

CS Judic

Original sponsor: Rules Committee by request of the Governor

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1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 CS FOR 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 paragraph 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 princi-
22 pal is adequately secured and the bank is in process of collection.

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

24 Sec. 06.05.025. BANK EXAMINATIONS. (a) The department shall
25 select one or more competent persons [A COMPETENT PERSON] to make
26 examinations [A DETAILED EXAMINATION] of state banks: [THE RESULT OF
27 HIS EXAMINATION AND FINDINGS SHALL BE TRANSMITTED TO THE DEPARTMENT.]
28 A 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 considered necessary
7 to process applications for mergers or branch banks, to determine
8 whether orders issued by the department after a previous examination
9 have been complied with.

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 AS 06.05.035 is repealed and re-enacted to read:

11 Sec. 06.05.035. EXAMINATION FEE. A bank examined under the pro-
12 visions of sec. 25 of this chapter shall pay a fee to the department
13 of \$125 per examiner for each day or part of a day required for the
14 examination but not to exceed \$3,750 per calendar year. The total
15 amount of the fee shall be paid by the bank promptly upon receipt of
16 the examination report and billing from the department.

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

18 Sec. 06.05.206. LEASEHOLD AND DEVELOPMENT LOANS. (a) A bank
19 may, subject to the requirements of this chapter, make or acquire a
20 loan secured by a first lien on a leasehold in improved real estate if
21 (1) the lease does not expire, or is renewable at the option
22 of the bank, for at least 10 years after the maturity date of the loan;
23 (2) the loan satisfies the criteria governing amount, terms
24 and security as provided by secs. 207(a)(1), (2) or (4) of this chapter;
25 (3) the lease does not contain covenants or restrictions
26 that are more onerous or burdensome than the provisions of leases in
27 general use in the area where the property is located;
28 (4) the lease and any agreement affecting possession of the
29 leasehold estate permit the bank to acquire possession of the premises

1 by voluntary conveyance, assignment, or judicial process, under the
2 security instrument, without restrictions likely to jeopardize the
3 security value of the leasehold;

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

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

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

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

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

17 (3) the undeveloped property is improved by adding

18 (A) streets, water, sewer, and other utilities for lots
19 in a subdivision;

20 (B) fill, gravel, topping, bulkheads, piling or similar
21 improvements that make the property more suitable for use; or

22 (C) paved streets, utilities or transportation facili-
23 ties on or available to industrial properties.

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

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

28 (1) the amount of the loan does not exceed $66 \frac{2}{3}$ per cent
29 of the appraised value of the real estate offered as security and the

1 term of the loan does not exceed five years; or

2 (2) the amount of the loan does not exceed $66 \frac{2}{3}$ per cent
3 of the appraised value of the real estate offered as security, the
4 term of the loan does not exceed 10 years, and the loan is secured by
5 an amortized mortgage, deed of trust, or other such instrument under
6 the terms of which the installment payments are sufficient to amortize
7 40 per cent or more of the principal of the loan within 10 years or
8 less; or

9 (3) the amount of the loan does not exceed 80 per cent of
10 the appraised value of the real estate offered as security, the term
11 of the loan does not exceed 25 years, and the loan is secured by an
12 amortized mortgage, deed of trust, or other such instruments under
13 the terms of which the installment payments are sufficient to amortize
14 the entire principal of the loan within the period ending on the date
15 of its maturity; or

16 (4) the amount of the loan does not exceed 90 per cent of
17 the appraised value of the real estate offered as security, the term
18 of the loan does not exceed 30 years, and the loan is secured by an
19 amortized mortgage, deed of trust, or other instrument under the
20 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 and, in addition, the loan is either

23 (A) insured by a mortgage insurer authorized to do
24 business in Alaska; or

25 (B) secured in addition to the amortized mortgage by
26 a savings account held by the lending institution in an amount
27 equal to 10 per cent of the loan or other collateral acceptable
28 to the department.

29 (b) A bank may, subject to the requirements of this chapter,

1 make or acquire a loan secured by a second lien on improved real estate
2 if

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

7 (2) the total of the balance of the loan secured by the
8 first lien and the loan secured by the first lien and the loan secured
9 by the second lien does not exceed the maximum percentage of appraised
10 value permitted under (a) of this section; and

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

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

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

18 (1) the value of the real estate shall be determined by an
19 appraisal by a person familiar with real estate values in the vicinity
20 where the real estate is located, and a written report of the appraisal
21 preserved in the records of the bank; and

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

25 (e) The limitations of this section do not apply to a home improve-
26 ment loan.

27 (f) In this section "improved real estate" means improved farm
28 land that is useful for agricultural purposes without further substantia
29 improvements, improved business and residential property where

1 substantial and permanent improvements have been constructed or
2 developed or when the value has been enhanced by other improvements on
3 the property or in the immediate vicinity.

