

Introduced: 1/19/76
Referred: Commerce

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 **CS** SENATE BILL NO. 528

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous amendments of the
7 banking statutes."

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

9 * Section 1. AS 06.05.010 is amended to read:

10 Sec. 06.05.010. NOTICE AND HEARING. Except for the formulation
11 of regulations of general application, the department shall give public
12 notice of a proposed action, and, when it receives written opposition
13 to a proposed action, it shall give public notice and hold a hearing
14 before taking the action [PROVIDE FOR NOTICE AND HEARING IN ADVANCE OF
15 ANY ACTION TAKEN BY IT]. Written opposition must be filed with
16 the department within the time specified by the department. In cases
17 involving extraordinary circumstances requiring immediate action the
18 department may take such action, but, upon application to rescind the
19 action taken, shall promptly afford a hearing thereon.

20 * Sec. 2. AS 06.05.035 is amended to read:

21 Sec. 06.05.035. EXAMINATION FEE. A bank examined under the
22 provisions of sec. 25 of this chapter shall pay a fee to the depart-
23 ment of \$175 [\$125] per examiner for each day or part of a day re-
24 quired for the examination but not to exceed \$7,500 [\$3,750] per
25 calendar year. The total amount of the fee shall be paid by the bank
26 promptly upon receipt of the examination report and billing from the
27 department.

28 * Sec. 3. AS 06.05.045(a) is amended to read:

29 (a) Every state bank shall make at least four reports of condi-

1 tion each year to the department on days designated by it, and on
2 forms prescribed by it. The report shall be verified by an oath of
3 the president, vice president, or cashier and by at least three
4 directors, certifying and subscribing under oath that they and each of
5 them have personal knowledge of the facts stated in the report and
6 that the facts are true. The reports shall exhibit in detail and
7 under appropriate heads the resources and liabilities of the bank, and
8 shall be transmitted or mailed to the department within 10 days of the
9 receipt of the request from it.

10 * Sec. 4. AS 06.05.050 is amended to read:

11 Sec. 06.05.050. PUBLICATION OF REPORTS. All reports of condition
12 required by sec. 45(a) of this chapter shall be published immediately
13 in condensed form at least once in a newspaper of general circulation
14 published in the place where the bank is located. If no newspaper is
15 published in that place, then the report shall be published in the
16 newspaper published nearest to that place.

17 * Sec. 5. AS 06.05.055(a) is amended to read:

18 (a) The department shall report to the governor annually, within
19 120 [60] days after the end of each fiscal year. The report shall
20 include

- 21 (1) the text of all rules of general application, adopted
22 or altered by the department since its last report;
23 (2) recommendations for legislation;
24 (3) a statement of the status and assets and liabilities of
25 all banking organizations which are in the possession of the department;
26 (4) a summary of all changes occurring since its last
27 report by reason of opening new state banks, mergers and conversions,
28 increases and decreases in capital and similar changes;
29 (5) a statement of condition of each state bank as of the

1 date of the most recent report of condition submitted to the department.

2 * Sec. 6. AS 06.05.065 is amended to read:

3 Sec. 06.05.065. BANKING INTEREST OF DEPARTMENT OFFICERS AND
4 EMPLOYEES. (a) No officer or employee of the department [DEPARTMENT
5 OF COMMERCE] who deals with the regulation of lending institutions, or
6 special agent selected by the department to do work relating to lending
7 institutions may be an officer, employee, director, trustee, attorney,
8 stockholder, or partner of a lending institution, or receive, directly
9 or indirectly, a payment or gratuity from any [A] lending institution.
10 No person subject to this section may borrow money from a state lending
11 institution except as provided in this statute.

12 (b) A person subject to this section may

13 (1) be a depositor in a lending institution;

14 (2) purchase shares of a savings and loan association on
15 the same terms available to the public generally;

16 (3) [BE A MEMBER OF AN EMPLOYEE CREDIT UNION;]

17 (4) obtain a loan by the assignment of a deposit in a
18 lending institution that is of equivalent or greater value;

19 (5) [OBTAIN A PERSONAL LOAN FROM A LENDING INSTITUTION UP
20 TO THE AMOUNT OF \$2,500 FOR REASONS AND UPON TERMS THAT LOANS ARE
21 GIVEN TO THE PUBLIC GENERALLY;] and

22 (6) be indebted to a state lending institution upon

23 (A) a mortgage loan upon the mortgagor's real property,
24 or a loan on a mobile home in which he is living or intends to
25 live; or

26 (B) an installment debt transferred to the lending
27 institution in the regular course of business by a seller of
28 goods, including but not limited to household goods, mobile
29 homes, motor vehicles, or boats [HOUSEHOLD GOODS OR AUTOMOBILES]

1 purchased by the employee for personal use only. [;OR]

2 (C) [AN INSTALLMENT DEBT OR LOAN FOR AUTOMOBILES OR
3 HOUSEHOLD GOODS OBTAINED FROM THE LENDING INSTITUTION IN THE
4 REGULAR COURSE OF BUSINESS.]

5 (c) [EACH OFFICER AND EMPLOYEE IN THE DIVISION SHALL NOTIFY THE
6 GOVERNOR WHEN HE IS OR MAY BE INVOLVED IN TRANSACTIONS UNDER THIS
7 SECTION.]

8 (d) This section does not limit the authority of an officer or
9 employee of the department acting in his official capacity in the
10 business of the department.

11 (e) [WHEN USED IN THIS SECTION, THE TERM "LENDING INSTITUTION"
12 MEANS A BANK, SAVINGS INSTITUTION, INDUSTRIAL BANK, SAVINGS AND LOAN
13 ASSOCIATION, FOREIGN BANKING CORPORATION OR INSTITUTION, BANK HOLDING
14 COMPANY, OR OTHER INSTITUTION DOING BANKING BUSINESS IN THE STATE.]

15 (f) An officer or employee who violates this section must be
16 dismissed and is forever disqualified from holding any position in the
17 department relating to the regulation of state lending institutions.

18 A nonexempt employee dismissed under this section may appeal his dis-
19 missal under the state personnel act.

20 (g) Any person [AN OFFICER OR EMPLOYEE] who violates this
21 section is guilty of a misdemeanor, and upon conviction is punishable
22 by a fine of not more than \$5,000, or by imprisonment for not more
23 than one year, or by both, and a further fine equal to the amount of
24 the property given or received or the money loaned or borrowed.

25 * Sec. 7. AS 06.05.200(a) is amended to read:

26 (a) Each commercial bank which is not a member of the federal
27 reserve system shall maintain total reserves equal to the following
28 percentages of the aggregate amount of its deposits, exclusive of
29 deposits of the United States, the State of Alaska, borough and

1 municipal governments and other deposits of public money which are
2 secured as required by law

3 (1) 20 per cent of its demand deposits; and

4 (2) eight per cent of its time and savings deposits.

