

Introduced: 1/20/78  
Referred: Commerce

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE  
BY REQUEST

CS

2 HOUSE BILL NO. 668

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Small Loans Act."

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

8 \* Section 1. AS 06.20.010 is amended to read:

9 Sec. 06.20.010. LICENSE REQUIRED. No person may engage in the  
10 business of making loans of money, credit, goods, or things in action in  
11 the amount or of the value of \$5,000 [\$1,500] or less and charge, con-  
12 tract for, or receive on the loan a greater rate of interest, discount,  
13 or consideration than the lender would be permitted by law to charge if  
14 he were not a licensee under this chapter [HEREUNDER], except as autho-  
15 rized by this chapter and without first obtaining a license from the  
16 department [OF COMMERCE AND ECONOMIC DEVELOPMENT, HEREINAFTER CALLED THE  
17 DEPARTMENT].

18 \* Sec. 2. AS 06.20.040 is amended to read:

19 Sec. 06.20.040. LIQUID ASSETS REQUIRED. Every applicant shall  
20 prove, in form satisfactory to the department, that he has available for  
21 the operation of the business at the location specified in the applica-  
22 tion, liquid assets of at least \$20,000 [\$10,000].

23 \* Sec. 3. AS 06.20.050 is amended to read:

24 Sec. 06.20.050. BOND. The applicant shall file with the applica-  
25 tion a bond to be approved by the department in which the applicant  
26 shall be the obligor, in the sum of \$5,000 [\$1,000] with one or more  
27 sureties. The bond shall be for the use of the state and any person who  
28 may have a cause of action against the obligor under this chapter. The  
29 bond shall state that the [SAID] obligor will faithfully conform to and

1 abide by the provisions of this chapter and of all [RULES AND] regula-  
2 tions lawfully made by the department, and will pay to the state and to  
3 any person all money [MONEYS] that may become due or owing to the state  
4 or to the person from the applicant under this chapter.

5 \* Sec. 4. AS 06.20.060 is amended to read:

6 Sec. 06.20.060. ISSUANCE OF LICENSE. Upon the filing of the ap-  
7 plication, the payment of the fees and the approval of the bond, the  
8 department shall issue a license to the applicant if it finds upon in-  
9 vestigation that (1) the financial responsibility, experience, character,  
10 and general fitness of the applicant and of its [THE] members [THEREOF]  
11 if the applicant is a copartnership or association, and of its [THE]  
12 officers and directors [THEREOF] if the applicant is a corporation, are  
13 such as to command the confidence of the community and to warrant belief  
14 that the business will be operated honestly, fairly, and efficiently  
15 within the purposes of this chapter, and (2) allowing the applicant to  
16 engage in business will promote the convenience and advantage of the  
17 community in which the business is to be conducted, and (3) the applicant  
18 has available for the operation of the business at the specific location  
19 liquid assets of at least \$20,000 [\$10,000]. The foregoing facts are  
20 conditions precedent to the issuance of a license under this chapter.  
21 The license permits the applicant to make loans in accordance with this  
22 chapter at the location specified in the application. The license re-  
23 mains in full force and effect until it is surrendered by the licensee  
24 or revoked or suspended. If the department denies the application, it  
25 shall notify the applicant of the denial and return the bond and license  
26 fee and retain the \$200 investigation fee. The department shall approve  
27 or deny every application for license within 60 days from the filing  
28 of the application [THEREOF] with the fees and the approved bond. If  
29 the application is denied, the department shall, within 20 days

1 thereafter, serve upon the applicant a copy of the written decision and  
2 findings. The decision and findings may be reviewed in the manner pro-  
3 vided in the Administrative Procedure Act (AS 44.62).

