

Introduced: 4/20/74
Referred: Commerce and
Judiciary

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 HOUSE BILL NO. 858

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating an Alien Bank Act."

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

8 * Section 1. AS 06 is amended by adding a new chapter to read:

9 CHAPTER 7. ALIEN BANK ACT.

10 Sec. 06.07.010. UNAUTHORIZED BANKING BUSINESS PROHIBITED. No
11 person may, directly or indirectly, engage in banking in this state or
12 operate a representative office in this state unless he is authorized
13 to do so by the department.

14 Sec. 06.07.020. CHARTER AND CERTIFICATE OF AUTHORITY. (a) An
15 alien bank may apply to the department for a charter and certificate
16 of authority by filing a letter of intent to organize a subsidiary for
17 the purpose of conducting banking business.

18 (b) The department shall issue a charter and certificate of
19 authority if

20 (1) the subsidiary complies with the relevant provisions of
21 the Alaska Banking Code, including AS 06.05.300, 06.05.307 - 06.05.325,
22 06.05.330, 06.05.335(a) and (c), 06.05.340 - 06.05.425 and this para-
23 graph;

24 (2) the holding company is registered with the Board of
25 Governors of the Federal Reserve System;

26 (3) the application is approved by the Federal Deposit
27 Insurance Corporation;

28 (4) the subsidiary has paid-in capital of \$300,000 and paid-
29 in surplus of \$200,000 or, in addition to those amounts, that which

1 is considered necessary by the department;

2 (5) the alien bank does not own or control, directly or
3 indirectly, a subsidiary already operating in the state.

4 (c) A subsidiary which receives a charter and certificate of
5 authority under this chapter is subject to the provisions of the Alaska
6 Banking Code and any regulations promulgated under it which are not
7 inconsistent with this chapter.

8 (d) A bank operating under the laws of a foreign country not having
9 a deposit insurance corporation is prohibited from organizing a subsi-
10 diary under this chapter.

11 Sec. 06.07.030. EXPIRATION AND RENEWAL OF CHARTER. (a) Any
12 charter granted under this chapter shall remain in effect for not
13 more than ten years beginning on the date the charter is granted.

14 (b) Within 180 days before the date of expiration of such a
15 charter, the foreign person or group of foreign persons to whom it was
16 granted may reapply to the department in the same manner as the original
17 application for a charter, for approval to extend the charter for a
18 period of not more than 10 years.

19 (1) The decision to extend the charter shall be made by the
20 department in the same manner as provided in sec. 20 of this chapter.

21 (2) The application to renew the charter shall be supported
22 by any additional information the commissioner may require.

23 Sec. 06.07.040. REVOCATION OR SUSPENSION OF CHARTER. (a) The
24 commissioner may revoke or suspend any charter granted under this
25 chapter if:

26 (1) the subsidiary is conducting its business in an unsafe
27 or unsound manner;

28 (2) the subsidiary violates a law of this state or regulation
29 prescribed by the department;

1 (3) the directors of the subsidiary knowingly violate or
2 knowingly permit an officer, employee or agent of the subsidiary to
3 violate a provision of this chapter;

4 (4) the capital of the parent company of the subsidiary
5 is impaired or the company is insolvent;

6 (5) the capital of the subsidiary is impaired;

7 (6) the subsidiary has suspended or refused payment of its
8 deposits or other liabilities contrary to the terms of the subsidiary;

9 (7) the subsidiary or its parent refuses to make its records
10 available to the department for examination or otherwise refuses to
11 make available, through an officer or employee having knowledge of the
12 records, information required by the department for the proper discharge
13 of its duties;

14 (8) the subsidiary has not transacted any business or per-
15 formed any of its duties, contemplated by its authorization to do
16 business, for a period of six months;

17 (9) the parent is a foreign bank and is dissolved or its
18 authority or existence is otherwise terminated or cancelled in the
19 country of its organization;

20 (10) the parent is a holding company operating in another
21 state of the United States and is no longer subject to the Bank Holding
22 Company Act;

23 (11) the subsidiary or its parent has failed for a period of
24 60 days after service of written notice by the department to comply with
25 any of the provisions of this chapter;

26 (12) the charter granted under this chapter is voluntarily
27 surrendered.

