

Original sponsor: Rules Committee by
request of the Governor

Offered: 4/29/70
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY 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 laws."

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 at
6 the discretion of the commissioner.

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 AS 06.05.035 is repealed and re-enacted to read:

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

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

15 Sec. 06.05.206. LEASEHOLD AND DEVELOPMENT LOANS. (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 leasehold in improved real estate if
18 (1) the lease does not expire, or is renewable at the option
19 of the bank, for at least 10 years after the maturity date of the
20 loan;

21 (2) the loan satisfies the criteria governing amount, terms
22 and security as provided by sec. 207(a)(1), (2) or (3) of this chapter;

23 (3) the lease does not contain covenants or restrictions
24 that are more onerous or burdensome than the provisions of leases in
25 general use in the area where the property is located;

26 (4) the lease and any agreement affecting possession of the
27 leasehold estate permit the bank to acquire possession of the premises
28 by voluntary conveyance, assignment, or judicial process, under the
29 security instrument, without restrictions likely to jeopardize the

1 security value of the leasehold;

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

5 (b) The provisions of (a) of this section do not apply to loans
6 which are at least 90 per cent insured or guaranteed by a government
7 agency or a mortgage insurer authorized to do business in Alaska.

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

11 (1) the loan satisfies the criteria governing amount, terms
12 and security as provided in sec. 207(a)(1), (2) or (3) of this chapter;

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

15 (3) the undeveloped property is improved by adding

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

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

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

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

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

26 (1) the amount of the loan does not exceed 66 2/3 per cent
27 of the appraised value of the real estate offered as security and the
28 term of the loan does not exceed five years; or

29 (2) the amount of the loan does not exceed 66 2/3 per cent

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

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

14 (4) the amount of the loan does not exceed 90 per cent of the
15 appraised value of the real estate offered as security, the term of the
16 loan does not exceed 30 years, and the loan is secured by an amortized
17 mortgage, deed of trust, or other instrument under the terms of which
18 the installment payments are sufficient to amortize the entire principal
19 of the loan within the period ending on the date of its maturity and,
20 in addition, the loan is either

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

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

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

29 (1) payments on the loan secured by the first mortgage are

1 current and the bank retains in its records a written report of the
2 status and balance of the first lien loan as of the date the second
3 lien loan is made or acquired;

4 (2) the total of the balance of the loan secured by the
5 first lien and the loan secured by the second lien does not exceed
6 the maximum percentage of appraised value permitted under (a)(2) or
7 (3) of this section; and

8 (3) the loan is amortized as provided in (a)(2) or (3) of
9 this section for loans secured by a first lien.

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

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

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

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

22 (e) The limitations of this section do not apply to a home im-
23 provement loan.

24 (f) In this section "improved real estate" means improved farm
25 land that is useful for agricultural purposes without further substantial
26 improvements, improved business and residential property where substan-
27 tial and permanent improvements have been constructed or developed or
28 when the value has been enhanced by other improvements on the property
29 or in the immediate vicinity.

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

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

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

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

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

15 (3) the term of the loan does not exceed 15 years and the
16 annual principal payments equal at least 6 2/3 per cent of the amount
17 loaned; and

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

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

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

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

28 Sec. 06.05.231. BANK SERVICE CORPORATIONS. (a) A bank may invest
29 not more than 10 per cent of its paid-in and unimpaired capital and

1 surplus in a bank service corporation if

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

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

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

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

21 (d) The term "bank services" means services for banks such as
22 check and deposit sorting and posting, computation and posting of
23 interest and other credits and charges, preparation and mailing of
24 checks, statements, notices, and similar items, and any clerical,
25 bookkeeping, accounting, statistical, or similar functions performed
26 by a bank for its customers.

27 (e) The term "bank service corporation" means a corporation
28 organized to perform bank services for two or more banks, each of which
29 owns part of the capital stock of such corporation.