4 \* Sec. 5. AS 06.20.090(b) is amended to read:

5 (b) Whenever a licensee changes his place of business to another  
6 location within the same municipality, he shall [IMMEDIATELY] give writ-  
7 ten notice to the department in advance. The department shall attach  
8 the written notice of the change to the license together with the date.  
9 Thereafter the licensee may operate the business under the license at  
10 the new location. A licensee may not change the place of business to a  
11 location outside the municipality in which he is authorized to do busi-  
12 ness.

13 \* Sec. 6. AS 06.20.200(a) is amended to read:

14 (a) No person may advertise, print, display, publish, distribute,  
15 or broadcast or cause or permit to be advertised, printed, displayed,  
16 published, distributed, or broadcast, in any manner any statement or  
17 representation with regard to the rates, terms, or conditions for the  
18 lending of money, credit, goods, or things in action in the amount or of  
19 the value of \$5,000 [\$1,500] or less, which is false, misleading, or  
20 deceptive. The department may order any licensee to desist from any  
21 conduct which it finds to be in violation of this section.

22 \* Sec. 7. AS 06.20.230 is amended to read:

23 Sec. 06.20.230. MAXIMUM INTEREST PERMITTED. (a) A licensee may  
24 lend any sum of money not exceeding \$5,000 [\$1,500] and may charge,  
25 contract for, and receive on the loan [THEREON] interest at a rate not  
26 exceeding three per cent a month on that part of the unpaid principal  
27 balance of a loan not in excess of \$500 [\$400]; two per cent a month on  
28 the remainder of any unpaid principal balance exceeding \$500 [\$400] but  
29 not exceeding \$1,000; [\$800,] and one per cent a month on the remainder

1 of any unpaid principal balance exceeding \$1,000 [\$800] but not ex-  
2 ceeding \$5,000 [\$1,500]. On loans[, ] the principal of which is \$50 or  
3 less a licensee may charge, contract and receive interest at a rate not  
4 exceeding five per cent a month.

5 (b) As an alternative to the charges authorized under (a) of this  
6 section, a licensee may charge, contract for and receive charges at a  
7 rate not exceeding one and one-half per cent a month on the unpaid  
8 principal balance.

9 \* Sec. 8. AS 06.20.250 is amended to read:

10 Sec. 06.20.250. COMPUTATION AND PAYMENT OF INTEREST. (a) Inter-  
11 est shall not be paid, deducted, or received in advance. Interest shall  
12 be computed and paid only on unpaid principal balances and shall not be  
13 compounded; however, if part or all of the consideration for a loan con-  
14 tract is the unpaid principal balance of a prior loan, the principal  
15 amount payable under the loan contract may include any unpaid charges on  
16 the prior loan which have accrued within 60 days before the making of  
17 the loan contract. The maximum interest permitted on loans made under  
18 this chapter shall be computed on the basis of the number of days  
19 actually elapsed. For the purpose of these computations a month is any  
20 period of 30 consecutive days.

21 (b) A licensee may compute interest for a loan as provided in this  
22 chapter on an interest-bearing or actuarial basis either at the rates  
23 stated in sec. 230 of this chapter or at the single annual percentage  
24 rate that would earn the same finance charge as the rates stated in sec.  
25 230 when the debt is paid according to the agreed terms and the calcu-  
26 lations made according to the actuarial method.

27 (c) No licensee may enter into any contract for a loan that pro-  
28 vides for a scheduled repayment of principal over more than the maximum  
29 terms set out below opposite the respective size of loans.

