

Original Sponsor: McKinnon

Offered: 4/8/76
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 823 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for state chartered credit unions."

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 40. ALASKA CREDIT UNION ACT.

10 ARTICLE 1. FORMATION AND MANAGEMENT OF CREDIT UNIONS.

11 Sec. 06.40.010. FORMATION OF CREDIT UNION. (a) A credit union
12 may be formed by seven or more residents of this state who meet the
13 requirement of common interest contained in sec. 60 of this chapter and
14 the requirements in this section by subscribing for shares of the credit
15 union in the aggregate amount of \$1,000 and executing two copies of
16 articles of incorporation and bylaws of the credit union consistent with
17 the provisions of this chapter and regulations of the commissioner of
18 commerce and economic development.

19 (b) The incorporators shall forward the articles of incorporation
20 bylaws and required fees to the commissioner. If the commissioner finds
21 that the articles of incorporation and the bylaws conform to law and
22 that the incorporators are fit and of good general character, he shall
23 within 60 days issue a certificate of approval and return a copy of the
24 articles of incorporation, certificate and bylaws to the incorporators
25 to be preserved in the permanent files of the credit union. No credit
26 union may transact business until formal approval of the charter has
27 been received.

28 Sec. 06.40.020. ARTICLES OF INCORPORATION. (a) The articles of
29 incorporation shall state the name of the credit union; the term of

1 existence; the par value of its shares, which shall be in \$5 multiples,
2 not less than \$5 nor more than \$25; the names and addresses of the in-
3 corporators; the territory in which the proposed credit union will
4 operate; and the proposed field of membership, specified in detail.

5 (b) Amendments to the articles of incorporation shall be submitted
6 to the commissioner and shall be effective upon written approval of the
7 commissioner. No fee may be charged for the approval of amendments.

8 Sec. 06.40.030. BYLAWS. (a) The incorporators shall adopt the
9 initial bylaws of the credit union. The members of the credit union may
10 alter, amend or repeal the bylaws or adopt new bylaws. The bylaws shall
11 prescribe the following:

12 (1) the conditions of residence or occupation which qualify
13 persons for membership; however,

14 (A) credit unions shall be open to groups having common
15 or related bonds of occupation or association, or to residents
16 within a well-defined neighborhood, community, or rural district,
17 or to employees of related or vicinal industries, or to members of
18 bona fide fraternal, religious, cooperative, labor, rural, educa-
19 tional, or similar organization and employees of the credit union;
20 members of the immediate family of all qualified persons are
21 eligible for membership; in this section "members of the immediate
22 family" include the wife, husband, parents, and children of a
23 member whether living together in the same household or not and any
24 other relative of the member or spouse of a member living together
25 in the same household as the member;

26 (B) organizations and associations composed of indivi-
27 duals, the majority of whom are eligible for membership, may be
28 admitted to membership in the same manner and under the same
29 conditions as individuals;

1 (C) an individual who ceases to qualify under (a) of
2 this paragraph may retain his full membership in the credit union
3 at the discretion of the board of directors;

4 (2) the method of receipting for money paid on accounts;

5 (3) the number of directors and the length of their terms, a
6 credit committee or loan officer;

7 (4) the duties of the several officers;

8 (5) the time of the annual meeting of members, which shall be
9 held within 90 days after the end of the calendar year;

10 (6) the manner in which members and directors shall be noti-
11 fied of meetings;

12 (7) other provisions for the management of the affairs of the
13 credit union not inconsistent with the law or the articles of incor-
14 poration.

15 Sec. 06.40.040. NAME. (a) The name of a credit union chartered
16 under this chapter shall include the words "credit union". A credit
17 union may not adopt the same name as that of any other existing credit
18 union.

19 (b) It is a misdemeanor for a person, except corporations formed
20 under the provisions of this chapter or another credit union law, or an
21 association of credit unions and its chapters, to conduct business under
22 a name or title which contains the words "credit union" or a derivation
23 of them, or to represent himself in his advertising or otherwise as
24 conducting business as a credit union.

25 Sec. 06.40.050. INITIAL DIRECTORS AND COMMITTEES. The incorpora-
26 tors shall select at least five persons to serve on the board of direc-
27 tors, three persons to serve on the supervisory committee, and persons
28 to serve on other committees required by the articles or bylaws. The
29 selected persons will serve in these capacities until the first annual

1 meeting of the members and the election of their successors.

2 Sec. 06.40.060. MEMBERSHIP. (a) Except as provided in this sec-
3 tion, the membership of a credit union shall be limited to persons who
4 have common bonds who have met the requirements stated in the articles
5 of incorporation and the bylaws.

6 (b) Societies and co-partnerships composed primarily of indivi-
7 duals who are eligible to membership and corporations whose stockholders
8 are composed primarily of these individuals may be admitted to member-
9 ship in the same manner and under the same conditions as individuals.

10 (c) A credit union organized under this chapter may permit mem-
11 bership of any other credit union.