5 * Sec. 8. AS 06.05.200(b) is amended to read:

6 (b) Only vault cash and the amount due from good and solvent
7 banks located in the state, or within the United States, the deposits
8 of which are insured by the Federal Deposit Insurance Corporation, may
9 be used in computing the reserves required under (a) of this section
10 and the computation shall be made on the basis of average daily net
11 deposit balances covering bi-weekly periods.

12 * Sec. 9. AS 06.05.205(a) is amended to read:

13 (a) If an officer or employee of a bank loans funds of the bank
14 in an amount exceeding \$25,000 [\$5,000] to a person he must so notify
15 the board of directors of the bank.

16 * Sec. 10. AS 06.05.210 is repealed and re-enacted to read:

17 Sec. 06.05.210. LOANS TO OFFICERS AND EMPLOYEES. (a) Any
18 officer or employee of a state bank may borrow up to \$10,000 at the
19 discretion of the executive or managing officer of the bank. Loans in
20 excess of \$10,000 must have the prior approval of the board of direc-
21 tors, must be reported to the department within 30 days and must be
22 adequately secured by collateral. For the purpose of this section, an
23 overdraft is considered a loan.

24 (b) An officer or employee of the state bank who violates this
25 section is guilty of a misdemeanor and, upon conviction, is punishable
26 by a fine of not more than \$5,000 or by imprisonment for not more than
27 one year, or by both.

28 * Sec. 11. AS 06.05.212(a) is amended to read:

29 (a) A director, officer, or employee of a state bank who know-

1 ingly, wilfully, or [AND] persistently overdraws his account or who
2 permits a customer to do so, is engaged in an unsound banking practice
3 [AND SUBJECT TO THE PROVISIONS OF SEC. 5(4) OF THIS CHAPTER].

4 * Sec. 12. AS 06.05.215 is repealed and re-enacted to read:

5 Sec. 06.05.215. LIABILITY OF DIRECTORS FOR CARELESS OR EXCESSIVE
6 LOANS. An issuing officer, executive or managing officer, or a
7 director of a state bank who knowingly approves or permits the funds
8 of the bank to be lent, or overdrafts to be made, in a grossly exces-
9 sive, or negligent or dishonest manner is personally liable for all
10 such loans.

11 * Sec. 13. AS 06.05.230 is amended to read:

12 Sec. 06.05.230. INVESTMENT IN REAL ESTATE AND BANKING PREMISES.
13 A bank may acquire, purchase, hold, convey and hypothecate real
14 property [ESTATE AND BANKING PREMISES] for the following purposes
15 only:

16 (1) such as are necessary for the convenient transaction of
17 its business, including banking offices, equipment, furniture and
18 fixtures, leasehold improvements, [AND] parking lots, and any capitali-
19 zable leases of any of the foregoing, if [; PROVIDED THAT] the book
20 asset value of the purchase or investment does not exceed 60 per cent
21 of the capital account and the surplus account of the bank; the pur-
22 chase or investment may consist of stock in a bank building corpora-
23 tion, in which case it must include all obligations of the building
24 corporation to the bank;

25 (2) the satisfaction of or on account of debts previously
26 contracted in the course of its business;

27 (3) the purchase at sale under judgment, decree, lien, or
28 mortgage foreclosure, against security held by it.

29 * Sec. 14. AS 06.05.235 is amended to read:

1 Sec. 06.05.235. BANK HOLDING COMPANIES [CORPORATE OWNERSHIP OF
2 SHARES IN BANKS PROHIBITED]. (a) It is unlawful for a company
3 [CORPORATION, FOREIGN OR DOMESTIC,] to own, control, or hold with
4 power to vote, 25 [10] per cent or more of the capital stock of one or
5 more state banks or state bank holding companies [CORPORATION] subject
6 to regulation under this chapter. Nothing in this subsection prohibits
7 a company [CORPORATION] from qualifying as a [DOMESTIC] bank holding
8 company under [AS PROVIDED IN] (b) of this section. However, when it
9 becomes a bona fide necessity to avoid loss for a creditor [CORPORATION]
10 to accept shares of stock in one or more banks or bank holding com-
11 panies, constituting more than 25 per cent of the ownership or control
12 of that bank or bank holding company, [THE REGULATED CORPORATION] in
13 payment of indebtedness owing to the creditor [CORPORATION], shares of
14 stock may be so accepted, but in this case the shares of the one or
15 more banks or bank holding companies company exceeding that 25 per
16 cent [REGULATED CORPORATION] shall be promptly disposed of under the
17 supervision of the department [IN ACCORDANCE WITH REGULATIONS OF THE
18 COMMISSIONER OF COMMERCE].

19 (b) A domestic bank holding company, as defined in sec. 540 of
20 this chapter organized under AS 10.05, which maintains its principal
21 office and place of business in this state and conducts its principal
22 operations in this state, may acquire and own all or any portion of
23 the voting shares or other capital stock of, or all or substantially
24 all of the assets of, one or more banks or bank holding companies.
25 The department may require a holding company to post a bond in an
26 amount equal to the paid-in capital and paid-in surplus represented by
27 the proportion of bank stock directly or indirectly owned, held, or
28 controlled by it, with the department under conditions the department
29 may prescribe to assure full protection of the public. The holding

1 company is subject to an examination by the department or a competent
2 person designated by the department when the department considers it
3 necessary, but not less than once each year. The holding company
4 shall pay a fee to the department of \$175 per examiner for each day or
5 part of a day required for the examination [A CORPORATION WHICH IS
6 SUBJECT TO THE REGULATIONS OF THE COMMISSIONER OF COMMERCE UNDER THE

7 PROVISIONS OF THIS CHAPTER. THE HOLDING COMPANY MAY BE REQUIRED TO

8 POST A BOND IN AN AMOUNT EQUAL TO THE PAR VALUE OF THE STOCK HELD BY

9 IT WITH THE COMMISSIONER OF COMMERCE UNDER THE CONDITIONS HE MAY

10 PRESCRIBE TO ASSURE FULL PROTECTION TO THE PUBLIC. THE HOLDING COMPANY

11 SHALL BE SUBJECT TO AN EXAMINATION BY THE COMMISSIONER OF COMMERCE OR

12 A COMPETENT PERSON DESIGNATED BY HIM WHEN THE COMMISSIONER CONSIDERS

13 IT NECESSARY, BUT NOT LESS THAN ONCE EACH YEAR. THE ACTUAL COST OF

14 EACH EXAMINATION SHALL BE PAID TO THE COMMISSIONER BY THE HOLDING

15 COMPANY EXAMINED, AND THE COMMISSIONER MAY MAINTAIN AN ACTION FOR THE

16 RECOVERY OF THIS COST IN COURT].

17 (c) The department [COMMISSIONER OF COMMERCE] may promulgate
18 regulations regulating [DOMESTIC] bank holding companies to insure
19 financially sound banking organization and practice.

