Original sponsor: McKinnon and Gardiner

Offered: 3/21/77
Referred: Rules

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 29 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

9 CHAPTER 40. ALASKA CREDIT UNION ACT.

10 ARTICLE 1. FORMATION AND MANAGEMENT OF CREDIT UNIONS.

11 Sec. 06.40.010. FORMATION OF CREDIT UNION. (a) A credit union

12 may be formed by seven or more residents of this state who meet the

13 requirement of common bond contained in sec. 60 of this chapter and the

14 requirements in this section by subscribing for shares of the credit

15 union in the aggregate amount of $1,000 and executing two copies of

16 articles of incorporation and bylaws of the credit union consistent with

17 the provisions of this chapter and regulations of the commissioner.

18 (b) The incorporators shall submit to the commissioner an appli-

19 cation to establish a credit union, including the proposed articles of

20 incorporation, bylaws, and required fees. The commissioner shall approve

21 the application by the incorporators if he determines that

22 (1) the articles of incorporation and bylaws conform to the

23 provisions of this chapter;

24 (2) the incorporators are fit and of good general character;

25 (3) the proposed credit union is economically feasible;

26 (4) the name of the proposed credit union is not deceptively

27 similar to another credit union doing business in the state; and

28 (5) any conditions imposed by the department in granting the

29 certificate of approval have been fulfilled.

(c) The commissioner shall, within 60 days of receipt from the incorporators of all information requested by the commissioner under (b) of this section, either approve or disapprove the application. If the commissioner approves the application, he will within the 60-day period prescribed in this subsection issue a certificate of approval and return a copy of the articles of incorporation, the certificate of approval, and bylaws to the organizers to be preserved in the permanent files of the credit union.

(d) No credit union may transact business until formal approval of the charter has been received.

Sec. 06.40.020. ARTICLES OF INCORPORATION. (a) The articles of incorporation shall state the name of the credit union; the term of existence; the par value of its shares, which shall be in $5 multiples, not less than $5 nor more than $25; the names and addresses of the incorporators and the number of shares held by each; the territory in which the proposed credit union will operate; the proposed field of membership, specified in detail; and the number of directors which shall be an odd number not less than 5 and not more than 25.

(b) Amendments to the articles of incorporation shall be submitted to the commissioner and shall be effective upon written approval of the commissioner. A fee may be charged for the approval of amendments.

Sec. 06.40.030. BYLAWS. The incorporators shall adopt the initial bylaws of the credit union. The members of the credit union may alter, amend or repeal the bylaws or adopt new bylaws. The bylaws shall prescribe the following:

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

(A) credit unions shall be open to groups having common bonds of occupation or association, or to residents within a well-

defined neighborhood, community, or rural district, or to employees of related or vicinal industries, or to members of bona fide fraternal, religious, cooperative, labor, rural, educational, or similar organization and employees of the credit union; members of the immediate family of all qualified persons are eligible for membership; in this section "members of the immediate family" include the wife, husband, parents, and children of a member whether living together in the same household or not and any other relative of the member or spouse of a member living together in the same household as the member;

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

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

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

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

(4) the duties of the several officers;

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

(6) the manner in which members and directors shall be notified of meetings;

(7) other provisions for the management of the affairs of the credit union not inconsistent with law or the articles of incorporation.

Sec. 06.40.040. NAME. The name of a credit union chartered under this chapter shall include the words "credit union". A credit union may

not adopt the same name as that of any other existing credit union.

Sec. 06.40.050. INITIAL DIRECTORS AND COMMITTEES. The incorporators shall select at least five persons to serve on the board of directors, three persons to serve on the supervisory committee, and persons to serve on other committees required by the articles or bylaws. The selected persons will serve in these capacities until the first annual meeting of the members and the election of their successors.

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

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

(c) A credit union organized under this chapter may permit membership of a central credit union organized under this chapter.