12 Sec. 06.40.070. POWERS. A credit union may

13 (1) have perpetual succession by its corporate name unless
14 its duration is limited by its articles of incorporation;

15 (2) adopt and use a seal, which may be altered at pleasure;

16 (3) sue and be sued, complain and defend, in its corporate
17 name;

18 (4) make contracts, purchase, hold, lease and dispose of
19 property, either in whole or in part, necessary or incidental to its
20 operations;

21 (5) require the payment of an entrance fee or annual member-
22 ship fee;

23 (6) receive savings from its members in the form of shares,
24 deposits, time certificates or special purpose thrift accounts;

25 (7) lend its funds to its members and invest surplus funds as
26 provided in this chapter;

27 (8) borrow from any source in an amount not to exceed 50 per
28 cent of paid-in and unimpaired capital and surplus in accordance with
29 policy established by the board of directors and to discount or sell

1 eligible obligations, subject to regulations prescribed by the commis-
2 sioner;

3 (9) make deposits in banks chartered by this state or the
4 federal government, in trust companies and in central credit unions;

5 (10) hold membership in other credit unions organized under
6 this chapter and in organizations composed of credit unions;

7 (11) declare dividends, pay interest on deposits and pay
8 interest refunds to borrowers as provided in this chapter;

9 (12) assess charges to members in accordance with the bylaws
10 for failure to meet their obligations to the credit union;

11 (13) sell travelers checks, money orders and other money-type
12 instruments;

13 (14) act as fiscal agents for and to receive deposits from
14 this state, the federal government or political subdivisions of either;

15 (15) perform trust services for its members upon approval by
16 the commissioner, including the trust estates of deceased members, and
17 to act as a custodian of qualified pension funds of self-employed
18 individuals under the provisions of P.L. 89-809;

19 (16) sell all or a part of its assets or purchase all or a
20 part of the assets of another credit union, subject to the approval of
21 the commissioner;

22 (17) receive from its members or from another credit union
23 deposits payable on demand, and honor requests for withdrawals of these
24 deposits in any form, if the credit union maintains the reserves re-
25 quired by the commissioner;

26 (18) contribute to, support or participate in a nonprofit
27 service facility whose services will benefit the credit union or its
28 membership, subject to regulations prescribed by the commissioner;

29 (19) facilitate its members' purchase of goods and services in

1 a manner which promotes the purposes of the credit union;

2 (20) exercise the incidental powers necessary to enable it to
3 carry out effectively the business and purposes for which it is incor-
4 porated, including the inherent powers generally implied for general
5 corporations organized under the laws of this state.

6 Sec. 06.40.080. MEMBERS MEETINGS. The annual meeting and special
7 meetings of the members of the credit union shall be held at the time,
8 place and in the manner prescribed in the bylaws. At the meetings a
9 member shall have only one vote, irrespective of his shareholdings. No
10 member may vote by proxy, but a society, association, partnership or
11 corporation, having membership in the credit union, may be represented
12 and vote by one of its members or shareholders who has been legally
13 authorized by its governing body.

14 Sec. 06.40.090. BOARD OF DIRECTORS. (a) The business affairs,
15 funds and records of the credit union shall be directed by a board of
16 directors, of an odd number not less than five, to be elected at the
17 annual members meeting by and from the members. All members of the
18 board shall hold office for the term provided in the bylaws. The board
19 of directors shall fill vacancies occurring in the board, until succes-
20 sors elected at the next annual members meeting have been qualified. The
21 board shall appoint the members of the supervisory committee and other
22 committees required by the bylaws and shall fill vacancies occurring in
23 these committees.

24 (b) The board of directors shall meet as often as necessary, but
25 not less than once each month. The board may appoint from its members
26 an executive committee of not less than three directors who may be
27 authorized to act for the board in all respects, subject to conditions
28 and limitations prescribed by the board.

29 (c) No member of the board or committee of the board may be com-

1 compensated for his service, but reasonable life, health, accident and
2 similar insurance protection for a director is not considered compensa-
3 tion within the meaning of this section. A member, while on official
4 business of the credit union authorized by the board of directors may be
5 reimbursed for necessary expenses incidental to the performance of the
6 business.

7 (d) It is the duty of the directors to

8 (1) act upon applications for membership or to appoint one or
9 more membership officers other than the treasurer, assistant treasurer,
10 loan officer, to act on membership applications under procedures
11 established by the board;

12 (2) purchase a blanket fidelity bond, in accordance with the
13 regulations of the commissioner, covering the officers, employees,
14 members of official committees, and agents of the credit union;

15 (3) determine the interest rate to be charged on loans and to
16 be paid on deposits, to authorize an interest refund to members from
17 income earned and received in proportion to the interest paid by them,
18 and to declare dividends on shares as provided in the bylaws;

19 (4) limit the number of shares and the amount of deposits
20 which may be owned by a member, and to fix the maximum amount which may
21 be loaned to an individual member;

22 (5) direct the investment of surplus funds, except that the
23 board may designate a committee of its number or a qualified individual
24 to have charge of making investments under rules and procedures estab-
25 lished by the board;

26 (6) authorize the employment of persons necessary to carry on
27 the business of the credit union and to establish the compensation of
28 employees, the treasurer and loan officers;

29 (7) designate a depository or depositories for the funds of

1 the credit union, authorize the conveyance of property, and borrow or
2 lend money to carry on the functions of the credit union;

3 (8) perform or authorize any action consistent with this
4 chapter not specifically reserved by the bylaws for the members.

5 Sec. 06.40.100. EXECUTIVE OFFICERS. (a) At the organization
6 meeting and within 30 days following each annual meeting of the members,
7 the directors shall elect from their own number an executive officer,
8 who may be designated as chairman of the board or president; a vice-
9 chairman of the board or one or more vice-presidents, a treasurer, and
10 a secretary, of whom the last two may be the same individual. The
11 persons elected shall be the executive officers of the corporation. No
12 executive officer, except the treasurer, may be compensated for his
13 service. The terms of officers shall be one year or until their suc-
14 cessors have been chosen and qualified.

15 (b) The board of directors may employ an officer in charge of
16 operations whose title shall be either president or general manager or
17 may designate the treasurer or an assistant treasurer to act as general
18 manager and be in active charge of the affairs of the credit union. The
19 duties of the officers shall be as determined by the bylaws.