<u>Principal amount of loan to</u>	<u>Maximum term</u>
\$1,000.....	24 and 1/2 months
Over \$1,000 to \$2,500.....	48 and 1/2 months
Over \$2,500 to \$5,000.....	60 and 1/2 months

5 \* Sec. 9. AS 06.20.260(a)(2) is amended to read:

6 (2) premiums actually paid out for credit insurance on the  
7 life [OR PLEDGED PROPERTY] of the borrower or the spouse co-maker, or  
8 credit disability insurance on the borrower or the spouse co-maker, or  
9 insurance on pledged property;

10 \* Sec. 10. AS 06.20.280 is amended to read:

11 Sec. 06.20.280. MAXIMUM CHARGE BY LICENSEE. No licensee may di-  
12 rectly or indirectly charge, contract for, or receive any interest, dis-  
13 count, or consideration greater than that which he would be permitted by  
14 law to charge if he were not a licensee under this chapter [HEREUNDER],  
15 upon the loan, use or forbearance of money, goods, or things in action,  
16 or upon the loan, use, or sale of credit, of the amount or value of more  
17 than \$5,000 [\$1,500]. This section applies to any licensee who permits  
18 any person, as borrower or endorser, guarantor, or surety for any bor-  
19 rower, or otherwise, to owe directly or contingently or both to the li-  
20 censee at any time a sum of more than \$5,000 [\$1,500] on principal.

21 \* Sec. 11. AS 06.20.290 is amended to read:

22 Sec. 06.20.290. PURCHASE OF WAGES FOR \$5,000 [\$1,500] OR LESS.  
23 For purposes of this chapter, the payment of \$5,000 [\$1,500] or less in  
24 money, credit, goods, or things in action, as consideration for the sale  
25 or assignment of, or order for, the payment of wages, salary, commis-  
26 sions, or other compensation for services whether earned or to be earned  
27 is considered interest or a charge upon the loan from the date of pay-  
28 ment to the date the compensation is payable. Such transaction is  
29 governed by this chapter.

1 \* Sec. 12. AS 06.20.300(a) is amended to read:

2 (a) Except as authorized in this chapter, no person may directly  
3 or indirectly charge, contract for, or receive any interest, discount,  
4 or consideration greater than that which he would be permitted by law to  
5 charge if he were not a licensee, upon the loan, use, or forbearance of  
6 money, goods, or things in action, or upon the loan, use, or sale of  
7 credit of the amount or value of \$5,000 [\$1,500] or less.

8 \* Sec. 13. AS 06.20.310 is amended to read:

9 Sec. 06.20.310. ILLEGAL INTEREST RATE. No loan of the amount or  
10 value of \$5,000 [\$1,500] or less for which a greater rate of interest,  
11 consideration or charge than is permitted by this chapter has been  
12 charged, contracted for or received, wherever made, may be enforced in  
13 the state, and every person participating in such a loan [THEREIN] in  
14 the state is subject to this chapter. This section does not apply to  
15 loans legally made in any state or territory of the United States which  
16 has in effect a regulatory small loan law similar in principle to this  
17 chapter.

18 \* Sec. 14. AS 06.20.320 is amended to read:

19 Sec. 06.20.320. CIVIL AND CRIMINAL PENALTIES. (a) A licensee or  
20 lender who, in the making or collection of a loan contract, does any act  
21 which violates secs. 230 - 260 or 280 - 310 of this chapter shall at the  
22 option of the commissioner reimburse the portion of the interest and  
23 charges in excess of that provided in those sections, or, in the case of  
24 repeated violations of those sections by the licensee, the licensee  
25 shall adjust the loan contract interest or other charges down to the  
26 contract interest limitation specified in AS 45.45.010(a).

27 (b) Any person, copartnership, association, or corporation, and  
28 its [THE SEVERAL] members, officers, directors, agents, and employees  
29 [THEREOF], who violates [VIOLATE] or participates [PARTICIPATE] in a

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violation of the provisions of secs. 10, 180 - 200, 230 - 290[270], 300  
or 310 of this chapter is [ARE] guilty of a misdemeanor.

\* Sec. 15. AS 06.20 is amended by adding a new section to read:

Sec. 06.20.900. DEFINITIONS. As used in this chapter, unless the  
context otherwise requires,

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

(2) "department" means the Department of Commerce and Eco-  
nomic Development.

\* Sec. 16. AS 06.20.260(a)(4) is repealed.

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