Sec. 06.40.070. POWERS. A credit union may

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

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

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

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

(5) require the payment of an entrance fee or annual membership fee;

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

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

(8) borrow from any source in an aggregate amount not to exceed 50 per cent of paid-in and unimpaired capital and surplus to meet share withdrawals or for purposes of financing investments in real estate and credit union premises under sec. 276 of this chapter but may not borrow for any other investments, and discount or sell eligible obligations, subject to regulations prescribed by the commissioner; however, the proposed borrowing must be in accordance with policy established by the board of directors, and the credit union must notify the commissioner when the amount borrowed by the credit union exceeds 35 per cent of its paid-in and unimpaired capital and surplus;

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

(10) hold membership in a central credit union organized under this chapter and in organizations composed of credit unions;

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

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

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

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

(15) perform trust services for its members subject to the provisions of ch. 25 of this title upon approval by the commissioner, including the trust estates of deceased members, and to act as a custodian of qualified pension funds of self-employed individuals under the

provisions of P.L. 89-809;

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

(17) receive from its members or from another credit union deposits in accounts of a type approved by the administrator of the National Credit Union Administration for federally chartered credit unions, and honor requests for withdrawals of these deposits in any form which is similarly approved, if the credit union has total shares and deposits of at least $1,000,000 and maintains the reserves and bonds required by the commissioner;

(18) contribute to public service or eleemosynary institutions and contribute to, support or participate in a nonprofit service facility whose services will benefit the credit union, subject to regulations prescribed by the commissioner;

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

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

Sec. 06.40.080. MEMBERS' MEETINGS. The annual meeting and special meetings of the members of the credit union shall be held at the time, place and in the manner prescribed in the bylaws. At least a simple majority of the members must be present or represented by proxies to conduct the annual meeting; however, proxies shall be equally divided among those members attending the annual meeting. Each member shall have one vote at the annual meeting, irrespective of his shareholdings. A society, association, partnership or corporation, having membership in

the credit union, may be represented and vote by one of its members or shareholders who has been legally authorized by its governing body.

Sec. 06.40.090. BOARD OF DIRECTORS. (a) The business affairs, funds and records of the credit union shall be directed by a board of directors to be elected at the annual members' meeting by and from the members. All members of the board shall hold office for the term provided in the bylaws. The board of directors shall fill vacancies occurring in the board at the next regular directors' meeting after the vacancy occurs, until successors elected at the next annual members' meeting have been qualified, except that vacancies created by an expansion of the board shall be filled only by election at the next members' meeting. The board shall appoint the members of the supervisory committee and other committees required by the bylaws and shall fill vacancies occurring in these committees.

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

(c) No member of the board or committee of the board may be compensated for his service. A member, while on official business of the credit union authorized by the board of directors, may be reimbursed for necessary expenses incidental to the performance of the business.

(d) It is the duty of the directors to

(1) act upon applications for membership or to appoint one or more membership officers other than the treasurer, assistant treasurer, or loan officer, to act on membership applications under procedures established in the bylaws;

(2) purchase a blanket fidelity bond, in accordance with the

regulations of the commissioner, covering the officers, employees, members of official committees, and agents of the credit union;

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

(4) limit the number of shares and the amount of deposits which may be owned by a member, and to fix the maximum amount which may be loaned to an individual member in accordance with sec. 270 of this chapter;

(5) direct the investment of surplus funds, except that the board may designate a committee of its number or a qualified individual to have charge of making investments in accordance with sec. 290 of this chapter;

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

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

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

Sec. 06.40.100. EXECUTIVE OFFICERS. (a) At the organization meeting and within 30 days following each annual meeting of the members, the directors shall elect from their own number an executive officer, who may be designated as chairman of the board or president; a vice-chairman of the board or one or more vice-presidents, a treasurer, and a secretary, of whom the last two may be the same individual. The persons elected shall be the executive officers of the corporation. No

executive officer, except the treasurer, may be compensated for his service. The terms of officers shall be one year or until their successors have been chosen and qualified.

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

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

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

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

Sec. 06.40.120. SUPERVISORY COMMITTEE. (a) The supervisory committee shall make a semiannual audit of the credit union and shall submit a report of the audit to the board of directors and a summary of

that report to the members. A copy of the report shall also be submitted to the department within 60 days of its completion. The committee shall provide for supplementary audits which it considers necessary or which may be required by the commissioner, and submit reports of these supplementary audits to the board of directors. The supervisory committee shall also provide for verification of the passbooks and accounts of the members with the records of the treasurer at least once every two years and at least half of the passbooks and accounts shall be verified each year.

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

(c) The supervisory committee may by a majority vote call a special meeting of the members to consider an alleged violation of this chapter, the charter or the bylaws, or a practice of the credit union considered by the supervisory committee to be unsafe or unauthorized; if a meeting is called, the commissioner shall be notified immediately and informed of the time and place of the meeting and the nature of the alleged violation to be considered.

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

Sec. 06.40.125. CONFLICTS OF INTEREST. (a) No director, committee member, officer, agent or employee of the credit union may in any manner, directly or indirectly, participate in the deliberation upon or

the determination of any question affecting his pecuniary interest or the pecuniary interest of any corporation, partnership or association, other than the credit union, in which he is directly or indirectly interested.