20 (c) Before the officer in charge of operations may enter upon his
21 duties he shall give bond with good and sufficient surety, in an amount
22 and character to be determined by the board in compliance with regula-
23 tions prescribed by the commissioner.

24 Sec. 06.40.110. CREDIT COMMITTEE. (a) The board of directors
25 shall appoint a credit committee consisting of an odd number of members
26 of the credit union, no less than three, or, if provided in the bylaws,
27 appoint one or more loan officers empowered to approve loans under the
28 conditions prescribed by the board. No loan may be made unless approved
29 by the loan officer or credit committee.

1 (b) If a credit committee is provided for in the bylaws, it shall
2 hold meetings as often as the business of the credit union may require,
3 but not less frequently than once a month. Loans must be approved by a
4 majority of the committee who are present at the meeting at which the
5 application is considered. The credit committee may appoint one or more
6 loan officers, and delegate to him or them the power to approve loans.
7 Not more than one member of the credit committee may be appointed as
8 loan officer or assistant loan officer.

9 Sec. 06.40.120. SUPERVISORY COMMITTEE. (a) The supervisory
10 committee shall make a semiannual audit of the credit union and shall
11 submit a report of the audit to the board of directors and a summary of
12 that report to the members. The committee shall provide for supple-
13 mentary audits which it considers necessary or which may be required by
14 the commissioner, and submit reports of these supplementary audits to
15 the board of directors. The supervisory committee shall also provide
16 for verification of the passbooks and accounts of the members with the
17 records of the treasurer at least once every two years.

18 (b) The supervisory committee may by a unanimous vote suspend an
19 officer of the credit union or a member of the credit committee or of
20 the board of directors, until the next meeting, which shall be held not
21 less than 7 nor more than 14 days after the suspension, at which meeting
22 the suspension shall be acted on by the members of the credit union.

23 (c) The supervisory committee may by a majority vote call a spe-
24 cial meeting of the members to consider a violation of this chapter, the
25 chapter or the bylaws, or a practice of the credit union considered by
26 the supervisory committee to be unsafe or unauthorized.

27 (d) A member of the supervisory committee may be suspended by a
28 majority vote of the board of directors. The members of the credit
29 union shall decide, at a meeting held not less than 7 nor more than 14

1 days after the suspension, whether the suspended committee member shall
2 be removed from or restored to the supervisory committee.

3 Sec. 06.40.125. CONFLICTS OF INTEREST. No director, committee
4 member, officer, agent or employee of the credit union may in any
5 manner, directly or indirectly, participate in the deliberation upon or
6 the determination of any question affecting his pecuniary interest or
7 the pecuniary interest of any corporation, partnership or association,
8 other than the credit union, in which he is directly or indirectly
9 interested.

10 ARTICLE 2. SUPERVISION AND REGULATION OF CREDIT UNIONS.

11 Sec. 06.40.130. SUPERVISION AND FEES. (a) The commissioner of
12 commerce and economic development has general supervision of credit
13 unions, subject to the provisions of this chapter.

14 (b) The commissioner shall promulgate regulations for the admin-
15 istration of this chapter, and prescribe the minimum amount of surety
16 bond coverage required of credit unions in relation to their assets, and
17 may establish application and examination fees. The commissioner shall
18 prepare and supply without charge a form of articles of incorporation
19 and of bylaws which may be used by credit union incorporators.

20 (c) The commissioner may authorize a credit union chartered under
21 this chapter to engage in any activity in which a federally chartered
22 credit union may engage.

23 (d) For the purpose of paying the costs incident to the ascertain-
24 ment of whether an organization certificate should be approved, the
25 subscribers to any such certificate shall pay, at the time of filing
26 their organization certificate, the amount prescribed by the commission-
27 er, which shall not exceed \$100 in any case. Not later than January 31
28 of each calendar year, each credit union shall pay to the Department of
29 Commerce and Economic Development for the preceding calendar year, a

1 supervision fee in accordance with a graduated scale prescribed by this
2 section on the basis of assets as of December 31 of the preceding year,
3 but the fee shall in no event be less than \$100, as follows:

Total Assets	Maximum Fee
\$500,000 or less.....	30 cents per \$1,000
Over \$500,000 and not over \$1,000,000....	\$150 plus 25 cents per \$1,000 in excess of \$500,000
Over \$1,000,000 and not over \$2,000,000..	\$275 plus 20 cents per \$1,000 in excess of \$1,000,000
Over \$2,000,000 and not over \$5,000,000..	\$475 plus 15 cents per \$1,000 in excess of \$2,000,000
Over \$5,000,000.....	\$925 plus 10 cents per \$1,000 in excess of \$5,000,000

14 (e) No annual supervision fee shall be payable by the credit union
15 for the year in which its charter is issued except in cases of conver-
16 sion from a credit union chartered under the provisions of the Federal
17 Credit Union Act to a credit union chartered under this chapter, or in
18 which final distribution is made in its liquidation or the charter is
19 otherwise canceled.

20 (f) Failure of any credit union to pay any amount provided in this
21 section is grounds for the revocation of the charter of the credit union
22 failing to make the payment.

23 (g) Fees collected under this section shall be deposited in the
24 general fund.

25 Sec. 06.40.140. EXAMINATIONS. (a) The commissioner or his
26 representative shall conduct an annual examination and any additional
27 examinations he considers necessary of each credit union established
28 under this chapter. A report of the examination will be forwarded to
29 the credit union within 60 days after completion of the examination.

