

Introduced: 3/2/72
Referred: Commerce

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

CS
2 SENATE BILL NO. 360

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to small loans."

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

8 * Section 1. AS 06.20.180 is repealed and re-enacted to read:

9 Sec. 06.20.180. BOOKS AND RECORDS OF LICENSEES. Every licensee
10 shall keep and use in his business books and records in accordance
11 with sound and accepted accounting practices and principles as necessary
12 to enable the department to determine whether the licensee is complying
13 with the provisions of this chapter. A licensee's system of record
14 keeping shall be accepted if it discloses the information required.
15 The records relating to a loan need not be preserved longer than two years
16 after making the final entry relating to it.

17 * Sec. 2. AS 06.20.250 is amended to read:

18 Sec. 06.20.250. COMPUTATION AND PAYMENT OF INTEREST. (a) Interest
19 shall not be paid, deducted, or received in advance. Interest shall be
20 computed and paid only on unpaid principal balances and shall not be
21 compounded. The maximum interest permitted on loans made under this
22 chapter shall be computed on the basis of the number of days actually
23 elapsed. [FOR THE PURPOSE OF THESE COMPUTATIONS A MONTH IS ANY PERIOD
24 OF 30 CONSECUTIVE DAYS.]

25 * Sec. 3. AS 06.20.250 is amended by adding a new subsection to read:

26 (b) When a loan contract requires repayment in substantially
27 equal and consecutive monthly installments of principal and interest
28 combined, the licensee may at the time the loan is made precompute the
29 interest at the agreed monthly rate on scheduled unpaid principal

1 balances according to the terms of the contract and add the interest
2 so computed to the principal of the loan. Every payment may be applied
3 to the combined total of principal and precomputed interest
4 until the contract is fully paid. All payments made on account of
5 a loan, except those applied to default and deferment charges, shall
6 be considered to be applied to the unpaid installments in the order in
7 which they are due. The portion of the precomputed interest applicable
8 to a particular monthly installment period, originally scheduled or
9 following a deferment, shall bear the same ratio to the total pre-
10 computed interest, excluding an adjustment made under (1) of this sub-
11 section, as the balance scheduled to be outstanding during that monthly
12 period bears to the sum of all the monthly balances scheduled originally
13 by the contract of loan. Loan contracts made under this subsection
14 are subject to the following adjustments:

15 (1) Notwithstanding the requirements for substantially
16 equal and consecutive monthly installments, the first installment period
17 may exceed one month by as much as 15 days and the interest for each
18 day exceeding one month shall be 1/30 of the interest which would be
19 applicable to a first installment period of one month. The interest
20 for extra days in the first installment period may be added to the first
21 installment and the charges for the extra days shall be excluded in
22 computing any rebate.

23 (2) If the contract is prepaid in full by cash, a new loan
24 or otherwise before the final installment due date the borrower shall
25 receive a rebate of an amount which is not less than that portion of
26 the precomputed interest, excluding an adjustment for a first install-
27 ment period of more than one month, attributable to the installment
28 periods scheduled to follow the date of prepayment in full. A
29 default and deferment charge which is due and unpaid may be deducted

1 from such rebate. No rebate is required for a partial prepayment. No
2 rebate of less than \$1 need be made. If a rebate of precomputed
3 interest is required during a period of deferment, a pro rata rebate
4 of the deferment charge shall also be made.

5 (3) If an installment is not paid in full within five days
6 (Sundays and holidays excluded) after it is due, the licensee may
7 charge and collect a default charge not exceeding an amount equal to
8 the portion of precomputed interest attributable to the final install-
9 ment period and a similar amount may be charged and collected for
10 each succeeding full month from the due date that the installment
11 remains unpaid in full. The default charges may be collected when due
12 or at any time thereafter.

13 (4) If, as of an installment due date, the payment date of
14 all wholly unpaid installments is deferred one or more full months and
15 the maturity of the contract is extended for a corresponding period,
16 the licensee may charge and collect a deferment charge not exceeding
17 the interest attributable to the first of the deferred monthly install-
18 ment periods, multiplied by the number of months in the deferment
19 period. The deferment charge may be collected at the time of defer-
20 ment or at any time thereafter.

21 (5) If two or more full installments are in default for one
22 full month or more at an installment date, and if the contract so pro-
23 vides, the licensee may reduce the contract balance by the rebate which
24 would be required for prepayment in full on the installment date, and
25 the resulting sum shall be considered the unpaid principal balance.
26 Thereafter, in lieu of charging, collecting or receiving interest as
27 provided in this subsection, interest may be charged and collected as
28 provided in (a) of this section until the contract is fully paid.