20 (d) A person or an officer, servant, agent, or employee of the
21 person, who violates a regulation promulgated under (b) of this
22 section is guilty of a misdemeanor, and upon conviction is punishable
23 by a fine of not more than \$5,000, or by imprisonment for not more
24 than one year, or by both; and in the case of a corporation, by a fine
25 of not more than \$10,000 [\$5,000].

26 * Sec. 15. AS 06.05 is amended by adding a new section to read:

27 Sec. 06.05.238. REQUIRED DIRECTORS' MEETINGS AND STATEMENTS TO
28 THE DEPARTMENT. Whenever the department considers it necessary it may
29 require a meeting of the board of directors of a state bank to be held

1 in the manner and at the time and place it directs. Any report of an
2 examination required or allowed by this chapter, any conclusions drawn
3 from such an examination by the department, any recommendations made
4 by the department relative to it, and any other matters concerning the
5 operation and condition of the bank may be presented to the board of
6 directors by the department. Each member of the board of directors
7 shall furnish to the department a statement on forms to be supplied by
8 the department that he has read and is familiar with the recommenda-
9 tions of the department.

10 * Sec. 16. AS 06.05.255(a) is amended to read:

11 (a) The aggregate amount of outstanding liabilities of a state
12 bank for money borrowed exclusive of (1) capital notes and debentures
13 issued under sec. 307 of this chapter, (2) obligations incurred in
14 connection with the purchase of bank premises as set out in sec.
15 230(1) of this chapter, and (3) borrowing for emergency purposes as
16 permitted by the department, may not at any time exceed the total
17 amount of its unimpaired capital and one-half of its unimpaired surplus
18 or a larger amount which is first approved by the department.

19 * Sec. 17. AS 06.05.270(a) is amended by adding a new paragraph to
20 read:

21 (10) stock in the Federal National Mortgage Association or
22 a Federal Reserve Bank.

23 * Sec. 18. AS 06.05 is amended by adding a new section to read:

24 Sec. 06.05.280. BANK FEES AND CHARGES CONNECTED WITH LOANS. (a)
25 A bank may require borrowers to pay all reasonable expenses incurred
26 in connection with the making, closing, disbursing, extending, read-
27 justing or renewing of loans, including, when appropriate, appraisal,
28 attorney, abstract, filing, recording, and registration fees, title
29 examination, title insurance, mortgage insurance, credit report,

1 survey, drawing of papers, escrow services, loan collection account
2 services, and taxes or charges imposed upon or in connection with the
3 making and recording or filing of a mortgage, deed of trust, or other
4 security instrument intended to perfect a security interest related to
5 the loan. A bank may also require borrowers to pay the cost of all
6 other necessary and incidental services furnished by the bank or by
7 others in connection with loans, including the costs of services of
8 inspectors, engineers, architects or others reasonably required to
9 evaluate or administer the loan. The charges may be collected by the
10 bank from the borrower or may be paid directly by the borrower.

11 (b) The fees and charges authorized by (a) of this section are
12 in addition to the interest authorized by law, and are not a part of
13 the interest collected or agreed to be paid on a loan within the
14 meaning of any law of the state which limits the rate of interest.

15 (c) No bank or director, officer or employee of a bank may
16 receive a fee or other compensation of any kind in connection with
17 obtaining a loan from a bank, except for services actually rendered as
18 provided in this chapter.

19 * Sec. 19. AS 06.05.305 is amended to read:

20 Sec. 06.05.305. CAPITAL STRUCTURE. (a) It is unlawful for a
21 corporation to commence and operate a banking business in the state
22 unless the corporation has a paid-in [PAID-UP] capital of at least
23 \$300,000 [\$100,000] and a paid-in [PAID-UP] surplus equal to 20 per
24 cent of paid-in [PAID-UP] capital; and it is unlawful for a bank to
25 operate any branches unless it has a paid-in capital and a paid-in
26 surplus and earned surplus aggregating at least \$1,000,000.

27 (b) [A BANK WHICH ENGAGED IN BUSINESS BEFORE AUGUST 6, 1968, AND
28 WHICH DOES NOT HAVE A PAID-UP CAPITAL OF AT LEAST \$100,000 DOES NOT
29 VIOLATE THIS CHAPTER IF IT ACQUIRES AND MAINTAINS A PAID-UP CAPITAL OF

1 NOT LESS THAN \$100,000 BY NO LATER THAN AUGUST 6, 1973.]

2 (c) No reduction of capital stock of a state bank may be made to
3 an amount less than is required in this chapter for capital. No
4 reduction of capital stock is valid, or warrants the cancellation of
5 stock certificates, or diminishes the liability of the stockholders,
6 until the reduction is approved by the department.

7 (d) If a state bank fails to maintain its total adjusted capital
8 accounts and reserves in an amount equal to the substandard assets as
9 disclosed by the Federal Deposit Insurance Corporation [FDIC] or the
10 state in a bank's latest report of examination, the department shall
11 consider the failure as endangering the safety of the depositor and
12 may direct the bank's directors to increase the capital accounts in an
13 amount sufficient to cover substandard assets.

14 * Sec. 20. AS 06.05.307(d) is amended to read:

15 (d) The amount of outstanding notes and debentures not maturing
16 within one year shall be added to the capital stock [AND] surplus
17 account [FUND] of the issuing bank for the purpose of determining the
18 maximum amount that may be loaned by the bank as provided in sec. 205
19 of this chapter.

20 * Sec. 21. AS 06.05.310(c) is amended to read:

21 (c) At any time after the expiration of the 60-day period, the
22 board of directors may proceed, by action or otherwise, to collect the
23 assessment from any delinquent stockholder, or it may, whether an
24 action has been commenced or not, at any time before the assessment is
25 actually collected, sell the stock of the stockholder and forfeit all
26 the amounts previously collected thereon. [THE COLLECTION OF ANY
27 ASSESSMENT UNDER THIS SECTION FOR THE PURPOSE OF REPLACING ANY IMPAIR-
28 MENT OF CAPITAL DOES NOT RELIEVE ANY STOCKHOLDER FROM LIABILITY TO THE
29 CREDITORS OF THE BANK AS PROVIDED BY SEC. 315 OF THIS CHAPTER.]

1 * Sec. 22. AS 06.05 is amended by adding a new section to read:

2 Sec. 06.05.329. APPLICATION OF AS 10.05. The procedures for
3 incorporation of a state bank are subject to those provisions of AS
4 10.05.252 -- 10.05.267 in the Alaska Business Corporation Act which
5 are not inconsistent with this chapter.

