

Original sponsor: Commerce Committee

Offered: 5/31/76
For Today's Calendar

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 453

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to financial institutions."

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

8 * Section 1. AS 06.05.205(a) is amended to read:

9 (a) If an officer or employee of a bank loans funds of the bank
10 in an amount exceeding \$10,000 [\$5,000] to a person he must so notify
11 the board of directors of the bank.

12 * Sec. 2. AS 06 is amended by adding a new chapter to read:

13 CHAPTER 40. ALASKA CREDIT UNION ACT.

14 ARTICLE 1. FORMATION AND MANAGEMENT OF CREDIT UNIONS.

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

23 (b) The incorporators shall forward the articles of incorporation
24 bylaws and required fees to the commissioner. If the commissioner finds
25 that the articles of incorporation and the bylaws conform to law and
26 that the incorporators are fit and of good general character, he shall
27 within 60 days issue a certificate of approval and return a copy of the
28 articles of incorporation, certificate and bylaws to the incorporators
29 to be preserved in the permanent files of the credit union. No credit

1 union may transact business until formal approval of the charter has
2 been received.

3 Sec. 06.40.020. ARTICLES OF INCORPORATION. (a) The articles of
4 incorporation shall state the name of the credit union; the term of
5 existence; the par value of its shares, which shall be in \$5 multiples,
6 not less than \$5 nor more than \$25; the names and addresses of the in-
7 corporators; the territory in which the proposed credit union will
8 operate; and the proposed field of membership, specified in detail.

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

12 Sec. 06.40.030. BYLAWS. (a) The incorporators shall adopt the
13 initial bylaws of the credit union. The members of the credit union may
14 alter, amend or repeal the bylaws or adopt new bylaws. The bylaws shall
15 prescribe the following:

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

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

1 (B) organizations and associations composed of indivi-
2 duals, the majority of whom are eligible for membership, may be
3 admitted to membership in the same manner and under the same
4 conditions as individuals;

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

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

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

11 (4) the duties of the several officers;

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

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

16 (7) other provisions for the management of the affairs of the
17 credit union not inconsistent with the law or the articles of incor-
18 poration.

19 Sec. 06.40.040. NAME. (a) The name of a credit union chartered
20 under this chapter shall include the words "credit union". A credit
21 union may not adopt the same name as that of any other existing credit
22 union.

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

29 Sec. 06.40.050. INITIAL DIRECTORS AND COMMITTEES. The incorpora-

1 tors shall select at least five persons to serve on the board of direc-
2 tors, three persons to serve on the supervisory committee, and persons
3 to serve on other committees required by the articles or bylaws. The
4 selected persons will serve in these capacities until the first annual
5 meeting of the members and the election of their successors.

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

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

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

16 Sec. 06.40.070. POWERS. A credit union may

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

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

20 (3) sue and be sued, complain and defend, in its corporate
21 name;

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

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

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

29 (7) lend its funds to its members and invest surplus funds as

1 provided in this chapter;

2 (8) borrow from any source in an amount not to exceed 50 per
3 cent of paid-in and unimpaired capital and surplus in accordance with
4 policy established by the board of directors and to discount or sell
5 eligible obligations, subject to regulations prescribed by the commis-
6 sioner;

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

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

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

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

15 (13) sell travelers checks, money orders and other money-type
16 instruments to its members;

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

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

23 (16) sell all or a part of its assets or purchase all or a
24 part of the assets of another credit union, subject to the approval of
25 the commissioner;

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

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

4 (19) facilitate its members' purchase of goods and services in
5 a manner which promotes the purposes of the credit union;

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

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

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

28 (b) The board of directors shall meet as often as necessary, but
29 not less than once each month. The board may appoint from its members

1 an executive committee of not less than three directors who may be
2 authorized to act for the board in all respects, subject to conditions
3 and limitations prescribed by the board.

4 (c) No member of the board or committee of the board may be com-
5 pensated for his service, but reasonable life, health, accident and
6 similar insurance protection for a director is not considered compensa-
7 tion within the meaning of this section. A member, while on official
8 business of the credit union authorized by the board of directors may be
9 reimbursed for necessary expenses incidental to the performance of the
10 business.