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

2 Sec. 06.05.232. LEASING OF REAL AND PERSONAL PROPERTY. (a) The
3 department may authorize a bank to become the owner and lessor of
4 real or personal property acquired upon the specific request of and
5 for the use of a customer, 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 during
9 the minimum period of the lease of an amount of money that will exceed
10 the total expenditures by the bank for acquisition, ownership, mainten-
11 ance and protection of the property;

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

16 (4) in the case of real property, the lease agreement pro-
17 vides that upon its expiration the lessee will become owner of the
18 property;

19 (5) the director of banking certifies to the commissioner
20 that leasing by banks is necessary to preserve a competitive dual bank-
21 ing system; leasing by banks is not considered necessary to preserve
22 a competitive dual banking system unless a national bank in the state
23 is actually engaged in leasing.

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

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

29 (d) Real property retained by a bank upon termination of a lease

1 authorized under this section, as the result of default by the lessee,
2 shall be utilized or disposed of as provided by regulation of the
3 department.

4 * Sec. 10. AS 06.05 is amended by adding a new section to read:

5 Sec. 06.05.275. MISCELLANEOUS AND INCIDENTAL BANKING PRACTICES.

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

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

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

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

21 (3) the draft is drawn by a bank outside the continental
22 limits of the United States for the purpose of furnishing dollar ex-
23 change for trade and its terms require presentation for payment within
24 90 days of issuance.

25 (c) A bank may make available its data processing equipment or
26 perform data processing services on such equipment for other banks and
27 bank customers, provided the bank is adequately insured against any
28 additional liability incurred through the sale of such services.

29 * Sec. 11. AS 06.05.345(a)(4) is amended to read:

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

3 * Sec. 12. AS 06.05.365 is amended by adding a new subsection to read:

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

6 * Sec. 13. AS 06.05.462 is repealed and re-enacted to read:

7 Sec. 06.05.462. CONVERSIONS, MERGERS AND CONSOLIDATIONS. (a) A
8 national charter bank located in the state may convert to a state
9 charter bank or merge or consolidate with a state charter bank, and a
10 state charter bank may merge or consolidate with another state charter
11 bank, if the merger or consolidation is consistent with federal and
12 state law and approved by the department.

13 (b) Before merger or consolidation under (a) of this section,
14 banks shall file with the department an application and other informa-
15 tion and reports which the department requires.

16 (c) The department, in the exercise of its power to approve or
17 disapprove applications for merger or consolidation, shall act in the
18 interests of promoting and maintaining a sound banking system, the
19 security of deposits and customers, the preservation of the liquid
20 position of banks and in the interest of preventing injurious credit
21 expansions and contractions. The department may promulgate regulations
22 to implement this section.

23 (d) A state charter bank converting to or merging or consolidating
24 with a national charter bank shall submit a copy of the application
25 for national charter or application to convert, merge or consolidate
26 to the department at the time those documents are forwarded to the
27 Comptroller of the Currency.

28 * Sec. 14. AS 06.15.220 is amended to read:

29 Sec. 06.15.220. INTEREST ON DEPOSITS. [(A) EXCEPT AS OTHERWISE

1 PROVIDED IN THIS CHAPTER, A] A mutual bank may pay interest on deposits
2 from net earnings and undivided profits at the rates and intervals
3 which its trustees approve [, EXCEPT THAT NO MUTUAL BANK MAY CONTRACT
4 WITH ITS DEPOSITORS IN ADVANCE TO PAY A SPECIFIC RATE OF INTEREST.

5 (B) NOTWITHSTANDING (A) OF THIS SECTION, HOWEVER, A MUTUAL BANK
6 MAY CONTRACT WITH A POLITICAL SUBDIVISION OR PUBLIC OR GOVERNMENTAL
7 UNIT FOR A SPECIFIC RATE OF INTEREST IF THE CONTRACT IS MANDATORY TO
8 COMPLY WITH REGULATIONS OF THE POLITICAL SUBDIVISION OR PUBLIC OR
9 GOVERNMENTAL UNIT].