1 The report shall contain comments on the general condition of the assets
2 and the management of the credit union. A general meeting of the
3 directors and committeemen shall be called within 30 days after receipt
4 to consider the report, and copies of the report shall be made available
5 to all members of the credit union. Within 60 days of receipt of the
6 report, the directors shall furnish the department with a signed state-
7 ment acknowledging the receipt of the report and attesting to their
8 review of and familiarity with its contents.

9 (b) A credit union, its officers and agents are required to give
10 the commissioner full access to all books, papers, securities, records
11 and other sources of information under their control. For purposes of
12 examination, the commissioner shall have the power to subpoena wit-
13 nesses, administer oaths, compel the giving of testimony and require the
14 submission of documents.

15 (c) The commissioner may accept, in lieu of examination by his
16 agency, the audit of a public accountant licensed in this state, pro-
17 vided the cost of the audit is borne by the credit union and the scope
18 of the audit is equivalent to the examination made by the commissioner.

19 Sec. 06.40.150. ANNUAL REPORTS. Credit unions organized under
20 this chapter shall submit annual reports to the commissioner on forms
21 supplied by him for that purpose, which reports shall be due on or be-
22 fore February 1. A credit union failing to file by February 15 shall be
23 levied a fine of \$5 per day until the report is filed.

24 ARTICLE 3. FINANCIAL PRACTICES.

25 Sec. 06.40.160. SHARES. (a) Shares may be subscribed to, paid
26 for and transferred in the manner prescribed in the bylaws. No certi-
27 ficate may be issued to denote ownership of a share in a credit union.

28 (b) The credit union shall have and may impress a lien on the
29 shares, deposits and accumulated dividends or interest of a member in

1 his individual, joint or trust account for any sum due the credit union
2 from the member or for any loan endorsed by him.

3 (c) When the losses of a credit union, resulting from a depreci-
4 ation in value of its loans or investments or otherwise, exceed its
5 undivided earnings and reserve fund so that the estimated value of its
6 assets is less than the total amount due the shareholders, the directors
7 shall immediately advise the department and the credit union may by a
8 majority vote of the entire membership order a reduction in the shares
9 of each of its shareholders to divide the loss proportionately among its
10 members. If the credit union realizes from the assets a greater amount
11 than was fixed by the order of reduction, the excess shall be divided
12 among the shareholders whose assets were reduced, but only to the extent
13 of the reduction.

14 Sec. 06.40.170. DEPOSITS. A credit union may receive savings
15 deposits from and issue time certificates to its members, subject to the
16 conditions and the returns established by the board of directors.
17 Deposits, including time certificates, differ from shares in that a
18 predeclared rate of return may be established on deposits and they have
19 a prior claim on the assets of the credit union. Christmas clubs,
20 vacation clubs, and other thrift accounts may be operated in accordance
21 with the provisions of the bylaws.

22 Sec. 06.40.180. MULTIPLE PARTY ACCOUNTS. (a) A credit union may
23 enter into multiple party accounts to the same extent that they may
24 enter into single party accounts. A multiple party account is an
25 account in the name of two or more persons, one or more of whom may make
26 withdrawals. At least one party to a multiple party account must be a
27 member of the credit union in which the account is established. The
28 account may be created with any person designated by the credit union
29 member, but a nonmember shall not be permitted to vote, obtain loans, or

1 hold office.

2 (b) Accounts established for deposit of funds of a partnership,
3 joint venture or other association or accounts controlled by two or more
4 persons as the duly authorized agents or trustees for a corporation,
5 unincorporated association, charitable or civic organization or any
6 trust, except trusts of deposits evidenced only by the form of the
7 deposit, are excluded from the meaning of the term and from the pro-
8 visions of this chapter relating to multiple party accounts.

9 (c) Unless the terms of the account expressly stipulate that joint
10 signatures are required, a multiple party account may be paid on demand
11 to any one or more of the parties to the account, without regard to
12 whether any other party is incompetent or deceased at the time the
13 payment is demanded. If the account is one presumed to be a survivor-
14 ship account, payment may not be made to the personal representative or
15 heirs of a deceased party unless proofs of death are presented to the
16 credit union showing that the decedent was the last surviving party. A
17 credit union is not required to inquire as to the source of funds re-
18 ceived for deposit or the proposed application of any sum withdrawn from
19 the account.

20 (d) During the lifetime of all parties, a multiple party account
21 which provides that the sums on deposit or in shares may be paid on
22 demand of either of two or more parties is presumed to belong to the
23 parties in proportion to the net contributions by each party to the sums
24 on deposit. In the absence of satisfactory proof of net contributions,
25 the parties shall be presumed to own a multiple party account in equal
26 undivided interests.

27 (e) The death of a party to a multiple party account shall have no
28 effect on the beneficial ownership of the account, other than to trans-
29 fer the decedent's right to his estate, unless the account is a

1 survivorship account or trust account, as provided in secs. 190 - 200 of
2 this chapter.

3 (f) Without qualifying any other statutory right to set-off or
4 lien and subject to any contractual provision, when a party to a mul-
5 tiple party account is indebted to a credit union, the credit union has
6 a right to set-off against the entire amount of the account.

7 Sec. 06.40.190. SURVIVORSHIP ACCOUNTS. A multiple party account
8 payable to two or more persons, jointly or severally, which does not
9 expressly provide that there is no right of survivorship, is presumed to
10 be a survivorship account. At the death of a party, sums on deposit in
11 a survivorship account belong to the surviving party or parties as
12 against the estate of the decedent. Where there are two or more sur-
13 vivors, their respective ownership shall be in proportion to their
14 previous net contributions augmented by an equal share for each survivor
15 of any interest the decedent may have owned in the account immediately
16 before his death, plus the proceeds of insurance on decedent's life paid
17 to the account. The right of survivorship continues between survivors.