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

12 (1) act upon applications for membership or to appoint one or
13 more membership officers other than the treasurer, assistant treasurer,
14 or loan officer, to act on membership applications under procedures
15 established by the board;

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

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

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

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

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

4 (7) designate a depository or depositories for the funds of
5 the credit union, authorize the conveyance of property, and borrow or
6 lend money to carry on the functions of the credit union;

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

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

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

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

28 Sec. 06.40.110. CREDIT COMMITTEE. (a) The board of directors
29 shall appoint a credit committee consisting of an odd number of members

1 of the credit union, no less than three, or, if provided in the bylaws,
2 appoint one or more loan officers empowered to approve loans under the
3 conditions prescribed by the board. No loan may be made unless approved
4 by the loan officer or credit committee.

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

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

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

27 (c) The supervisory committee may by a majority vote call a spe-
28 cial meeting of the members to consider a violation of this chapter, the
29 chapter or the bylaws, or a practice of the credit union considered by

1 the supervisory committee to be unsafe or unauthorized.

2 (d) A member of the supervisory committee may be suspended by a
3 majority vote of the board of directors. The members of the credit
4 union shall decide, at a meeting held not less than 7 nor more than 14
5 days after the suspension, whether the suspended committee member shall
6 be removed from or restored to the supervisory committee.

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

14 ARTICLE 2. SUPERVISION AND REGULATION OF CREDIT UNIONS.

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

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

24 (c) The commissioner may authorize a credit union chartered under
25 this chapter to engage in any activity in which a federally chartered
26 credit union may engage.

27 (d) For the purpose of paying the costs incident to the ascertain-
28 ment of whether an organization certificate should be approved, the
29 subscribers to any such certificate shall pay, at the time of filing

1 their organization certificate, the amount prescribed by the commission-
2 er, which shall not exceed \$100 in any case. Not later than January 31
3 of each calendar year, each credit union shall pay to the Department of
4 Commerce and Economic Development for the preceding calendar year, a
5 supervision fee in accordance with a graduated scale prescribed by this
6 section on the basis of assets as of December 31 of the preceding year,
7 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

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

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

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

29 Sec. 06.40.140. EXAMINATIONS. (a) The commissioner or his

1 representative shall conduct an annual examination and any additional
2 examinations he considers necessary of each credit union established
3 under this chapter. A report of the examination will be forwarded to
4 the credit union within 60 days after completion of the examination.
5 The report shall contain comments on the general condition of the assets
6 and the management of the credit union. A general meeting of the
7 directors and committeemen shall be called within 30 days after receipt
8 to consider the report, and copies of the report shall be made available
9 to all members of the credit union. Within 60 days of receipt of the
10 report, the directors shall furnish the department with a signed state-
11 ment acknowledging the receipt of the report and attesting to their
12 review of and familiarity with its contents.

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

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

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

28 ARTICLE 3. FINANCIAL PRACTICES.

29 Sec. 06.40.160. SHARES. (a) Shares may be subscribed to, paid

1 for and transferred in the manner prescribed in the bylaws. No certi-
2 ficate may be issued to denote ownership of a share in a credit union.

3 (b) The credit union shall have and may impress a lien on the
4 shares, deposits and accumulated dividends or interest of a member in
5 his individual, joint or trust account for any sum due the credit union
6 from the member or for any loan endorsed by him.

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

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

26 Sec. 06.40.180. MULTIPLE PARTY ACCOUNTS. (a) A credit union may
27 enter into multiple party accounts to the same extent that they may
28 enter into single party accounts. A multiple party account is an
29 account in the name of two or more persons, one or more of whom may make

1 withdrawals. At least one party to a multiple party account must be a
2 member of the credit union in which the account is established. The
3 account may be created with any person designated by the credit union
4 member, but a nonmember shall not be permitted to vote, obtain loans, or
5 hold office.

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

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

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

1 undivided interests.

2 (e) The death of a party to a multiple party account shall have no
3 effect on the beneficial ownership of the account, other than to trans-
4 fer the decedent's right to his estate, unless the account is a
5 survivorship account or trust account, as provided in secs. 190 - 200 of
6 this chapter.