29 (6) When interest is precomputed as provided in this subsection

1 the licensee may calculate interest on the basis that a month is that
2 period of time from one date in a calendar month to a corresponding
3 date in the succeeding month, but if there is no corresponding date,
4 then to the last day of the succeeding month, and a day is considered
5 1/30 of a month for the purpose of computation of fractions of months.
6 The contracting for, charging, collecting or receiving interest as
7 provided in this subsection may not be considered to be a violation of
8 (a) of this section.

9 * Sec. 4. AS 06.20.260 is amended to read:

10 Sec. 06.20.260. CHARGES PROHIBITED. (a) No further or other
11 charge or amount for any examination, service, brokerage commission,
12 expense, fee, or bonus or other thing or otherwise shall be directly
13 or indirectly charged, contracted for or received except

14 (1) lawful fees actually paid out by the licensee to a
15 public officer for filing, recording, or releasing any instrument
16 securing the loan, or for transferring certificate of title to a motor
17 vehicle securing the lien or noting a lien on that certificate;

18 (2) premiums actually paid out for credit insurance on the
19 life [OR PLEDGED PROPERTY] of the borrower or the spouse of the
20 borrower or for credit disability insurance or insurance on pledged
21 property;

22 (3) taxable costs and expenses to which the licensee becomes
23 entitled under general law in any court proceedings to collect a loan
24 or to realize on the security after default;

25 (4) a fee not exceeding \$3 for each default.

26 (b) A licensee may collect the charges permitted under (a) of
27 this section at the time when the loan is made or at any time there-
28 after. If any interest, consideration or charges in excess of those
29 permitted by sec. 230 of this chapter are charged, contracted for or

1 received, except as the result of an accidental and bona fide error
2 in computation, the contract of loan is modified as follows: all
3 interest, consideration or charges involved are voided and a like amount
4 credited to the debtor on the principal of the loan. If the unpaid
5 principal is less than the total of the interest, consideration and
6 charges, the difference shall be refunded by the lender to the borrower.
7 No licensee may be held liable in an action brought under this chapter
8 for a violation if the licensee shows that the violation was not inten-
9 tional and resulted from a bona fide error notwithstanding the mainten-
10 ance of procedures reasonably adopted to avoid that error and if the
11 licensee corrects the error within 30 days, after it is brought to the
12 licensee's attention. A gain or advantage to the licensee or an
13 employee, affiliate or associate of the licensee from the sale, provi-
14 sion or obtaining of insurance as authorized by this section is not an
15 additional charge or a violation of this section.

16 * Sec. 5. AS 06.20.270 is repealed and re-enacted to read:

17 Sec. 06.20.270. REQUIREMENTS FOR MAKING AND PAYMENT OF LOANS.

18 Every licensee shall

19 (1) deliver to the borrower at the time a loan is made a
20 statement in the English language showing the amount and date of the
21 loan and its maturity, the nature of the security, if any, for the
22 loan, the name and address of both the borrower and the licensee, and
23 the agreed rate of charge;

24 (2) give to the borrower a receipt for payments made in
25 cash on account of the loan at the time payments are made;

26 (3) permit payment to be made in advance in an amount equal
27 to one or more full installments at any time during the regular
28 business hours of the licensee, but the licensee may apply the advance
29 payment first to accrued interest or charges in full;

1 (4) upon repayment of the loan in full, mark indelibly a
2 note signed by the borrower with the word "paid" or "cancelled", and
3 return it to the borrower, restore a pledge, cancel an assignment and
4 release at the borrower's expense or provide the borrower evidence to
5 release a mortgage or security instrument no longer securing an in-
6 debtedness to the licensee.

7 * Sec. 6. AS 06.20 is amended by adding a new section to read:

8 Sec. 06.20.305. PURCHASE AND TRANSFER OF LOANS. A loan legally
9 made by the small loan company in a state or territory of the United
10 States may be purchased by or transferred to a small loan company
11 licensed in the state and be enforced under this chapter according to
12 the original terms of the loan although its unpaid balance then exceeds
13 \$1,500, upon the borrower becoming a resident of the state. If the
14 loan is extended or rewritten it then must comply with the provisions
15 of this chapter.
16
17
18
19
20
21
22
23
24
25
26
27
28
29