18 Sec. 06.40.200. TRUST ACCOUNTS. (a) An account which states that
19 a party is a trustee for one or more other identified persons, including
20 but not limited to minors, is a trust account. Except where there is
21 evidence of a trust other than as provided by the form of the account,
22 the account and any sums withdrawn from it are presumed to belong
23 beneficially to the trustee until his death. At the death of the
24 trustee or surviving trustee any sums remaining on deposit are presumed
25 to belong to the person or persons named as beneficiaries, if living, or
26 the survivor of them if one or more died before the trustee. The sub-
27 sequent death of a beneficiary has no effect on the equal ownership of
28 all who survived the trustee, as no right of survivorship is presumed to
29 attend the relationship of beneficiaries who survive a trustee. If no

1 beneficiary survives the trustee, the sums are presumed to belong to the
2 estate of the last trustee to die. If two or more parties are named as
3 trustees on the account, and there is no evidence of trust except as
4 provided by the form of the account, the account is presumed to be a
5 survivorship account as between the trustees.

6 (b) An account payable to a trustee for another person may be
7 paid on demand to the trustee. Unless the credit union has received
8 written notice of the terms of a trust other than the form of the
9 account, payment may be made to the personal representative or heirs of
10 a deceased trustee if proof of death is presented to the credit union
11 showing that his decedent was the survivor of all other persons named on
12 the account either as trustee or beneficiary; and payment may be made,
13 on demand, to the beneficiary upon presentation to the credit union of
14 proof of death showing that the beneficiary or beneficiaries survived
15 all persons named as trustees.

16 Sec. 06.40.210. PRESUMPTIONS REBUTTABLE. The presumptions created
17 by secs. 180 - 200 of this chapter concerning beneficial ownership as
18 between parties, or as between parties and beneficiaries, of multiple
19 party accounts are relevant only to controversies between these persons
20 or their creditors or other successors, and shall have no bearing on the
21 rights of withdrawal of these persons as determined by the terms of the
22 account contracts. These presumptions are based upon inferences of the
23 intention of parties to multiple party accounts and the usual expecta-
24 tions of persons using these accounts and are rebuttable by clear and
25 convincing evidence of a different intention. The presumptions of
26 survivorship are not subject to change by will, but may be rebutted by
27 a written order received by the credit union to change the form of the
28 account or directing that payment not be made in accordance with the
29 account which is signed by a party and is received by the credit union

1 during the party's lifetime. If not rebutted by contrary evidence, the
2 presumptions provided in this chapter are effective to establish bene-
3 ficial ownership. Transfers resulting from the application of these
4 presumptions are effective by reason of the account contracts and are
5 not to be considered as testamentary.

6 Sec. 06.40.220. PAYMENTS BY CREDIT UNION. Payment made in accord-
7 ance with secs. 180 - 200 of this chapter discharges the credit union
8 from all claims for amounts so paid whether or not the payment is
9 consistent with the beneficial ownership of the account as between
10 parties, or beneficiaries or their successors. The protection given
11 does not extend to payments made after a credit union has received
12 written notice from a party who has a present right of withdrawal that
13 withdrawals in accordance with the terms of the account should not be
14 permitted. Unless the notice is withdrawn by the person giving it, the
15 death of any party after notice has no effect on withdrawal rights, and
16 the personal representative or heirs of the decedent must concur in any
17 demand for withdrawal if the credit union is to be protected under this
18 section. No other notice or information shown to have been available to
19 a credit union shall affect its right to the protection provided here.
20 This protection shall have no bearing on the rights of parties in
21 disputes between themselves or their successors concerning the bene-
22 ficial ownership of funds in, or withdrawn from, multiple party accounts.

23 Sec. 06.40.230. MINORS. Shares may be issued to and deposits
24 received from a minor who may withdraw the shares and deposits, includ-
25 ing dividends and interest. Deposits and share investments made by a
26 minor and withdrawals of them by the minor shall be valid in all re-
27 spects. For these purposes a minor is considered of full age.

28 Sec. 06.40.240. INACTIVE ACCOUNTS. If a credit union is unable to
29 contact a member, beneficiary or other person by first class mail at

1 the last address shown on the records of the credit union, and if this
2 inability continues for a period of more than seven years, all shares,
3 deposits, accounts, dividends, interest and other sums due to or stand-
4 ing in the name of that person escheat to and become the property of the
5 state. This provision shall not apply to sums due to or standing in the
6 name of two or more persons unless the credit union is unable to contact
7 any of these persons in the manner and during the period specified in
8 this section.

9 Sec. 06.40.250. DIVIDENDS. After provision for operating ex-
10 penses, interest, accrued taxes and the required reserves, the board of
11 directors may, at intervals determined by them, declare a dividend to be
12 paid on the classes of shares determined by them from the remaining net
13 earning at a rate not to exceed the rate established by the National
14 Credit Union Administrator. No dividend shall be declared if, after
15 payment of the dividend, known losses would exceed the combined
16 balances of the reserve fund and undivided earnings. The dividends
17 shall be paid on all paid-up shares outstanding at the close of the
18 period for which the dividend is declared. Shares which become fully
19 paid up during a dividend period are entitled to a proportional part of
20 the dividend. Dividend credit for a month may be accrued on shares
21 which are or become fully paid up during the first 15 days of that
22 month.