(b) In addition to other penalties, a person who violates this section may not serve as an officer, agent or employee of a credit union.

ARTICLE 2. SUPERVISION AND REGULATION OF CREDIT UNIONS.

Sec. 06.40.130. SUPERVISION AND FEES. (a) The commissioner has general supervision of credit unions, subject to the provisions of this chapter.

(b) The commissioner shall promulgate regulations for the administration of this chapter which prescribe the minimum amount of surety bond coverage required of credit unions in relation to their assets and establish application and examination fees.

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

(d) For the purpose of paying the costs incident to the ascertainment of whether a certificate of approval should be issued, the incorporators shall pay, at the time of filing their articles of incorporation and bylaws, the amount prescribed by the commissioner, which shall not exceed $100 in any case. Not later than January 31 of each calendar year, each credit union shall pay to the department for the preceding calendar year, a supervision fee in accordance with a graduated scale prescribed by this section on the basis of assets as of December 31 of the preceding year, 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

(e) No annual supervision fee is payable by the credit union for the year in which its charter is issued if the charter is issued after June 30 except in cases of conversion from a credit union chartered under the provisions of the Federal Credit Union Act to a credit union chartered under this chapter, or in which final distribution is made in its liquidation or the charter is otherwise canceled.

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

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

Sec. 06.40.140. EXAMINATIONS. (a) The commissioner or his representatives shall conduct an annual examination and any additional examinations he considers necessary of each credit union established under this chapter. A report of the examination will be forwarded to the board of directors of the credit union within 60 days after completion of the examination. The report shall contain comments on the general condition of the assets and the management of the credit union. A general meeting of the board of directors and committeemen shall be called within 30 days after receipt to consider the report, and copies

of the report shall be made available by the board of directors to all members of the credit union. Within 60 days of receipt of the report, the board of directors shall furnish the department with a signed statement acknowledging the receipt of the report and attesting to their review of and familiarity with its contents.

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

(c) The commissioner may contract for examinations of credit unions if the scope of the examination is equivalent to the examination made by the commissioner. The cost of contract examinations shall be borne by the credit union.

(d) The examiner shall take and subscribe an oath that he will honestly and impartially examine into and report the condition of state credit unions as to assets and liabilities and other information as may be required by the department, that he will not disclose the information he obtains through the examination to any person other than the department, that at the time of his employment he is not obligated to or a member of the credit union and that he is not an officer or employee of any credit union conducting business in this state.

(e) All records of the department relating to this chapter are public records, including those related to methods and procedures used in examinations, except that all papers, documents, reports, reports of examination, and other writings relating specifically to the supervision and regulation of any state credit union by the department under this chapter are not public records and are not open for examination or

copying by the public except under a court subpoena. Reports of examinations made by the department shall be retained for five years.

Sec. 06.40.150. REQUIRED DIRECTORS' MEETINGS AND STATEMENTS TO THE DEPARTMENT. When the department considers it necessary it may require a meeting of the board of directors of a credit union to be held in the manner and at the time and place it directs. Any report of an examination required or allowed by this chapter, any conclusions drawn from such an examination by the department, any recommendations made by the department relative to it, and any other matters concerning the operation and condition of the credit union may be presented to the board of directors by the department. Each member of the board of directors shall furnish to the department a statement on forms to be supplied by the department that he has read and is familiar with the recommendations of the department.

Sec. 06.40.160. ANNUAL REPORTS. A credit union organized under this chapter shall submit annual reports to the commissioner on forms supplied by him for that purpose, which reports shall be due on or before February 1. A credit union failing to file by February 15 shall be levied a fine of $10 per day until the report is filed.

Sec. 06.40.170. CENTRAL CREDIT UNION. (a) A central credit union may be organized and operated under the provisions of this chapter and is subject to all provisions not inconsistent with this section. This credit union shall be known as the Alaska Central Credit Union. Membership in the central credit union shall be limited to

(1) credit unions organized and operating under the provisions of this chapter or operating in this state under the provisions of the Federal Credit Union Act;

(2) officers, directors and committee members and employees of credit unions, employees of the central credit union, employees of an

association of Alaska credit unions, and resident employees of federal or state government agencies responsible for the supervision of credit unions in this state;

(3) organizations or associations of these persons;

(4) employees of a common employer with insufficient numbers to form or conduct the affairs of a separate credit union, upon approval of the commissioner; and

(5) persons who are members of credit unions in this state which have entered into or are about to enter into voluntary or involuntary dissolution proceedings under the provisions of sec. 330 of this chapter or credit unions in this state which have entered into or are about to enter into voluntary or involuntary dissolution proceedings under the provisions of Chapter 14 of Title XII of the U.S. Code.