28 (b) If the charter of a subsidiary is revoked the commissioner may
29 take over the management of the property and business of a subsidiary

1 and shall have the authority (1) to operate and direct the affairs of
2 the subsidiary in its regular course of business, (2) to collect
3 amounts due to the subsidiary, (3) to require the subsidiary to reimburse
4 the department for any management expenses incurred, and (4) to do such
5 other acts as are necessary to conduct the affairs of the subsidiary and
6 protect its assets, property and business. The commissioner shall
7 manage the property and business of the subsidiary until he relinquishes
8 management to the subsidiary, upon terms and conditions which he pre-
9 scribes, or until a receiver has been appointed under (c) of this section.

10 (c) If upon taking over the management of the business and property
11 of the subsidiary, the commissioner concludes that the subsidiary is
12 insolvent or should be dissolved for any other reason enumerated in
13 (a) of this section, he may order that the subsidiary cease to carry
14 on its business and proceed to dissolve the affairs of the subsidiary
15 by making application to the superior court for the appointment of the
16 Federal Deposit Insurance Corporation as receiver to serve without bond.
17 If the commissioner has not caused the subsidiary to cease to carry on
18 its business within three years of taking over the management of the
19 property and business of the subsidiary, he shall relinquish its manage-
20 ment to the subsidiary.

21 (d) The commissioner may appoint a special deputy as his agent,
22 with powers specified in the certificate of appointment to assist him
23 in the duty of management, conservation or dissolution and distribution
24 of the business and property of a subsidiary.

25 Sec. 06.07.050. VOLUNTARY DISSOLUTION. A subsidiary granted a
26 charter may voluntarily dissolve and liquidate the same as any other
27 Alaska state chartered bank under AS 06.05.465, so long as all require-
28 ments of the Federal Deposit Insurance Corporation with respect to
29 voluntary dissolution and liquidation have been met.

1 Sec. 06.07.060. APPLICATION FOR REPRESENTATIVE OFFICE. (a) A
2 subsidiary granted a charter and certificate of authority under this
3 chapter may apply for a license to establish and maintain one or more
4 representative offices in this state. A bank operating under the laws
5 of a foreign country may apply for a license to establish and maintain
6 no more than one representative office in this state. Each application
7 shall be filed with the department and shall be in the form and contain
8 the information which the department prescribes.

9 (b) There shall be an initial license fee of \$500 and an annual
10 fee thereafter of \$300 for each representative office established under
11 this section. The annual fee shall be for a period terminating on the
12 last day of the calendar year and shall be paid to the commissioner at
13 the time and in the manner which he prescribes. The license fee is
14 nonrefundable and is in lieu of the tax levied by the Alaska Business
15 License Act.

16 (c) If the commissioner considers it necessary for a field inves-
17 tigation of an application for a representative office, the applicant
18 shall pay the reasonable cost of the investigation as may be determined
19 by the department. The investigation fee shall be paid promptly on
20 receipt of a decision on the application from the department.

21 (d) A subsidiary may apply to the department for permission to
22 change the location of a representative office by filing with the
23 department a request in the form and contain the information which the
24 department prescribes. A fee of \$100, which is nonrefundable, shall
25 accompany an application to change the location of a representative
26 office.

27 (e) No representative office established under this section may act
28 as an intermediary in an actual banking transaction, or in any manner
29 engage directly or indirectly in banking business.

1 (f) All books, records and accounts of a representative office
2 granted a license under this section shall be retained in this state
3 and maintained in the English language.

4 Sec. 06.07.070. ACQUISITION, BRANCHING AND INTERLOCKING DIRECTOR-
5 SHIP PROHIBITED. (a) A subsidiary formed under this chapter may
6 not acquire an existing financial institution or its branch operating in
7 this state.

8 (b) An officer, director or employee of a subsidiary formed under
9 this chapter may not serve as a director or trustee of another financial
10 institution operating in this state.

11 (c) A subsidiary of an alien bank granted a charter under this
12 chapter may not establish a branch in this state.

13 Sec. 06.07.085. BOARD OF DIRECTORS. At least one person on the
14 board of directors of the subsidiary shall be a resident of the state.

15 Sec. 06.07.080. RESERVES REQUIRED. A subsidiary of a foreign bank
16 shall maintain reserves against deposits as set out in AS 06.05.200
17 except that the department may impose additional reserve requirements
18 for a subsidiary of a foreign bank for the protection of the depositors.
19 When computing deposit reserves under AS 06.05.200, "vault cash" means
20 only United States currency and coin and gold and silver bullion.