6 * Sec. 23. AS 06.05.340 is repealed and re-enacted to read:

7 Sec. 06.05.340. REMUNERATION FOR ORGANIZING STATE BANKS. A bank
8 may not pay, directly or indirectly, a fee, commission, or bonus of
9 any kind for its promotion and organization or for securing a sub-
10 scription to the original capital or to any increase in capital. How-
11 ever, this section does not prohibit the payment of reasonable compen-
12 sation for legal, accounting, and econometric services, or payments to
13 a securities broker-dealer registered under AS 45.55 for services that
14 have been performed in connection with the sale of bank securities.

15 * Sec. 24. AS 06.05 is amended by adding a new section to read:

16 Sec. 06.05.342. SUBSCRIPTIONS FOR SHARES. (a) Before they are
17 used, any subscription agreements and accompanying prospectuses or
18 offering circulars, whether for a proposed state bank or for an
19 increase in capital of an existing state bank, shall be submitted to
20 the department for approval based upon their providing full disclosure
21 of the material terms of the offering. The department may order the
22 incorporators not to accept any stock subscriptions, or to cease
23 accepting subscriptions, if it determines that they are not acting
24 lawfully or in good faith.

25 (b) In the case of a proposed state bank, the incorporators
26 shall submit a list of subscribers, providing the name, residence
27 address, and occupation of each subscriber and the number of shares
28 for which he has subscribed.

29 * Sec. 25. AS 06.05.345 is repealed and re-enacted to read:

1 Sec. 06.05.345. INCORPORATION. (a) In addition to meeting the
2 requirements of the Alaska Business Corporation Act (AS 10.05), the
3 articles of incorporation shall state the following:

4 (1) the name of the bank and that it is incorporated solely
5 for the purpose of conducting banking and trust businesses as defined
6 in this chapter;

7 (2) the judicial district in which the bank is to be lo-
8 cated and the community where its principal place of business will be
9 located.

10 (b) The articles of incorporation shall be signed by all of the
11 incorporators and acknowledged before an officer authorized to take
12 acknowledgements.

13 (c) Before commencing business, the incorporators of a proposed
14 state bank must obtain the approval of the department. To apply for
15 approval, the incorporators shall submit:

16 (1) an application in the form and containing the infor-
17 mation the department requires, including but not limited to the
18 following:

19 (A) the past and present connection with any bank
20 other than as a customer on terms generally available to the
21 public of each incorporator and proposed director and each pre-
22 incorporation subscriber to more than five per cent of the
23 capital stock;

24 (B) the name, residence and occupation of each pre-
25 incorporation subscriber and the number of shares subscribed for
26 by each;

27 (C) the address of the proposed place of business of
28 the bank or, if the address is not known, the legal description
29 within the community;

1 (2) the proposed articles of incorporation executed in
2 triplicate together with applicable fees, payable to the department
3 for the filing as set out in the Alaska Business Corporation Act (AS
4 10.05).

5 (d) An application for approval of a proposed bank shall be
6 accompanied by an application fee of \$1,000. The department may
7 assess the incorporators for additional amounts such as the actual
8 costs incurred in processing the application if they exceed \$1,000.
9 Each incorporator is personally, jointly and severally liable for
10 payment of the total assessment.

11 (e) The department shall notify the incorporators of its accept-
12 ance of an application for a proposed state bank, or, if the appli-
13 cation and accompanying documents required by (c) of this section do
14 not conform to this chapter and to the regulations of the department,
15 the department shall return them, calling attention to the defects in
16 them. If the department does not so act within 30 days of its receipt
17 of the application, it is considered to have been accepted. Acceptance
18 of the application does not constitute approval.

19 (f) The incorporators shall publish notice of the department's
20 acceptance of the application for a proposed state bank and articles
21 of incorporation once each week for two successive weeks in a news-
22 paper of general circulation published in the community proposed as
23 the bank's principal place of business. If there is no such newspaper,
24 the notice shall be published in a newspaper of general circulation
25 near the community. The first publication of the notice shall appear
26 within 15 days after the application and articles of incorporation
27 have been accepted by the department. The notice shall state:

28 (1) the name of the proposed state bank;

29 (2) that the proposed bank is to be incorporated under this

1 chapter;

2 (3) the purpose of the proposed bank;

3 (4) the names and addresses of the incorporators and the
4 initial board of directors as they appear in the articles of incor-
5 poration.

6 (g) Proof of publication under (f) of this section, shall be by
7 affidavit of the publisher of the newspaper in which it was made and
8 shall be filed with the department.

9 (h) Upon acceptance of an application for approval of a proposed
10 state bank, the department shall conduct an investigation it considers
11 necessary to ascertain whether:

12 (1) the convenience and needs of the public will be served
13 by the bank;

14 (2) the population density or other economic characteristics
15 of the area primarily to be served by the bank afford reasonable
16 promise of adequate support for the bank;

17 (3) the character and fitness of the incorporators and the
18 members of the initial board of directors are such as to command the
19 confidence of the community and to warrant the belief that the business
20 of the bank will be honestly and efficiently conducted;

21 (4) the capital structure of the bank is adequate in
22 relation to the amount of the anticipated business of the bank and the
23 safety of prospective depositors;

24 (5) the bank will have sufficient personnel with adequate
25 knowledge and experience to conduct its business and that officers are
26 qualified by character and financial responsibility;

27 (6) the addition of the bank is not detrimental to a sound
28 banking system;

29 (7) the name is not deceptively similar to that of another

1 bank and is not otherwise misleading;

2 (8) such other facts and circumstances bearing on the bank
3 and its relation to the community which the department considers
4 relevant.

5 (i) No later than one year after the application for approval
6 has been accepted the department shall approve or deny it. Within 60
7 days after the second publication of the notice required by (f) and
8 (g) of this section, any person opposing the pending application may
9 file with the department written objections to it. When it approves
10 or denies the application, the department shall notify the incorpora-
11 tors and any other person who requested in writing that he or she be
12 notified, and, if the application is denied, the department shall
13 state the reasons for its decision and return all copies of the
14 articles of incorporation.

15 (j) If the department approves the application, its approval
16 shall be endorsed on the articles of incorporation, and the articles
17 of incorporation shall be filed and a certificate of incorporation
18 issued. The department shall retain one copy of the approved articles
19 for its files, file one copy with the Department of Revenue and return
20 one copy to the incorporators.

21 (k) As of the issuance of the certificate of incorporation by
22 the department, the corporate existence begins, unless the certificate
23 in conformity with a provision of the articles of incorporation
24 provides that it will begin on a stated day in the future, in which
25 event the corporate existence begins on the day so stated, without
26 further action by either the incorporators or the department. The
27 certificate of incorporation is conclusive evidence of the fact that
28 the state bank has been incorporated except as against the department
29 in a proceeding instituted by it to dissolve the bank under sec. 466

1 of this chapter.