(b) The board of directors of a credit union becoming a member of the central credit union shall designate one person to be its voting representative. The voting representative shall be eligible to hold office in the central credit union as if that person were himself a member of the central credit union.

(c) The central credit union shall have all the rights and powers of any other credit union organized under this chapter and shall in addition have the power to obtain or acquire the assets and liabilities of a credit union operating in this state which enters into liquidation.

(d) The central credit union shall have the authority to make loans to other credit unions and to purchase shares of and make deposits in other credit unions. It shall have the power to invest in and grant loans to associations of credit unions, central funds of credit unions or organizations chartered to provide exclusive service to credit unions; to borrow money from any source, not to exceed the amount of its unimpaired capital and surplus; and to issue notes or debentures.

ARTICLE 3. FINANCIAL PRACTICES.

Sec. 06.40.180. SHARES. (a) Shares may be subscribed to, paid for and transferred in the manner prescribed in the bylaws. No certificate may be issued to denote ownership of a share in a credit union.

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

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

Sec. 06.40.190. DEPOSITS. A credit union may issue time certificates to its members, subject to the conditions and the returns established by the board of directors. Time certificates, differ from shares in that a predeclared rate of return may be established on them and they have a prior claim on the assets of the credit union. Christmas clubs, vacation clubs, and other thrift accounts may be operated in accordance with the provisions of the bylaws.

Sec. 06.40.200. MULTIPLE PARTY ACCOUNTS. (a) A credit union may enter into multiple party accounts to the same extent that it may enter into single party accounts. A multiple party account is an account in

the name of two or more persons, one or more of whom may make withdrawals. At least one party to a multiple party account must be a member of the credit union in which the account is established. The account may be created with any person designated by the credit union member, but a nonmember shall not be permitted to vote, obtain loans, or hold office.

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

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

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

the parties shall be presumed to own a multiple party account in equal undivided interests.

(e) The death of a party to a multiple party account shall have no effect on the beneficial ownership of the account, other than to transfer the decedent's right to his estate, unless the account is a survivorship account or trust account.

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

Sec. 06.40.210. SURVIVORSHIP ACCOUNTS. A multiple party account payable to two or more persons, jointly or severally, which does not expressly provide that there is no right of survivorship, is presumed to be a survivorship account. At the death of a party, sums on deposit in a survivorship account belong to the surviving party or parties as against the estate of the decedent. Where there are two or more survivors, their respective ownership shall be in proportion to their previous net contributions augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before his death, plus the proceeds of insurance on decedent's life paid to the account. The right of survivorship continues between survivors.

Sec. 06.40.220. PRESUMPTIONS REBUTTABLE. The presumptions created by secs. 190 - 210 of this chapter concerning beneficial ownership as between parties, or as between parties and beneficiaries, of multiple party accounts are relevant only to controversies between these persons or their creditors or other successors, and shall have no bearing on the rights of withdrawal of these persons as determined by the terms of the account contracts. These presumptions are based upon inferences of the intention of parties to multiple party accounts and the usual

expectations of persons using these accounts and are rebuttable by clear and convincing evidence of a different intention. The presumptions of survivorship are not subject to change by will, but may be rebutted by a written order received by the credit union to change the form of the account or directing that payment not be made in accordance with the account which is signed by a party and is received by the credit union during the party's lifetime. If not rebutted by contrary evidence, the presumptions provided in this chapter are effective to establish beneficial ownership. Transfers resulting from the application of these presumptions are effective by reason of the account contracts and are not to be considered as testamentary.

Sec. 06.40.230. PAYMENTS BY CREDIT UNION. Payment made in accordance with secs. 190 - 210 of this chapter discharges the credit union from all claims for amounts so paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, or beneficiaries or their successors. The protection given does not extend to payments made after a credit union has received written notice from a party who has a present right of withdrawal that withdrawals in accordance with the terms of the account should not be permitted. Unless the notice is withdrawn by the person giving it, the death of any party after notice has no effect on withdrawal rights, and the personal representative or heirs of the decedent must concur in any demand for withdrawal if the credit union is to be protected under this section. No other notice or information shown to have been available to a credit union shall affect its right to the protection provided here. This protection shall have no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple party accounts.