23 Sec. 06.40.260. LOANS. (a) A credit union may make loans to its
24 members upon the terms and conditions provided in the bylaws and approv-
25 ed by the credit committee or loan officer. The rate of interest may
26 not exceed one and one-half per cent per month on the unpaid balance,
27 inclusive of all charges incident to making the loan. Every application
28 for a loan shall be made in writing upon a form approved by the board of
29 directors, and shall state the purpose for which the loan is desired,

1 and the security, if any, offered. Every loan shall be evidenced by a
2 written statement. An unsecured loan shall bear a maturity of no longer
3 than five years and shall be accompanied by a financial statement. All
4 secured loans except those secured by improved real estate shall mature
5 within 10 years. In addition to generally accepted types of security,
6 the endorsement of a note by a guarantor or assignment of shares, in a
7 manner consistent with the laws of this state, shall be considered
8 security within the meaning of this chapter. The adequacy of all
9 securities shall be within the determination of the credit committee or
10 loan officer, subject to the provisions of this chapter and the bylaws.

11 (b) The credit committee or loan officer may approve in advance
12 upon their own motion or upon application by a member, an extension of
13 credit, and loans may be granted to the member within the limit of the
14 extension of credit. When an extension of credit has been approved,
15 applications for loans need no further consideration as long as the
16 aggregate obligation does not exceed the limit of the extension of
17 credit. The credit committee or loan officer shall, at least once a
18 year, review all extensions of credit and an extension of credit shall
19 expire if the member becomes more than 90 days delinquent in his obli-
20 gations to the credit union.

21 (c) No loan or extension of credit may be made to a member in an
22 aggregate in excess of \$200 or 10 per cent of the credit union's unim-
23 paired capital and surplus, whichever is greater.

24 (d) A credit union may make loans to its own directors or to
25 members of its supervisory or credit committee, provided that the aggre-
26 gate of loans to an individual director or committee member which
27 exceeds \$2,500 plus pledged shares must be approved by the board of
28 directors. A credit union may permit directors and committee members
29 to act as guarantor or endorser of loans to other members, except that

1 when the loan standing alone or when added to any outstanding loans of
2 the guarantor exceeds \$2,500, approval of the board of directors is
3 required.

4 (e) A credit union may participate with other credit unions, cor-
5 porations or financial institutions in making loans to credit union
6 members.

7 (f) A credit union may participate in guaranteed loan programs of
8 the federal and state government.

9 (g) No investment in a mortgage may exceed 80 per cent of the
10 appraised value of the property securing the loan; however, a credit
11 union may make 95 per cent of appraised value loans if the term of the
12 loan does not exceed 30 years and the loan is secured by an amortized
13 mortgage, deed of trust, or other instrument under the terms of which
14 the installment payments are sufficient to amortize the entire principal
15 of the loan within the period ending on the date of its maturity and, in
16 addition, the loan is either (1) insured by mortgage insurance in an
17 amount equal to 20 per cent of the loan issued by a mortgage insurer
18 authorized to do business in Alaska; or (2) the loan is secured in
19 addition to the amortized mortgage by shares or deposits held by the
20 credit union in an amount equal to 10 per cent of the loan or other
21 collateral acceptable to the department. Value of real estate shall be
22 determined by an appraisal which shall be kept in the records of the
23 credit union; title insurance showing the loan to be a first lien and
24 fire insurance shall be acquired by the borrower. The unpaid principal
25 balance of loans secured by real estate may not, in the aggregate,
26 exceed 50 per cent of the paid-in capital of the credit union.

27 Sec. 06.40.270. INSURANCE. (a) A credit union may purchase in-
28 surance on the lives of its members in an amount equal to their respec-
29 tive shares, deposits and loan balances, and may enter into cooperative

1 marketing arrangements for its members covering group life insurance,
2 temporary disability coverage, health and accident plans and other
3 programs which are demonstrated to be in the interest of improving the
4 economic and social conditions of the credit union members.

5 (b) All credit unions chartered under this chapter, or credit
6 unions in operation at the time of issuance of a charter under this
7 chapter must submit evidence of share insurance coverage from the
8 administrator of the National Credit Union Administration, other govern-
9 mental agency, or a commercial corporation especially organized to
10 provide share insurance coverage. The amounts of loss to be protected
11 or guaranteed shall be established by the commissioner. Whenever a
12 credit union attempts to secure share insurance coverage from a govern-
13 mental agency or a commercial corporation other than from the admin-
14 istrator of the National Credit Union Administration, the board of
15 directors of the credit union must first obtain approval from the
16 commissioner that the governmental agency or commercial corporation is
17 acceptable as an organization capable of providing share insurance for
18 credit unions chartered under this chapter. The commissioner shall make
19 available reports of condition and examination reports to the admin-
20 istrator of the National Credit Union Administration or other organiza-
21 tion from which a credit union attempts to secure share insurance
22 coverage and may accept any report of examination made on behalf of the
23 administrator. Should a credit union be closed because of bankruptcy or
24 insolvency, the commissioner may appoint the National Credit Union
25 Administrator as the liquidating agent.

26 (c) Credit unions that do not maintain share insurance coverage as
27 specified in this section shall be liquidated by the commissioner in
28 accordance with sec. 330 of this chapter.