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

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

22 Sec. 06.40.200. TRUST ACCOUNTS. (a) An account which states that
23 a party is a trustee for one or more other identified persons, including
24 but not limited to minors, is a trust account. Except where there is
25 evidence of a trust other than as provided by the form of the account,
26 the account and any sums withdrawn from it are presumed to belong
27 beneficially to the trustee until his death. At the death of the
28 trustee or surviving trustee any sums remaining on deposit are presumed
29 to belong to the person or persons named as beneficiaries, if living, or

1 the survivor of them if one or more died before the trustee. The sub-
2 sequent death of a beneficiary has no effect on the equal ownership of
3 all who survived the trustee, as no right of survivorship is presumed to
4 attend the relationship of beneficiaries who survive a trustee. If no
5 beneficiary survives the trustee, the sums are presumed to belong to the
6 estate of the last trustee to die. If two or more parties are named as
7 trustees on the account, and there is no evidence of trust except as
8 provided by the form of the account, the account is presumed to be a
9 survivorship account as between the trustees.

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

20 Sec. 06.40.210. PRESUMPTIONS REBUTTABLE. The presumptions created
21 by secs. 180 - 200 of this chapter concerning beneficial ownership as
22 between parties, or as between parties and beneficiaries, of multiple
23 party accounts are relevant only to controversies between these persons
24 or their creditors or other successors, and shall have no bearing on the
25 rights of withdrawal of these persons as determined by the terms of the
26 account contracts. These presumptions are based upon inferences of the
27 intention of parties to multiple party accounts and the usual expecta-
28 tions of persons using these accounts and are rebuttable by clear and
29 convincing evidence of a different intention. The presumptions of

1 survivorship are not subject to change by will, but may be rebutted by
2 a written order received by the credit union to change the form of the
3 account or directing that payment not be made in accordance with the
4 account which is signed by a party and is received by the credit union
5 during the party's lifetime. If not rebutted by contrary evidence, the
6 presumptions provided in this chapter are effective to establish bene-
7 ficial ownership. Transfers resulting from the application of these
8 presumptions are effective by reason of the account contracts and are
9 not to be considered as testamentary.

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

27 Sec. 06.40.230. MINORS. Shares may be issued to and deposits
28 received from a minor who may withdraw the shares and deposits, includ-
29 ing dividends and interest. Deposits and share investments made by a

1 minor and withdrawals of them by the minor shall be valid in all re-
2 spects. For these purposes a minor is considered of full age.

3 Sec. 06.40.240. INACTIVE ACCOUNTS. If a credit union is unable to
4 contact a member, beneficiary or other person by first class mail at
5 the last address shown on the records of the credit union, and if this
6 inability continues for a period of more than seven years, all shares,
7 deposits, accounts, dividends, interest and other sums due to or stand-
8 ing in the name of that person escheat to and become the property of the
9 state. This provision shall not apply to sums due to or standing in the
10 name of two or more persons unless the credit union is unable to contact
11 any of these persons in the manner and during the period specified in
12 this section.

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

27 Sec. 06.40.260. LOANS. (a) A credit union may make loans to its
28 members upon the terms and conditions provided in the bylaws and approv-
29 ed by the credit committee or loan officer. The rate of interest may

1 not exceed one per cent per month on the unpaid balance. Where ap-
2 plicable, for real estate loans, the interest rates prescribed in AS
3 45.45.010(b) shall prevail. Every application for a loan shall be made
4 in writing upon a form approved by the board of directors, and shall
5 state the purpose for which the loan is desired, and the security, if
6 any, offered. Every loan shall be evidenced by a written statement. An
7 unsecured loan shall bear a maturity of no longer than five years and
8 shall be accompanied by a financial statement. In addition to generally
9 accepted types of security, the endorsement of a note by a guarantor or
10 assignment of shares, in a manner consistent with the laws of this
11 state, shall be considered security within the meaning of this chapter.
12 The adequacy of all securities shall be within the determination of the
13 credit committee or loan officer, subject to the provisions of this
14 chapter and the bylaws.

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

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

28 (d) A credit union may make loans to its own directors or to
29 members of its supervisory or credit committee, provided that the agree-

1 gate of loans to an individual director or committee member which
2 exceeds \$2,500 plus pledged shares must be approved by the board of
3 directors. A credit union may permit directors and committee members to
4 act as guarantor or endorser of loans to other members, except that when
5 the loan standing alone or when added to any outstanding loans of the
6 guarantor exceeds \$2,500, approval of the board of directors is re-
7 quired.