Sec. 06.40.240. MINORS. Shares may be issued to and deposits

received from a minor who may withdraw the shares and deposits, including dividends and interest. Deposits and share investments made by a minor and withdrawals of them by the minor shall be valid in all respects. For these purposes a minor is considered of full age.

Sec. 06.40.250. INACTIVE ACCOUNTS. If a credit union is unable to contact a member, beneficiary or other person by first class mail at the last address shown on the records of the credit union, and if this inability continues for a period of more than seven years, all shares, deposits, accounts, dividends, interest and other sums due to or standing in the name of that person escheat to and become the property of the state. This provision shall not apply to sums due to or standing in the name of two or more persons unless the credit union is unable to contact any of these persons in the manner and during the period specified in this section.

Sec. 06.40.260. DIVIDENDS. After provision for operating expenses, interest, accrued taxes and the required reserves, the board of directors may, at intervals determined by them, declare a dividend to be paid on the classes of shares determined by them from the remaining net earning at a rate not to exceed the rate established by the National Credit Union Administrator. No dividend shall be declared if, after payment of the dividend, known losses would exceed the combined balances of the reserve fund and undivided earnings. The dividends shall be paid on all paid-up shares outstanding at the close of the period for which the dividend is declared. Shares which become fully paid up during a dividend period are entitled to a proportional part of the dividend. Dividend credit for a month may be accrued on shares which are or become fully paid up during the first 15 days of that month.

Sec. 06.40.270. LOANS. (a) A credit union may make loans to its members upon the terms and conditions provided in the bylaws and

approved by the credit committee or loan officer. The rate of interest may not exceed one per cent per month on the unpaid balance, and the maximum rate of interest prescribed by this section is inclusive of all charges incident to making the loan. When applicable for real estate loans, the interest rates prescribed in AS 45.45.010(b) shall prevail. Every application for a loan shall be made in writing upon a form approved by the board of directors, and shall state the purpose for which the loan is desired, and the security, if any, offered. Every loan shall be evidenced by a written statement. An unsecured loan shall bear a maturity of no longer than five years and shall be supported by a financial statement of the loan applicant. All secured loans except those secured by improved real estate shall mature within 10 years. In addition to generally accepted types of security, the endorsement of a note by a guarantor or assignment of shares, in a manner consistent with the laws of this state, shall be considered security within the meaning of this chapter; however, when an endorsement of a note by a guarantor is used as security on a loan for more than $2,000, the loan shall also be supported by a financial statement. The adequacy of all securities shall be within the determination of the credit committee or loan officer, subject to the provisions of this chapter and the bylaws.

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

obligations to the credit union.

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

(d) A credit union may make loans to its own directors or to members of its supervisory or credit committee; however, the aggregate of loans to an individual director or committee member which exceeds $2,500 plus pledged shares must be approved by the board of directors. A credit union may permit directors and committee members to act as guarantor or endorser of loans to other members, except that when the loan standing alone or when added to any outstanding loans of the guarantor exceeds $2,500, approval of the board of directors is required.

(e) A credit union may participate with other credit unions, corporations or financial institutions in making loans to credit union members.

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

(g) In addition to other requirements of this chapter, real estate loans are subject to the following limitations:

(1) No investment in a mortgage may exceed 80 per cent of the appraised value of a one-to-four family residence securing the loan; however, a credit union may make 95 per cent of appraised value loans on one-to-four family residences subject to the provisions of (2) and (3) of this subsection, if the term of the loan does not exceed 30 years and the loan is secured by an amortized mortgage, deed of trust, or other instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within the period ending on the date of its maturity and, in addition, the loan is either insured by mortgage insurance in an amount equal to 20 per cent

of the loan issued by a mortgage insurer authorized to do business in the state or the loan is secured in addition to the amortized mortgage by shares or deposits held by the credit union in an amount equal to 10 per cent of the loan or other collateral acceptable to the department. Value of real estate shall be determined by an appraisal which shall be kept in the records of the credit union; title insurance showing the loan to be a first lien and hazard insurance shall be acquired by the borrower. The unpaid principal balance of loans secured by real estate may not, in the aggregate, exceed 50 per cent of the paid-in capital of the credit union.

(2) If the total paid-in and unimpaired capital and surplus of a credit union is less than $3,000,000, the credit union may make loans under (1) of this subsection; however, a loan may not exceed 80 per cent of the appraised value of the property securing the loan and the maximum term of the loan may not exceed 10 years.