21 Sec. 06.07.090. FORM OF RECORDS. All books, records and accounts
22 of a subsidiary of a foreign bank shall be maintained in the English
23 language.

24 Sec. 06.07.100. STOCK TRANSFER. Shares of stock of a subsidiary
25 of a foreign bank shall not be transferred without approval of the
26 commissioner. A list of stockholders giving the name, address and
27 number of shares owned by each shareholder shall be filed with the
28 department annually as of the close of business December 31.

29 Sec. 06.07.110. PURCHASE OF STOCK. With the exception of an

1 alien bank holding company or its subsidiary, no person or organiza-
2 tion created or organized under the laws of the United States or a
3 state may purchase or otherwise obtain shares of stock or acquire any
4 other interest in a subsidiary of an alien bank which has been granted
5 a charter and certificate of authority under this chapter, except an
6 individual who is a citizen of this state or the United States may
7 purchase qualifying shares of stock only to serve as a member of the
8 board of directors of the subsidiary and upon termination of employment
9 or directorship shall relinquish the shares and be reimbursed at the
10 current fair market value.

11 Sec. 06.07.120. REPORTS REQUIRED. (a) The alien bank shall
12 deliver to the department within 90 days of the end of each fiscal year
13 a certified report, prepared by a certified public accountant who is
14 approved by the commissioner, which sets out the financial condition of
15 the subsidiary and its parent as of the last day of the fiscal year.

16 (b) Copies of any examination or inspection report of a parent
17 of a subsidiary operating under this chapter by representatives of
18 the Federal Reserve Bank shall be forwarded promptly to the department.

19 (c) If the parent of a subsidiary operating under this chapter
20 is a foreign bank operating in another state of the United States,
21 copies of any examination reports prepared by the Comptroller of the
22 Currency, Federal Deposit Insurance Corporation of the Federal Reserve
23 Bank shall be forwarded promptly to the department.

24 (d) Certification as to the financial condition by the alien
25 government deposit insuring agency shall be forwarded to the department
26 annually.

27 Sec. 06.07.130. PENALTY. Any person who transacts business in
28 this state on behalf of an alien bank which is subject to the provisions
29 of this chapter, but which is not authorized to transact such business

1 under this chapter is guilty of a misdemeanor and shall be liable in the
2 sum of \$100 a day for each day that such offense continues.

3 Sec. 06.07.140. POWERS OF DEPARTMENT. The department may promul-
4 gate regulations as may be necessary for the proper enforcement of
5 this chapter. The commissioner shall have all of the powers granted
6 to him under the Alaska Banking Code, to the extent appropriate to
7 enable him to supervise an alien subsidiary holding a charter and
8 certificate of authority to conduct a banking business in this state.

9 Sec. 06.07.150. OTHER PROVISIONS APPLICABLE. Unless inconsistent
10 with a provision of this chapter, AS 06.05.005 - 06.05.232, 06.05.240 -
11 06.05.300, 06.05.440 - 06.05.460, and 06.05.465 - 06.05.540 are appli-
12 cable to a subsidiary operating under this chapter.

13 Sec. 06.07.160. DEFINITIONS. For the purposes of this chapter,

14 (1) "alien bank" means any bank organized under the laws of
15 a foreign country;

16 (2) "alien bank holding company" means an alien bank which
17 is a holding company or a holding company wholly owned by an alien bank;

18 (3) "commissioner" means commissioner of commerce;

19 (4) "department" means Department of Commerce;

20 (5) "financial institution" means a federal or state chartered
21 bank, trust company, mutual savings bank, savings and loan association,
22 or credit union;

23 (6) "person" means an individual or a corporation, company,
24 partnership, association, trust, bank or any other organization;

25 (7) "representative office" means an office of a subsidiary
26 organized under this chapter or of a foreign bank, which is established
27 to provide information about services offered by the subsidiary or
28 foreign bank and may gather and provide business and economic informa-
29 tion;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

(8) "state" means State of Alaska;

(9) "subsidiary" means a commercial bank, wholly owned and controlled by an alien bank.

* Sec. 2. AS 06.05.360 and 06.05.367 are repealed.