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

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

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

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

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

18 (3) the term of the loan does not exceed 15 years and the
19 installment payments equal at least 6 2/3 per cent of the original
20 principal per annum; and

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

23 (b) The aggregate of all loans made or acquired by a bank under
24 this section may not exceed 50 per cent of its combined capital,
25 surplus and undivided profits.

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

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

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

5 (1) the bank submits an application requesting permission
6 to invest in a bank service corporation to the department, accompanied
7 by complete information concerning feasibility, rates and competitive
8 organizations, and the department consents in writing to the investment
9 before it is made; and

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

13 (b) A bank may not employ or use the services of a bank service
14 corporation unless the service corporation provides an adequate bond
15 or insurance against liabilities arising from accounting or other
16 activities performed by the service corporation affecting bank
17 transactions and the bank gives written notice to the department,
18 before any services are rendered, specifying the name and address of
19 the bank service corporation and the nature of the activities to be
20 performed.

21 (c) The performance of any service for a bank by a bank person
22 or organization other than the bank is subject to all laws and regula-
23 tions governing performance and examination, in the same manner as if
24 the bank were performing the services.

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

26 Sec. 06.05.232. LEASING OF REAL AND PERSONAL PROPERTY. (a) A
27 bank may purchase and own real or personal property for the purpose of
28 leasing upon the request of a lessee of the property if

29 (1) the original lease is executed in writing before

1 acquisition of the property to be leased;

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

6 (3) the total of the expenditures by the bank for acquisition
7 ownership, maintenance and protection of the leased property and other
8 loans to the lessees by the bank do not exceed the limits on loans to
9 one borrower under sec. 205 of this chapter.

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

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

15 ~~Sec. 10.~~ AS 06.05.235 is repealed and re-enacted to read:

16 Sec. 06.05.235. DOMESTIC BANK HOLDING COMPANIES. (a) It is
17 unlawful for a company other than a company which has qualified as a
18 domestic bank holding company as provided in (b) of this section to (1)
19 own or control, directly or indirectly, 10 per cent or more of a
20 banking corporation or bank holding company subject to the Alaska
21 Banking Code; or (2) control in any manner the election of a majority
22 of the directors of a bank. A creditor company may, however, when it
23 is necessary, accept shares of stock in a regulated corporation in
24 payment of an indebtedness, but the shares shall be disposed of in
25 accordance with regulations of the commissioner.

26 (b) A domestic bank holding company is a corporation organized
27 under the Alaska Business Corporations Act which maintains its principal
28 office and place of business in this state, conducts its principal
29 operations in this state and is issued a certificate of authority to

1 operate as a domestic bank holding company after satisfying all regis-
2 tration requirements established by regulation.

3 (c) The commissioner may promulgate regulations establishing
4 registration requirements for domestic bank holding companies and
5 defining and regulating their activities to insure financially sound
6 banking organization and practice.

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

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

13 (f) A person or an officer, servant, agent, or employee of the
14 person, who violates a regulation promulgated under (c) of this section
15 is guilty of a misdemeanor, and upon conviction is punishable by a fine
16 of not more than \$5,000, or by imprisonment for not more than one year,
17 or by both; and in the case of a corporation, by a fine of not more
18 than \$5,000.

19 (g) In this section "company" means a corporation, business trust,
20 partnership, association, or similar organization.

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

22 Sec. 06.05.275. MISCELLANEOUS AND INCIDENTAL BANKING PRACTICES.

23 (a) A bank may issue and confirm letters of credit authorizing the
24 principal or beneficiary to draw upon the institution or its correspon-
25 dents. A letter of credit shall expire by its terms within one year
26 of date of issuance, but may be renewed on written request of the
27 principal.

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

1 (1) the terms of the draft require presentation for payment
2 within 180 days of issuance, exclusive of days of grace, and it is
3 drawn to finance the purchase of goods with maturity and payment in
4 accordance with the terms of the purchase agreement;

5 (2) the terms of the draft require presentation for payment
6 within 180 days of issuance, exclusive of days of grace, and it is
7 secured by shipping documents transferring or securing title to goods,
8 or by receipt of a licensed or bonded warehouse securing title to
9 readily marketable goods;

10 (3) the draft is drawn by a bank outside the continental
11 limits of the United States for the purpose of furnishing dollar
12 exchange for trade and its terms require presentation for payment within
13 90 days of issuance.

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

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

17 * Sec. 13. AS 06.05.365 is amended by adding a new subsection to read:

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

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

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

25 (b) A state charter bank converting to a national charter bank
26 shall submit a copy of the application for national charter or applica-
27 tion to convert, merge or consolidate to the department at the time
28 those documents are forwarded to the comptroller of the currency.

29 (c) A state charter bank may merge or consolidate with other

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state charter banks after filing with the department information and reports which the department requires by regulation.

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