(3) Except as provided in (1) and (2) of this subsection, no investment may be made by a credit union in a loan secured by a mortgage on a one-to-four family residence unless the mortgaged property is located inside this state, the mortgage has a maturity not exceeding 30 years from the date of the first payment, and the payment date is no later than 60 days following final disbursement of the loan.

Sec. 06.40.275. ACQUISITION OF PROPERTY TO SATISFY OR PROTECT PREVIOUS LOAN. A state credit union may take property of any kind, to satisfy or protect a loan previously made in good faith and in the ordinary course of business. The property shall be entered on the books at cost, or fair market value, whichever is less. Property acquired to satisfy or protect previous loans shall be disposed of over a period of time as the department prescribes by regulation.

Sec. 06.40.276. INVESTMENT IN REAL ESTATE AND CREDIT UNION

PREMISES. A credit union may acquire, purchase, hold or lease property for the following purposes only:

(1) real property necessary for the convenient transaction of its business, including credit union offices, equipment, furniture and fixtures, leasehold improvements, parking lots, and investment in a credit union building corporation if all obligations of the building corporation to the credit union are included as investment, provided that the book asset value of the purchases or investments does not exceed 60 per cent of the sum of the capital and surplus accounts of the credit union;

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

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

Sec. 06.40.277. DISPOSITION OF PROPERTY NOT NEEDED IN THE CONDUCT OF A CREDIT UNION BUSINESS. All real estate and personal property not necessary for the transaction of a credit union business which comes into the possession of a state credit union shall be disposed of as soon as possible in accordance with the regulations of the department. If any such real estate or personal property is not sold within the time limit prescribed by the regulations, it shall be written off and may not be carried as an asset of the credit union.

Sec. 06.40.280. INSURANCE. (a) A credit union may purchase insurance on the lives of its members in an amount equal to their respective shares, deposits and loan balances, and may enter into cooperative marketing arrangements for its members covering group life insurance, temporary disability coverage, health and accident plans and other programs which are demonstrated to be in the interest of improving the economic and social conditions of the credit union members.

(b) All credit unions chartered under this chapter, or credit unions in operation at the time of issuance of a charter under this chapter must submit evidence of share insurance coverage from the administrator of the National Credit Union Administration. The amounts of loss to be protected or guaranteed shall be established by the commissioner. The commissioner shall make available reports of condition and examination reports to the administrator of the National Credit Union Administration and may accept any report of examination made on behalf of the administrator. Should a credit union be closed because of bankruptcy or insolvency, the commissioner may appoint the National Credit Union Administrator as the liquidating agent.

(c) Credit unions that do not maintain share insurance coverage as specified in this section shall be liquidated by the commissioner in accordance with sec. 340 of this chapter.

Sec. 06.40.290. INVESTMENTS. Funds not used in making loans to members may be invested in

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

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

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

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

(5) the capital shares, obligations, or preferred stock

issues of any association or corporation whose members, stockholders, patrons or owners are confined to credit unions and which is organized to service or assist credit unions in accomplishing their purposes;

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

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

(8) stock in a credit union building corporation in accordance with sec. 276 of this chapter.

Sec. 06.40.300. RESERVE ALLOCATIONS. (a) Immediately before the payment of each dividend, the gross earnings of the credit union shall be determined. From this amount there shall be set aside, as a regular reserve for contingencies and against losses on loans and against other losses specified in the regulations, the following amount: 10 per cent of gross income until the regular reserve equals 7 1/2 per cent of the total outstanding loans and risk assets; then 5 per cent of gross income until the regular reserve equals 10 per cent of the total outstanding loans and risk assets. When the regular reserve falls below 10 per cent, of the total outstanding loans and risk assets, it shall be replenished in the manner described in this subsection.

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

(c) For the purpose of establishing the reserves required by this section, all assets shall be considered risk assets except the following:

(1) cash on hand;

(2) deposits or shares in financial institutions insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration;

(3) loans to other credit unions in the state;

(4) assets which are insured by, fully guaranteed as to principal and interest, or due from the federal government, its agencies, the Federal National Mortgage Association, or the Government National Mortgage Association;

(5) buildings and land owned by the credit union;

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

(7) the insured portion of loans insured under Title I of the National Housing Act (12 U.S.C. 1703) by the Federal Housing Administration;

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

(9) accrued interest on nonrisk investments.