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

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

13 (g) No investment in a mortgage may exceed 80 per cent of the
14 appraised value of the property securing the loan; however, a credit
15 union may make 95 per cent of appraised value loans if 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, in
20 addition, the loan is either (1) insured by mortgage insurance in an
21 amount equal to 20 per cent of the loan issued by a mortgage insurer
22 authorized to do business in Alaska; or (2) the loan is secured in
23 addition to the amortized mortgage by shares or deposits held by the
24 credit union in an amount equal to 10 per cent of the loan or other
25 collateral acceptable to the department. Value of real estate shall be
26 determined by an appraisal which shall be kept in the records of the
27 credit union; title insurance showing the loan to be a first lien and
28 fire insurance shall be acquired by the borrower. The unpaid principal
29 balance of loans secured by real estate may not, in the aggregate,

1 exceed 50 per cent of the paid-in capital of the credit union.

2 Sec. 06.40.270. INSURANCE. (a) A credit union may purchase in-
3 surance on the lives of its members in an amount equal to their respec-
4 marketing arrangements for its members covering group life insurance,
5 temporary disability coverage, health and accident plans and other
6 programs which are demonstrated to be in the interest of improving the
7 economic and social conditions of the credit union members.

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

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

1 Sec. 06.40.280. INVESTMENTS. Funds not used in making loans to
2 members may be invested in

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

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

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

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

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

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

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

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

1 total outstanding loans and risk assets; then 5 per cent of gross
2 income until the regular reserve equals 10 per cent of the total out-
3 standing loans and risk assets. When the regular reserve falls below 10
4 per cent, of the total outstanding loans and risk assets, it shall be
5 replenished in the manner described in this subsection.

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

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

- 13 (1) cash on hand;
- 14 (2) deposits or shares in banks, savings and loan associa-
15 tions, mutual savings banks, and credit unions;
- 16 (3) loans to other credit unions;
- 17 (4) assets which are insured by, fully guaranteed as to
18 principal and interest, or due from the federal government, its agen-
19 cies, the Federal National Mortgage Association, or the Government
20 National Mortgage Association;
- 21 (5) furniture, equipment, buildings and land owned by the
22 credit union;
- 23 (6) loans to students insured under the provisions of Title
24 IV, part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et. seq.)
25 or similar state insurance programs; however, loans described in this
26 paragraph which are in default shall be deducted from the total;
- 27 (7) the insured portion of loans insured under Title I of the
28 National Housing Act (12 U.S.C. 1703) by the Federal Housing Adminis-
29 tration;

1 (8) the insured portion of common trust investments in
2 government securities authorized by this chapter if the credit union is
3 the direct beneficiary of the guarantee or insurance; or

4 (9) accrued interest on nonrisk investments.

5 ARTICLE 4. MERGER, CONVERSION AND LIQUIDATION.

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

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

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

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

1 (e) Upon the merger, all property, property rights, and interest
2 of the merged credit union shall vest in the surviving credit union
3 without deed, endorsement, or other instrument.

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

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

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

29 (c) If the credit union fails to answer the suspension notice or

1 request a hearing with the commissioner, he may then revoke the credit
2 union's charter, appoint a liquidating agent and liquidate the credit
3 union in accordance with sec. 330 of this chapter.

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

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

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

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

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

15 ARTICLE 5. GENERAL PROVISIONS.

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

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

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

27 (b) A director, officer or employee of a credit union who knowingly
28 approves or permits the funds of the credit union to be invested or
29 loaned in an excessive, careless or dishonest manner is personally

1 liable for all damages which the credit union, its members, depositors,
2 or any other person sustains because of the violation. The liability
3 may be enforced against the director, officer or employee by suit or
4 action in any court of competent jurisdiction.

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

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

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

28 Sec. 06.40.400. GROUP PURCHASING. A credit union may enter into
29 cooperative marketing arrangements to facilitate its members' voluntary

1 purchase of goods and services that are in the interest of improving
2 economic and social conditions of the members.

3 Sec. 06.40.410. DEFINITIONS. In this chapter, unless the context
4 otherwise requires,

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

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