2 * Sec. 26. AS 06.05.350 is repealed and re-enacted to read:

3 Sec. 06.05.350. CERTIFICATE OF AUTHORITY. (a) Until it receives
4 a certificate of authority from the department to do a banking business,
5 a state bank may not accept deposits or transact any business except
6 whatever business is incidental to its commencement of business or to
7 obtaining subscriptions and payment for its shares. If, in violation
8 of this subsection, a state bank transacts any business before it
9 receives a certificate of authority to do a banking business, the
10 directors and officers who wilfully authorized or participated in the
11 action are personally, jointly, and severally liable for the debts and
12 liabilities of the bank incurred before the certificate of authority
13 to do a banking business is received.

14 (b) The department shall issue a certificate of authority to do
15 a banking business to a proposed state bank if, upon review of the
16 information required by this chapter, including the following, it
17 approves the application:

18 (1) an officer certifies to the department by affidavit
19 that the capital surplus and undivided profits required by the depart-
20 ment have been fully paid in cash;

21 (2) a list of stockholders, giving the name, address, and
22 number of shares held by each has been filed with the department;

23 (3) bylaws have been adopted and filed with the department;

24 (4) the bank has received approval of its application for
25 insurance from the Federal Deposit Insurance Corporation;

26 (5) the bank has complied with all the requirements of this
27 chapter and any conditions imposed by the department and has advised
28 the department in writing of any changes that have occurred in the
29 facts reflected in the material it filed under sec. 334 of this chapter.

1 (c) If the rights conferred by a certificate of authority are
2 not exercised within one year from the date of its issuance, the
3 certificate lapses.

4 * Sec. 27. AS 06.05.355 is repealed and re-enacted to read:

5 Sec. 06.05.355. DEPOSIT INSURANCE REQUIRED. (a) A bank incor-
6 porated under this chapter may not begin business until it has acquired
7 membership in the Federal Deposit Insurance Corporation.

8 (b) A bank which has acquired membership in the Federal Deposit
9 Insurance Corporation may not voluntarily relinquish it without the
10 consent of the department. Request for the consent must be made at
11 least 180 days before the desired date of the relinquishment.

12 (c) Relinquishment of membership without giving notice and
13 obtaining the department's consent, involuntary loss of membership, or
14 failure to acquire membership, constitutes cause for the department to
15 take possession of the bank in the manner provided by this chapter.

16 * Sec. 28. AS 06.05 is amended by adding a new section to read:

17 Sec. 06.05.399. APPLICATION FOR CERTIFICATE OF AUTHORITY FOR
18 BRANCH BANK OR CHANGE OF LOCATION. (a) Before operating a branch
19 bank or changing the location of the principal office or of a branch
20 of the bank, a state bank must apply to the department for a certifi-
21 cate of authority to do so. The application shall be in the form and
22 contain the information the department requires to enable it to deter-
23 mine whether a certificate of authority should be issued, including
24 but not limited to the address at which the state bank or branch will
25 operate. The application must be accompanied by a fee of \$500. The
26 department may assess the bank for an additional amount if its actual
27 costs in processing the application exceed the initial application
28 fee.

29 (b) The department shall notify the state bank of its acceptance

1 of an application for a branch bank or for a change of location, or,
2 if the application and the accompanying documents do not conform to
3 those required in (a) of this section, the department shall return
4 them calling attention to the defects in them. If the department does
5 not respond within 30 days of its receipt of the application, it shall
6 be considered to have been accepted.

7 (c) The state bank shall publish notice of the acceptance by the
8 department of the application for a branch bank or for approval to
9 change location in the manner provided in sec. 345(f) and (g) of this
10 chapter. The notice shall state the proposed location.

11 (d) Upon acceptance of an application for a certificate of
12 authority to operate a branch bank or for approval to change location,
13 the department shall conduct an investigation it considers necessary
14 to ascertain whether:

15 (1) the addition of the proposed facility in the community
16 is not detrimental to a sound banking system;

17 (2) the population density and other economic character-
18 istics of the area primarily to be served afford reasonable promise of
19 adequate support for a branch or a relocated principal office;

20 (3) the capital structure of the state bank is adequate in
21 relation to the anticipated business and costs of operating at the
22 proposed location;

23 (4) the name is not deceptively similar to that of another
24 branch or bank and is not otherwise misleading.

25 (e) No later than 150 days after the application for a certifi-
26 cate of authority to operate a branch bank or to change location has
27 been accepted, the department shall make a determination whether to
28 approve the application. Within 30 days after the second publication
29 of the notice referred to in (c) of this section, any person opposing

1 the pending application may file written objections with the department
2 When it approves or denies the application, the department shall
3 notify the bank and any other person who requested in writing that he
4 or she be notified; and if the application is denied, the department
5 shall state the reasons for its decision.

6 (f) The department shall issue a certificate of authority to
7 operate a branch bank or to change location if:

8 (1) all conditions imposed by the department in granting
9 the certificate have been fulfilled;

10 (2) the requirements of this chapter have been satisfied;

11 (3) approval of the application for insurance has been
12 received from the Federal Deposit Insurance Corporation.

13 (g) If the rights conferred by a certificate of authority are
14 not exercised within one year from the date of its issuance, the
15 certificate lapses.

16 * Sec. 29. AS 06.05.435 is amended by adding a new subsection to read:

17 (f) Removal. When, in the opinion of the department, a director
18 of a bank has continued to violate any law or regulation relating to
19 the bank or has continued unsafe or unsound practices in conducting
20 the business of the bank after having been notified in writing by the
21 department to discontinue or correct the violation or unsound practices,
22 the department may serve notice upon the director to show cause why he
23 should not be removed from office. A copy of the notice shall be sent
24 by registered or certified mail to each director of the bank affected.
25 The accused director shall be accorded the opportunity for a hearing
26 under the Alaska Administrative Procedure Act (AS 44.62). Pending
27 adjudication, the department may prohibit the director from partici-
28 pating in the affairs of the bank. Notice of the prohibition may be
29 combined with the show cause order served by the department under this

1 subsection. If the department finds that he or she continued to
2 violate a law or regulation relating to the bank or continued unsafe
3 or unsound practices in conducting the business of the bank, the
4 department may order that the director be removed from office. A copy
5 of the order shall be served upon the director and upon the state bank
6 of which he or she is a director, at which time he or she ceases to be
7 a director of the bank.

8 * Sec. 30. AS 06.05.437(a) is amended to read:

9 (a) The officers of a bank shall be elected by the board of
10 directors. No officer may be elected for a period longer than one
11 year. An officer may be removed by the board of directors at any time
12 but removal shall not prejudice any rights that he may have to damages
13 for breach of contract of employment. The president of a bank must be
14 a member of the board of directors.