Sec. 06.40.305. CHARGING OFF OR SETTING UP RESERVES AGAINST BAD DEBTS. The commissioner may require a credit union to establish a reserve for and charge off the whole or part of an asset which has not been lawfully acquired, write down an asset to its market value, charge off that portion of an asset classified as a loss in a state report of examination, or charge off all debts owned to the credit union in which interest due has been unpaid for a period of six months unless the debt principal is adequately secured and the credit union is in the process of collection.

ARTICLE 4. MERGER, CONVERSION AND LIQUIDATION.

Sec. 06.40.310. MERGER. (a) A credit union may, with the approval of the commissioner, after making the payment established by regulation, merge with another credit union under the existing charter of the other credit union, under a plan agreed upon by a majority of the board of directors of each credit union joining in the merger, and approved by the affirmative vote of a majority of the members of each credit union present at meetings of the members legally called for this purpose.

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

(c) Before approving a merger the commissioner shall give consideration to the purposes of this chapter and the prospects of the surviving or consolidated credit union for financial success and its ability to discharge the duties and conform to the restrictions imposed upon a credit union.

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

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

Sec. 06.40.320. CONVERSION OF CHARTER. A credit union chartered under the laws of this state may be converted to a credit union under the laws of any other state or of the United States either inside or outside this state. A credit union chartered under the laws of the United States or any other state may convert to a credit union chartered under the laws of this state. To effect the conversion, a credit union must comply with all the requirements for credit unions originally chartered under this chapter, of the authority under which it was originally chartered and the requirements of the commissioner, and file proof of compliance with the commissioner. A credit union chartered under the laws of this state which proposes to convert its charter to another jurisdiction must, in addition to the other requirements of this section, have the proposed conversion approved by an affirmative vote of a majority of the members of the credit union.

Sec. 06.40.330. SUSPENSION. (a) If it appears that a credit union is bankrupt or insolvent, or has wilfully violated the provisions of this chapter, or is operating in an unsafe or unsound manner, the commissioner may issue an order temporarily suspending the credit union's operations for not more than 60 days. The board of directors shall be given notice by registered mail of the suspension, which notice shall include a list of the reasons for the suspension and a list of specific violations of this chapter.

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

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

request a hearing with the commissioner, he may then revoke the credit union's charter, appoint a liquidating agent and liquidate the credit union in accordance with sec. 340 of this chapter.

Sec. 06.40.340. LIQUIDATION. (a) At a meeting called to consider the matter, a majority of the entire membership may vote to dissolve the credit union, provided a copy of the notice was mailed to the members of the credit union at least 10 days before the meeting. A member not present at the meeting may, within the next 20 days, vote in favor of the dissolution by signing a form approved by the commissioner and his vote shall have the same force and effect as if cast at the meeting. The credit union shall immediately cease to do business except for the purposes of liquidation, and the president and secretary shall, within five days following the meeting, notify the commissioner of intention to liquidate and shall include a list of the names and addresses of the directors and officers of the credit union.

(b) If, after issuing notice of suspension and following the procedures set out in sec. 330 of this chapter, the commissioner rejects the credit union's plan to continue operations, he may issue a notice of involuntary liquidation and appoint a liquidating agent. The credit union may request a stay of execution of this action by appealing to the appropriate court of the jurisdiction in which the credit union is located.

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

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

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

ARTICLE 5. PROHIBITED PRACTICES AND SANCTIONS.

Sec. 06.40.350. UNAUTHORIZED CONDUCT OF CREDIT UNION BUSINESS. It is a misdemeanor punishable, upon conviction, by a fine of up to $5,000 and imprisonment for up to one year for a person, except corporations formed under the provisions of this chapter or another credit union law, or an association of credit unions and its chapters, to conduct business under a name or title which contains the words "credit union" or a derivation of them, or to represent himself in his advertising or otherwise as conducting business as a credit union.

Sec. 06.40.355. TRANSFER OF CREDIT UNION'S PROPERTY TO PREFERRED CREDITOR IS VOID. The transfer by a credit union in the state of its property, money, or assets, after it becomes insolvent within the spirit of this chapter, with a view of preference of one creditor over another, or to prevent the equal distribution of its property and assets among its creditors, is void.

Sec. 06.40.360. UNLAWFUL DECEIT OF DEPARTMENT OR ITS EMPLOYEES. A person who wilfully and knowingly subscribes to, or makes or causes to be made any false statement, or enters any false figure, statement, or entry in the books of a credit union in this state, or who knowingly subscribes to, makes or circulates any false report or statement about the condition of a credit union in the state, with intent to deceive the department or any person authorized to examine the affairs of the credit union, upon conviction, is punishable by imprisonment for not less than one nor more than five years.