29 Sec. 06.40.280. INVESTMENTS. Funds not used in making loans to

1 members may be invested in

2 (1) securities, obligations, participations, or other instru-
3 ments issued by or fully guaranteed as to principal and interest by the
4 federal government or one of its agencies or in a trust established for
5 the purpose of investing in these;

6 (2) obligations of the State of Alaska and its political
7 subdivisions if no amount more than 15 per cent of the paid-in capital
8 is invested in any one issue of revenue obligations;

9 (3) certificates of deposit or passbook accounts issued by a
10 state or national bank, savings and loan association or mutual savings
11 bank domiciled in this state;

12 (4) loans to or shares or deposits of other credit unions if
13 they do not, in the aggregate, exceed 10 per cent of the paid-in capital;

14 (5) the capital shares, obligations, or preferred stock
15 issues of any association or corporation whose members, stockholders,
16 patrons or owners are confined to credit unions and which is organized
17 to service or assist credit unions in accomplishing their purposes;

18 (6) deposits in the United States Central Credit Union;

19 (7) loans to a credit union association or corporation,
20 national or state, of which the credit union is a member, except that
21 these investments shall be limited to two per cent of the assets of the
22 credit union.

23 Sec. 06.40.290. RESERVE ALLOCATIONS. (a) Immediately before the
24 payment of each dividend, the gross earnings of the credit union shall
25 be determined. From this amount there shall be set aside, as a regular
26 reserve for contingencies and against losses on loans and against other
27 losses specified in the regulations, the following amount: 10 per cent
28 of gross income until the regular reserve equals 7 1/2 per cent of the
29 total outstanding loans and risk assets; then 5 per cent of gross

1 income until the regular reserve equals 10 per cent of the total out-
2 standing loans and risk assets. When the regular reserve falls below 10
3 per cent, of the total outstanding loans and risk assets, it shall be
4 replenished in the manner described in this subsection.

5 (b) In addition to the regular reserve, special reserves shall be
6 established to protect the interests of the members when required by
7 regulation or when found by the commissioner, in any special case, to be
8 necessary.

9 (c) For the purpose of establishing the reserves required by this
10 section, all assets shall be considered risk assets except the follow-
11 ing:

12 (1) cash on hand;

13 (2) deposits or shares in banks, savings and loan associa-
14 tions, mutual savings banks, and credit unions;

15 (3) loans to other credit unions;

16 (4) assets which are insured by, fully guaranteed as to
17 principal and interest, or due from the federal government, its agen-
18 cies, the Federal National Mortgage Association, or the Government
19 National Mortgage Association;

20 (5) furniture, equipment, buildings and land owned by the
21 credit union;

22 (6) loans to students insured under the provisions of Title
23 IV, part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et. seq.)
24 or similar state insurance programs; however, loans described in this
25 paragraph which are in default shall be deducted from the total;

26 (7) the insured portion of loans insured under Title I of the
27 National Housing Act (12 U.S.C. 1703) by the Federal Housing Adminis-
28 tration;

29 (8) the insured portion of common trust investments in

1 government securities authorized by this chapter if the credit union is
2 the direct beneficiary of the guarantee or insurance; or

3 (9) accrued interest on nonrisk investments.

4 ARTICLE 4. MERGER, CONVERSION AND LIQUIDATION.

5 Sec. 06.40.300. MERGER. (a) A credit union may, with the ap-
6 proval of the commissioner, merge with another credit union under the
7 existing charter of the other credit union, under a plan agreed upon by
8 a majority of the board of directors of each credit union joining in the
9 merger, and approved by the affirmative vote of a majority of the
10 members of each credit union present at meetings of the members legally
11 called for this purpose.

12 (b) After agreement by the directors and approval by the members
13 of both credit unions, the president and secretary of each credit union
14 shall execute a certificate of merger, which shall set out the time and
15 place of the meeting of the board of directors at which the plan was
16 agreed upon, the vote in favor or adoption of the plan, a copy of the
17 resolution or other action by which the plan was agreed upon, the time
18 and place of the meeting of the members at which the plan agreed upon
19 was approved, and the vote by which the plan was approved by the mem-
20 bers.

21 (c) Before approving a merger the commissioner shall give consider-
22 ation to the purposes of this chapter and the prospects of the surviving
23 or consolidated credit union for financial success and its ability to
24 discharge the duties and conform to the restrictions imposed upon a
25 credit union.

26 (d) The certificates and a copy of the plan of merger shall be
27 forwarded to the commissioner, certified or disapproved by him, and
28 returned to the merging credit union within 60 days.

29 (e) Upon the merger, all property, property rights, and interest

1 of the merged credit union shall vest in the surviving credit union
2 without deed, endorsement, or other instrument.

3 Sec. 06.40.310. CONVERSION OF CHARTER. A credit union chartered
4 under the laws of this state may be converted to a credit union under
5 the laws of any other state or of the United States either within or
6 outside of this state. A credit union chartered under the laws of the
7 United States or any other state may convert to a credit union chartered
8 under the laws of this state. To effect the conversion, a credit union
9 must have the proposed conversion approved by an affirmative vote of a
10 majority of the members of the credit union present at meetings of the
11 members called for this purpose, comply with all the requirements of the
12 authority under which it was originally chartered and the requirements
13 of the commissioner, and file proof of compliance with the commissioner.

14 Sec. 06.40.320. SUSPENSION. (a) If it appears that a credit
15 union is bankrupt or insolvent, or has wilfully violated the provisions
16 of this chapter, or is operating in an unsafe or unsound manner, the
17 commissioner may issue an order temporarily suspending the credit union's
18 operations for not less than 30 nor more than 60 days. The board of
19 directors shall be given notice by registered mail of the suspension,
20 which notice shall include a list of the reasons for the suspension and
21 a list of specific violations of this chapter.

22 (b) Upon receipt of the suspension notice, the credit union shall
23 immediately cease all operations. The directors of the credit union
24 shall then file with the commissioner a reply to the suspension notice,
25 and request a hearing to present a plan of corrective actions proposed
26 if they desire to continue operations or request that the credit union
27 be declared insolvent and a liquidating agent appointed.

