides an adequate bond
21 or insurance against liabilities arising from accounting or other
22 activities performed by the service corporation effecting bank
23 transactions and the bank gives written notice to the department,
24 before any services are rendered, specifying the name and address of
25 the bank service corporation and the nature of the activities to be
26 performed.

27 (c) The performance of any service for a bank by a bank person
28 or organization other than the bank is subject to all laws and
29 regulations governing performance and examination, in the same manner

1 as if the bank were performing the services.

2 * Sec. 9. AS 06.05 is amended by adding a new section to read:

3 Sec. 06.05.232. LEASING OF REAL AND PERSONAL PROPERTY. (a)

4 A bank may purchase and own real or personal property for the pur-
5 pose of leasing upon the request of a lessee of the property if

6 (1) the original lease is executed in writing before
7 acquisition of the property to be leased;

8 (2) the terms of the lease require payment to the bank
9 during the minimum period of the lease of an amount of money that
10 will exceed the total expenditures by the bank for acquisition,
11 ownership, maintenance and protection of the property;

12 (3) the total of the expenditures by the bank for acqui-
13 sition, ownership, maintenance and protection of the leased property
14 and other loans to the lessees by the bank do not exceed the limits
15 on loans to one borrower under sec. 205 of this chapter.

16 (b) The aggregate investment in property under this section and
17 secs. 230(1) and 231 of this chapter may not exceed the bank's
18 combined capital, surplus and undivided profits.

19 (c) Payments by a lessee to a bank for property leased under
20 this section shall be considered as rent rather than interest.

21 * Sec. 10. AS 06.05.235 is repealed and re-enacted to read:

22 Sec. 06.05.235. DOMESTIC BANK HOLDING COMPANIES. (a) It is
23 unlawful for a company other than a company which has qualified as a
24 domestic bank holding company as provided in (b) of this section to

25 (1) own or control, directly or indirectly, 10 per cent or
26 more of a banking corporation or bank holding company subject to the
27 Alaska Banking Code; or

28 (2) control in any manner the election of a majority of
29 the directors of a bank.

1 A creditor company may, however, when it is necessary, accept shares
2 of stock in a regulated corporation in payment of an indebtedness,
3 but the shares shall be disposed of in accordance with regulations
4 of the commissioner.

5 (b) A domestic bank holding company is a company authorized to
6 do business in this state which maintains its principal office and
7 place of business in this state, conducts its principal operations
8 in this state and is issued a certificate of authority to operate as
9 a domestic bank holding company after satisfying all registration
10 requirements established by regulation.

11 (c) The commissioner may promulgate regulations establishing
12 registration requirements for domestic bank holding companies and
13 regulating their activities to insure financially sound banking
14 organization and practice.

15 (d) A domestic bank holding company may be required to post a
16 bond with the commissioner in an amount equal to the par value of
17 the stock held by under the conditions the commissioner may prescribe
18 to assure full protection to the public.

19 (e) A domestic bank holding company is subject to examination
20 as provided for banks under secs. 25 and 35 of this chapter.

21 (f) A person or an officer, servant, agent, or employee of the
22 person, who violates a regulation promulgated under (b) of this
23 section is guilty of a misdemeanor, and upon conviction is punish-
24 able by a fine of not more than \$5,000, or by imprisonment for not
25 more than one year, or by both; and in the case of a corporation, by
26 a fine of not more than \$5,000.

27 (g) In this section, "company" means a corporation, business
28 trust, partnership, association, or similar organization but does
29 not include an agency of the State of Alaska or the United States.

1 * Sec. 11. AS 06.05 is amended by adding a new section to read:

2 Sec. 06.05.275. MISCELLANEOUS AND INCIDENTAL BANKING PRACTICES.

3 (a) A bank may issue and confirm letters of credit authorizing the
4 principal or beneficiary to draw upon the institution or its
5 correspondents. A letter of credit shall expire by its terms within
6 one year of date of issuance, but may be renewed on written request
7 of the principal.

8 (b) A bank may discount, invest in, negotiate and issue trade
9 acceptances and bank acceptances if

10 (1) the terms of the draft require presentation for pay-
11 ment within 180 days of issuance, exclusive of days of grace, and it
12 is drawn to finance the purchase of goods with maturity and payment
13 in accordance with the terms of the purchase agreement;

14 (2) the terms of the draft require presentation for pay-
15 ment within 180 days of issuance, exclusive of days of grace, and it
16 is secured by shipping documents transferring or securing title to
17 goods, or by receipt of a licensed or bonded warehouse securing title
18 to readily marketable goods;

19 (3) the draft is drawn by a bank outside the continental
20 limits of the United States for the purpose of furnishing dollar
21 exchange for trade and its terms require presentation for payment
22 within 90 days of issuance.

23 * Sec. 12. AS 06.05.345(a)(4) is amended to read:

24 (4) the amount of its capital stock which shall be divided
25 into shares of not less than \$1 [\$10] each;

26 * Sec. 13. AS 06.05.365 is amended by adding a section to subsection
27 to read:

28 (c) An application for a charter shall be accompanied by an
29 application fee of \$1,000.

1 * Sec. 14. AS 06.05.462 is amended to read:

2 Sec. 06.05.462. CONVERSIONS, MERGERS AND CONSOLIDATIONS [OF
3 NATIONAL CHARTER BANKS]. (a) A national charter bank located in
4 the state may convert to a state charter bank or merge or consolidate
5 with a state charter bank if it complies with federal and state
6 banking law.

7 (b) A state charter bank converting to a national charter bank
8 shall submit a copy of the application for national charter or
9 application to convert, merge or consolidate to the department at the
10 time those documents are forwarded to the comptroller of the
11 currency.

12 (c) A state charter bank may merge or consolidate with other
13 state charter banks after filing with the department information and
14 reports which the department requires by regulation.

15 * Sec. 15. AS 06.05.540(9) is repealed.
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