Sec. 06.40.365. UNLAWFUL FALSE REPORT TO DEPARTMENT. A person who certifies and subscribes any report which is wilfully false in any material effect is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $5,000, or by imprisonment for not more than one year, or by both.

Sec. 06.40.370. RECEIPT OF DEPOSITS WHILE INSOLVENT. The director, officer, or employee of a credit union who fraudulently receives any deposit, knowing that the credit union is insolvent, is guilty of a felony, and upon conviction is punishable by a fine of not more than $5,000, or by imprisonment for not less than one year nor more than three years, or by both.

Sec. 06.40.375. SLANDER AND LIBEL OF CREDIT UNION. A person who wilfully and maliciously makes, circulates or transmits to another any statement, rumor or suggestion, written, printed or by word of mouth, which is directly or by implication derogatory to the financial condition or affects the solvency or financial standing of a credit union doing business in the state, or who counsels, aids, procures, or induces another to start, transmit or circulate such a statement or rumor, is guilty of a felony, and upon conviction is punishable by a fine of not more than $5,000, or by imprisonment for not more than five years, or by both.

Sec. 06.40.380. PENALTY. A person who wilfully and knowingly violates any provision of this chapter for which no specific penalty is provided is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $5,000, or by imprisonment for not more than one year, or by both. In case of violation by a corporation, the corporation is punishable by a fine of not more than $5,000.

ARTICLE 6. GENERAL PROVISIONS.

Sec. 06.40.390. FISCAL YEAR. The fiscal year of all credit unions organized under this chapter shall be the calendar year.

Sec. 06.40.400. RECORDS. Records of a credit union chartered under this chapter shall be kept for a period of six years from the date of making them or from the date of the last entry on them. No credit union may be required to receipt for payment except as provided in the bylaws, nor shall it be necessary to endorse a note showing date of payments or balance due.

Sec. 06.40.410. LIABILITY OF MEMBERS, DIRECTORS, OFFICERS AND EMPLOYEES. (a) The members of a credit union are not personally or individually liable for the debts of the credit union.

(b) A director, officer or employee of a credit union who knowingly approves or permits the funds of the credit union to be invested or loaned in an excessive, careless or dishonest manner is personally liable for all damages which the credit union, its members, depositors, or any other person sustains because of the violation. The liability may be enforced against the director, officer or employee by suit or action in any court of competent jurisdiction.

Sec. 06.40.420. BRANCH OFFICE FACILITIES. (a) With the written approval of the commissioner, a credit union may establish a branch office at a location other than its main office. The commissioner may by regulation establish the content of the application and an appropriate

application fee.

(b) The commissioner shall approve an application by a state credit union under (a) of this section if he determines that

(1) the branch office proposal is economically feasible;

(2) the name of the branch office is not deceptively similar to another credit union doing business in the state;

(3) the requirements of this chapter have been satisfied; and

(4) any conditions imposed by the department in granting the application have been fulfilled.

(c) A credit union may share office space with one or more credit unions and may contract with a corporation to provide facilities or personnel.

Sec. 06.40.430. TAXATION. (a) A credit union organized under this chapter or other credit union law and shares and deposits in them shall be exempt from taxation imposed by this state or any taxing authority within this jurisdiction, and laws which tax corporations in any form, or deposits of them, or the accumulations on them, do not apply to a credit union, except that real property and tangible personal property owned by a credit union shall be subject to taxation to the same extent that other similar property is taxed, provided that this exception does not permit the imposition of a sales or use tax on a credit union except on goods and services distributed to its members under a group purchasing or cooperative marketing arrangement. The shares of a credit union are not subject to transfer taxes, either when issued or when transferred from one member to another.

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

Sec. 06.40.440. GROUP PURCHASING. A credit union may enter into cooperative marketing arrangements to facilitate its members' voluntary purchase of goods and services that are in the interest of improving economic and social conditions of the members.

Sec. 06.40.450. OTHER REGULATIONS. When a credit union engages in activities which are regulated under AS 45.05, it shall be considered to be a bank and, in the absence of applicable provisions in this chapter, shall be governed by AS 45.05.

Sec. 06.40.460. ADMINISTRATIVE PROCEDURE ACT. Regulations under this chapter are subject to the Administrative Procedure Act (AS 44.62).

Sec. 06.40.470. DEFINITIONS. In this chapter, unless the context otherwise requires,

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

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