28 (c) If the credit union fails to answer the suspension notice or
29 request a hearing with the commissioner, he may then revoke the credit

1 union's charter, appoint a liquidating agent and liquidate the credit
2 union in accordance with sec. 330 of this chapter.

3 Sec. 06.40.330. LIQUIDATION. (a) At a meeting called to consider
4 the matter, a majority of the entire membership may vote to dissolve
5 the credit union, provided a copy of the notice was mailed to the mem-
6 bers of the credit union at least 10 days before the meeting. A member
7 not present at the meeting may, within the next 20 days, vote in favor
8 of the dissolution by signing a form approved by the commissioner and
9 his vote shall have the same force and effect as if cast at the meeting.
10 The credit union shall immediately cease to do business except for the
11 purposes of liquidation, and the president and secretary shall, within
12 five days following the meeting, notify the commissioner of intention
13 to liquidate and shall include a list of the names and addresses of the
14 directors and officers of the credit union.

15 (b) If, after issuing notice of suspension and following the pro-
16 cedures set out in sec. 320 of this chapter, the commissioner rejects
17 the credit union's plan to continue operations, he may issue a notice
18 of involuntary liquidation and appoint a liquidating agent. The credit
19 union may request a stay of execution of this action by appealing to
20 the appropriate court of the jurisdiction in which the credit union is
21 located.

22 (c) A liquidating credit union shall continue in existence for
23 the purpose of discharging its debts, collecting and distributing its
24 assets, and doing the acts required in order to wind up its business,
25 and may sue and be sued for the purpose of enforcing debts and obliga-
26 tions until its affairs are fully adjusted. The board of directors, or
27 in the case of involuntary liquidation, the liquidating agent, shall use
28 the assets of the credit union to pay, in the following order, (1)
29 expenses incidental to the liquidation, including any surety bond that

1 may be required; (2) trust accounts; (3) any liability due nonmembers;
2 (4) deposits and savings club accounts as provided in this chapter.
3 Assets then remaining shall be distributed to the members proportion-
4 ately to the shares held on the date dissolution was voted.

5 (d) As soon as the board or the liquidating agent determines that
6 all assets from which there is a reasonable expectancy of realization
7 have been liquidated and distributed as set out in this section, they
8 shall execute a certificate of dissolution on a form prescribed by the
9 commissioner and file the certificate with the appropriate recording
10 agency within the jurisdiction of this state in which the credit union
11 has its principal place of business. After filing or recording and
12 indexing, the certificate shall be forwarded to the commissioner, at
13 which time the credit union is dissolved.

14 ARTICLE 5. GENERAL PROVISIONS.

15 Sec. 06.40.350. FISCAL YEAR. The fiscal year of all credit unions
16 organized under this chapter shall be the calendar year.

17 Sec. 06.40.360. RECORDS. Records of a credit union chartered
18 under this chapter shall be kept for a period of six years from the date
19 of making them or from the date of the last entry on them. No credit
20 union may be required to receipt for payment except as provided in the
21 bylaws, nor shall it be necessary to endorse a note showing date of
22 payments or balance due.

23 Sec. 06.40.370. LIABILITY OF MEMBERS, DIRECTORS, OFFICERS AND
24 EMPLOYEES. (a) The members of a credit union are not personally or
25 individually liable for the debts of the credit union.

26 (b) A director, officer or employee of a credit union who knowingly
27 approves or permits the funds of the credit union to be invested or
28 loaned in an excessive, careless or dishonest manner is personally
29 liable for all damages which the credit union, its members, depositors,

1 or any other person sustains because of the violation. The liability
2 may be enforced against the director, officer or employee by suit or
3 action in any court of competent jurisdiction.

4 Sec. 06.40.380. OFFICE FACILITIES. A credit union may maintain,
5 with the approval of the commissioner, offices at locations other than
6 its main office if additional offices are reasonably necessary to fur-
7 nish service to its members. A credit union may share office space with
8 one or more credit unions and may contract with a corporation to provide
9 facilities or personnel.

10 Sec. 06.40.390. TAXATION. (a) A credit union organized under
11 this chapter or other credit union law and shares and deposits in them
12 shall be exempt from taxation imposed by this state or any taxing
13 authority within this jurisdiction, and laws which tax corporations in
14 any form, or deposits of them, or the accumulations on them, do not
15 apply to a credit union, except that real property and tangible personal
16 property owned by a credit union shall be subject to taxation to the
17 same extent that other similar property is taxed, provided that this
18 exception does not permit the imposition of a sales or use tax on a
19 credit union except on goods and services distributed to its members
20 under a group purchasing or cooperative marketing arrangement. The
21 shares of a credit union are not subject to transfer taxes, either when
22 issued or when transferred from one member to another.

23 (b) Participation by a credit union in a government program pro-
24 viding unemployment, social security, old age pension or other benefits,
25 is not considered a waiver of the taxation exemption granted in this
26 section.

27 Sec. 06.40.400. GROUP PURCHASING. A credit union may enter into
28 cooperative marketing arrangements to facilitate its members' voluntary
29 purchase of goods and services that are in the interest of improving

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

economic and social conditions of the members.

Sec. 06.40.410. OTHER REGULATIONS. When a credit union engages in activities which are regulated under AS 45.05, it shall be considered to be a bank and, in the absence of applicable provisions in this chapter, shall be governed by AS 45.05.

Sec. 06.40.420. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of commerce and economic development;

(2) "department" means the Department of Commerce and Economic Development.

#