15 * Sec. 31. AS 06.05.441(a) is amended to read:

16 (a) Before a bank dividend is declared, or the net profits for
17 the period covered by the dividend disposed of, not less than one-
18 fifth of these net profits shall be carried to the bank surplus account
19 [FUND] until the surplus account [FUND] amounts to 100 per cent of the
20 paid-in capital of the bank.

21 * Sec. 32. AS 06.05.443(3) is amended to read:

22 (3) all assets or depreciation which the department
23 [DIRECTOR OF BANKS OR A DULY APPOINTED EXAMINER] may have required to
24 be charged off;

25 * Sec. 33. AS 06.05.450 is amended to read:

26 Sec. 06.05.450. STOCKHOLDERS LIST [ACCOUNTING REQUIREMENTS].
27 Each bank shall keep a book in which it shall enter the name and
28 residence of each stockholder of the bank, the class and number of
29 shares held by each, the time when each person became a stockholder,

1 and all transfers of stock, stating the time when made, the number of
2 shares, and by whom transferred. [IN ALL CIVIL AND CRIMINAL ACTIONS
3 AND PROCEEDINGS, THE BOOK IS PRIMA FACIE EVIDENCE OF THE FACTS STATED
4 IN IT.] A list of the stockholders shall be posted in the bank office
5 showing the number of shares held by each stockholder of record.

6 * Sec. 34. AS 06.05.465 is repealed and re-enacted to read:

7 Sec. 06.05.465. VOLUNTARY LIQUIDATION; REQUIREMENTS FOR APPROVAL.

8 (a) With the approval of the department, a bank may voluntarily
9 liquidate and dissolve. This approval shall be granted if the depart-
10 ment finds that:

11 (1) the proposal to liquidate and dissolve has been approved
12 by a vote of two-thirds of the outstanding voting stock at a meeting
13 called for the purpose of considering that action;

14 (2) the bank is solvent and has sufficient liquid assets to
15 promptly pay off depositors and creditors.

16 (b) Upon approval by the department, under (a) of this section,
17 a bank shall immediately cease to do business, retaining only the
18 powers necessary to effect an orderly liquidation, and it shall proceed
19 to pay its depositors and creditors and to wind up its affairs.

20 (c) Within 30 days after the approval, a notice of voluntary
21 liquidation shall be:

22 (1) mailed to the last known post office address of each
23 depositor, creditor, person interested in funds held as a fiduciary,
24 lessee of a safe deposit box, or bailor of property;

25 (2) posted conspicuously on the premises of the bank; and

26 (3) published as the department requires.

27 (d) The bank shall mail with the notice sent under (c)(1) of
28 this section a statement of the amount shown on its books to be the
29 claim of the depositor or creditor. The notice shall also demand that

1 property held by the bank as bailee or in a safe deposit box be with-
2 drawn by the person entitled to it within 30 days. That notice shall
3 direct that objections of depositors and creditors, if the amount
4 claimed differs from that in the statement, be filed with the bank in
5 accordance with the procedure described in the notice, before a
6 specified date which is not less than 60 days from the date of first
7 publication. The notice shall also include other information the
8 department or the bank considers pertinent.

9 (e) As soon after approval as is practicable, the bank shall
10 resign all fiduciary positions and take such action as may be necessary
11 to settle its fiduciary accounts.

12 (f) The contents of safe deposit boxes which have not been
13 removed within 30 days after demand shall be opened and the contents
14 dealt with in the manner provided for boxes upon which the payment of
15 rental is in default, and the sealed packages containing the contents
16 and the certificates together with any other unclaimed property held
17 by the bank as bailee and certified inventories of that property shall
18 be transferred to the department which shall retain it for five years
19 unless sooner claimed by the person entitled to it. After five years
20 the department shall sell or otherwise appropriately dispose of the
21 property. The proceeds of any sale shall be transferred to the state
22 treasury and deposited in the general fund.

23 (g) The approval of an application for voluntary liquidation
24 does not impair any right of a depositor or creditor to payment in
25 full and all lawful claims of creditors and depositors shall promptly
26 be paid. The unearned portion of the rental of a safe deposit box
27 shall be returned to the lessee.

28 (h) Any assets remaining after the discharge of all obligations
29 shall be distributed to the stockholders in accordance with their

1 respective interests. No such distribution shall be made before:

2 (1) all claims of depositors and creditors have been paid,
3 or, in the case of any disputed claim, the bank has transmitted to the
4 department a sum adequate to meet any liability that may be judicially
5 determined;

6 (2) any funds payable to a depositor or creditor and un-
7 claimed have been transmitted to the department; and

8 (3) approval of the department.

9 (1) Any unclaimed distribution to a stockholder or a depositor
10 shall be held until 90 days after the final distribution and then
11 transmitted to the department. Such unclaimed funds shall be held by
12 the department for five years and, unless sooner claimed by the person
13 entitled to them, shall be transferred to the state treasury and
14 deposited in the general fund.

15 * Sec. 35. AS 06.05 is amended by adding a new section to read:

16 Sec. 06.05.466. INVOLUNTARY DISSOLUTION BEFORE COMMENCEMENT OF
17 BUSINESS. (a) Before the issuance of a certificate of authority, the
18 department may dissolve and cause the liquidation of a state bank, if
19 the department discovers, after its approval of the articles of incor-
20 poration, any reason why the bank should not have been incorporated,
21 or if a certificate of authority has not been issued within one year
22 after the issuance of the certificate of incorporation or within such
23 time as the department may have allowed for satisfaction of conditions
24 precedent to the issuance of a certificate of authority. After giving
25 the bank notice and an opportunity for hearing, the department shall
26 file a statement of applicable facts and issue a certificate of
27 dissolution.

28 (b) A bank dissolved under (a) of this section shall immediately
29 proceed to liquidate under sec. 465(c) and (d) of this chapter. The

1 department may take possession of the bank if it considers it necessary
2 to effect a liquidation that complies with sec. 465(c) and (d) of this
3 chapter.

4 * Sec. 36. AS 06.05.470 is repealed and re-enacted to read:

5 Sec. 06.05.470. DEPARTMENT IN POSSESSION. (a) Department's
6 authority to take possession of bank. After a hearing, upon notice
7 prescribed by the department, the department may take possession of a
8 bank if the department finds:

9 (1) the bank's capital is impaired or it is otherwise in an
10 unsound condition;

11 (2) the bank's business is being conducted in an unlawful
12 or unsound manner;

13 (3) the bank is unable to continue normal operations;

14 (4) the department's examination has been obstructed or
15 impeded;

16 (5) the bank voluntarily places its affairs and assets
17 under the department's control;

18 (6) the bank holding corporation which controls the bank
19 refuses to permit an examination as provided in sec. 235 of this
20 chapter;

21 (7) the bank has lost or relinquished or received notice of
22 the termination or suspension of its membership in the Federal Deposit
23 Insurance Corporation.

24 (b) Notice of department's possession; powers of department on
25 taking possession. (1) The department shall take possession under
26 (a) of this section by posting upon the bank premises a notice re-
27 citing that it is assuming possession under this chapter. Its posse-
28 sion is considered to commence at the time of posting of the notice.
29 The notice shall also be filed in the superior court of the judicial

1 district in which the bank is located. The department shall notify the
2 Federal Reserve Bank of the district of its taking possession of any
3 bank which is a member of the Federal Reserve System.

4 (2) When the department has taken possession, it is vested
5 with the full and exclusive power of management and control, including
6 the power to assess outstanding capital stock under sec. 310 of this
7 chapter; to continue or discontinue the business; to stop or limit the
8 payment of its obligations; to employ any necessary assistants; to
9 execute any instrument in the name of the bank; to commence, defend
10 and conduct in its name any action or proceeding in which it may be a
11 party; to terminate its possession by restoring the bank to its board
12 of directors; and to reorganize or liquidate the bank in accordance
13 with this chapter. As soon as practicable after taking possession,
14 the department shall make an inventory of the assets and file a copy
15 of it with the superior court.

16 (c) Postponement of limitation periods on department's taking
17 possession. When the department has taken possession, there shall be
18 a postponement, until six months after the commencement of that posses-
19 sion, of the date upon which any period of limitation fixed by a
20 statute or agreement would otherwise expire on a claim or right of
21 action of the bank, or upon which an appeal must be taken or a pleading
22 or other document must be filed by the bank in any pending action or
23 proceeding.

24 (d) Waiver of hearing on department's possession in emergency
25 department action on application for vacation of its possession. If,
26 in the opinion of the department, an emergency exists which will
27 result in serious losses to the depositors, it may take possession of
28 a bank without prior hearing. Within 10 days after the department has
29 taken possession, any interested party may file with it an application

1 for an order vacating the possession. The department shall grant the
2 application if it finds that its action was unauthorized under this
3 chapter.

4 (e) Notice of liquidation by department; filing objections. If
5 the department decides to liquidate a bank, it shall give notice to
6 the directors, stockholders, depositors, and creditors as it may
7 prescribe. Any objection to the liquidation shall be filed with the
8 department within 15 days after that notice has been mailed. The
9 department may proceed to liquidate the bank within 15 days after that
10 notice has been mailed.

11 (f) Reorganization of bank by department; distribution and
12 effect of reorganization plan. If the department decides to reor-
13 ganize a bank, or the department, after staying its liquidation,
14 orders a reorganization, the department, after according a hearing to
15 all interested parties, shall enter an order proposing a reorgani-
16 zation plan. A copy of the plan shall be sent to each depositor and
17 creditor who will not receive payment of his claim in full under the
18 plan together with notice that unless within 30 days the plan is dis-
19 approved in writing by persons holding one-third or more of the aggre-
20 gate amount of such claims, the department will proceed to effect the
21 reorganization.

22 (g) Execution of lien on assets of bank in department's posses-
23 sion prohibited; powers of department. No judgment, lien, or attach-
24 ment may be executed upon any asset of the bank while it is in posses-
25 sion of the department. Upon the election of the department in connec-
26 tion with a liquidation or reorganization:

27 (1) any lien or attachment, other than an attorney's or
28 mechanic's lien, obtained upon any asset of the bank during the depart-
29 ment's possession or within four months before commencement of that

1 possession shall be vacated except liens created by the department
2 while in possession;

3 (2) any transfer of an asset of the bank made after or in
4 contemplation of its insolvency with intent to effect a preference is
5 void.

6 (h) Borrowing money by department in possession. The department
7 may borrow money in the name of the bank in its possession and may
8 pledge assets of the bank as security for the loan.

9 (i) Expenses of department's possession paid from assets. All
10 necessary and reasonable expenses of the department's possession of a
11 bank and of its reorganization or liquidation shall be paid from the
12 assets of the bank.

13 (j) Requirements for adoption of reorganization plan. A plan of
14 reorganization may not be prescribed under this chapter unless, in the
15 opinion of the department:

16 (1) the plan is feasible and fair to all classes of de-
17 positors, creditors, and stockholders;

18 (2) the face amount of the interest accorded to any class
19 of depositors, creditors, or stockholders under the plan does not
20 exceed the value of the assets upon the liquidation less the full
21 amount of the claims of all prior classes, subject, however, to any
22 fair adjustment for new capital that any class will pay under the
23 plan;

24 (3) the plan provides for the issuance of common stock in
25 an amount that will provide an adequate ratio to deposits;

26 (4) any exchange of new common stock for obligations or
27 stock of the bank will be effected in inverse order of the priorities
28 in liquidation of the classes that will retain an interest in the bank
29 and upon terms that fairly adjust any change in the relative interest

1 of the respective classes that will retain an interest in the bank and
2 upon terms that fairly adjust any change in the relative interests of
3 the respective classes that will be produced by the exchange;

4 (5) the plan assures the removal of any director, officer,
5 or employee responsible for any unsound or unlawful action or the
6 existence of any unsound condition;

7 (6) any merger or consolidation provided by the plan con-
8 forms to the requirements of this chapter.

9 (k) Modification of reorganization plan or liquidation of bank;
10 notice. Whenever in the course of reorganization supervening condi-
11 tions render a plan of reorganization unfair or its execution imprac-
12 tical, the department may modify the plan or liquidate the bank. Any
13 such action shall be taken by order upon reasonable notice.

14 (l) Limitations on powers of department in liquidating bank. In
15 liquidating a bank, the department may exercise any power incidental
16 to liquidating a bank, but it may not, without the approval of the
17 superior court.

18 (1) sell any asset of the bank having an appraised value in
19 excess of \$10,000;

20 (2) compromise or release any claim which exceeds \$10,000,
21 exclusive of interest;

22 (3) make any payment on any claim, other than a claim upon
23 an obligation incurred by the department, before preparing and filing
24 a schedule of its determinations in accordance with (q) of this
25 section.

26 (m) Executory contracts of bank terminated after commencement of
27 liquidation. Within six months after the commencement of involuntary
28 liquidation, the department may by its election terminate any executory
29 contract for services or advertising to which a bank is a party or any

1 obligation of a bank as a lessee. A lessor who receives 60 days
2 notice of the department's election to terminate such a lease has no
3 claim for rent, other than rent accrued to the date of termination,
4 nor a claim for damages due to the termination.

5 (n) Fiduciary positions of bank terminated after commencement of
6 liquidation. As soon after the commencement of involuntary liquidation
7 as is practicable, the department shall take the necessary steps to
8 terminate all fiduciary positions held by a bank and take action
9 necessary to surrender all property held by the bank as a fiduciary
10 and to settle its fiduciary accounts.

11 (o) Notice of liquidation by department. As soon after commence-
12 ment of liquidation by the department as practicable, it shall proceed
13 as in sec. 465(c) and (d) of this chapter relating to voluntary liqui-
14 dation by banks, except that no notice need be sent relating to
15 fiduciary accounts as mentioned there.

16 (p) Disposition of contents of safe deposit boxes. The contents
17 of safe deposit boxes in banks being liquidated by the department,
18 which contents have not been removed before the date specified, shall
19 be disposed of by the department as in sec. 465(f) of this chapter.

20 (q) Settlement of claims by department in liquidation proceed-
21 ings. Within six months after the last day specified in the notice
22 for the filing of claims or a longer period allowed by the superior
23 court, the department shall:

24 (1) reject any claim if it determines it to be invalid;

25 (2) determine the amount, if any, owing to each known
26 creditor or depositor and the priority class of his claim under this
27 chapter;

28 (3) prepare a schedule of its determinations for filing in
29 the superior court;

1 (4) provide for legal publication in such newspapers as it
2 determines, once a week for three successive weeks, a notice of the
3 times when and the places where the schedule of determinations will be
4 available for inspection; the date, no sooner than 30 days after the
5 first publication, when the department will file its schedule in court
6 shall be included in the notice.

7 (r) Objections to schedule of determinations in settlement of
8 claims. Within 30 days after the filing of the department's schedule
9 under (q)(3) of this section, any creditor, depositor, or stockholder
10 may file with the superior court an objection to any determination
11 made. Any objections so filed shall be heard and determined by the
12 court, upon such notice to the department and interested claimants as
13 the court may prescribe. If the objection is sustained, the court
14 shall direct an appropriate modification of the schedule.

15 (s) Distributions to claim holders authorized. After filing its
16 schedule, the department may from time to time make partial distribu-
17 tion to the holders of claims which are undisputed or have been allowed
18 by the court, if an adequate reserve is established for the payment of
19 disputed claims. As soon as it is practicable after the determination
20 of all objections, the department shall make final distribution.

21 (t) Priority of claims in liquidation proceedings. The following
22 claims have priority in liquidation proceedings, in the order listed:

- 23 (1) obligations incurred by the department;
24 (2) wages and salaries of officers and employees earned
25 during the three-month period preceding the department's possession in
26 an amount not exceeding \$3,000 for any one person;
27 (3) fees and assessments due to the department;
28 (4) deposits to the extent of \$1,000 for each depositor.

29 (u) Payment of claims not filed within time prescribed. After

1 the payment of all other claims with interest at the legal rate
2 applicable to court judgments, the department shall pay claims other-
3 wise valid which were not filed within the time prescribed.

4 (v) Prorata payment of claims authorized. If the sum available
5 for any class of creditors is insufficient to provide payment in full,
6 that sum shall be distributed prorata to the claimants in the class.

7 (w) Distribution of assets remaining after liquidation. When
8 the department has liquidated a bank, any assets remaining after all
9 claims have been paid shall be distributed to the stockholders in
10 accordance with their respective interests.

11 (x) Disposition of unclaimed funds after liquidation. Unclaimed
12 funds remaining after the completion of the liquidation by the depart-
13 ment shall be retained for five years by it unless sooner claimed by
14 the owner. After that, the remaining sum shall be transferred to the
15 state general fund.

16 (y) Certificate of dissolution. When the assets have been
17 distributed in accordance with this chapter, the department shall file
18 an account with the superior court. Upon approval of the account, the
19 department is relieved of liability in connection with the liquidation
20 and the court shall cancel the certificate of authority and enter an
21 order of dissolution. Upon the filing of such an order, the department
22 shall issue a certificate of dissolution of the corporation under the
23 Alaska Business Corporation Act (AS 10.05).

24 (z) Department's appointment of Federal Deposit Insurance
25 Corporation as receiver; powers of receiver. (1) The department may
26 appoint the Federal Deposit Insurance Corporation as receiver for a
27 bank of which it has taken possession and whose deposits are insured
28 by that corporation. Upon filing with the court a certificate indi-
29 cating the acceptance by the Federal Deposit Insurance Corporation,

1 the possession of and title to all the assets, business, and property
2 are considered transferred to that corporation. The department is
3 then forever relieved from all responsibility and liability in respect
4 to the liquidation of the bank.

5 (2) The Federal Deposit Insurance Corporation may liquidate,
6 reorganize, merge or consolidate the bank in the manner permitted by
7 the laws of the United States or by this chapter, possessing all
8 rights, powers, duties and obligations of the department.

9 * Sec. 37. AS 06.05.505 is amended to read:

10 Sec. 06.05.505. UNLAWFUL FAILURE TO TRANSMIT REPORTS REQUIRED BY
11 DEPARTMENT. Every bank which fails to make, transmit and publish any
12 report required under sec. 45 of this chapter is subject to a penalty
13 of \$100 [\$10] a day for each day's delay after the period specified in
14 that section. Any bank is considered to have transmitted a report to
15 the department on the day when the bank has deposited it in a United
16 States post office in the state, properly addressed to the department,
17 postage prepaid, and registered if the post office is a registry
18 office.

19 * Sec. 38. AS 06.05.520 is amended to read:

20 Sec. 06.05.520. PENALTY. Any person who violates any provision
21 of this chapter for which no specific penalty is provided is guilty of
22 a misdemeanor, and upon conviction is punishable by a fine of not more
23 than \$5,000, or by imprisonment for not more than one year, or by
24 both. In case of violation by a corporation, the corporation is
25 punishable by a fine of not more than \$20,000 [\$5,000].

26 * Sec. 39. AS 06.05.540 is amended by adding new paragraphs to read:

27 (17) "undivided profits" means the accumulated, undistri-
28 buted net profit of a bank, including any residue after

29 (A) payment of provision for payment of taxes and

1 expenses of operations,

2 (B) transfers to reserves allocated to a particular
3 asset or class of assets,

4 (C) losses estimated or sustained on a particular
5 asset or class of assets in excess of the amount of reserves
6 allocated for it,

7 (D) transfers to surplus and capital,

8 (E) amounts declared as dividends to stockholders;

9 (18) "company" means any bank, corporation, partnership,
10 joint stock company, business trust, voting trust, association or
11 similar organization, domestic or foreign.

12 * Sec. 40. AS 06.05.315, 06.05.330, 06.05.335, 06.05.360 -- 06.05.375,
13 06.05.385, 06.05.400 -- 06.05.425, 06.05.455, 06.05.460 and 06.05.475 are
14 repealed.