

Original sponsor: Commerce Committee

Offered: 4/24/79
Referred: Judiciary

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2

HOUSE CS FOR CS FOR SENATE BILL NO. 118

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

8

* Section 1. AS 06.20 is amended by adding new sections to read:

9 Sec. 06.20.285. OPEN-END LOANS. (a) A licensee may make open-end
10 loans not exceeding an aggregate total of \$5,000 and may contract for
11 and receive interest on open-end loans as provided in AS 06.20.230, and
12 for other charges permitted under this chapter. Interest on open-end
13 loans may be computed daily or monthly on the unpaid principal balance
14 or the average unpaid principal balance if the interest charged as a
15 result of these computations does not exceed the rates stated in
16 AS 06.20.230 when the interest is computed according to the interest-
17 bearing or actuarial method.

18 (b) The billing cycle for open-end loans is monthly, and the
19 unpaid principal balance on a certain day is computed by adding to the
20 balance unpaid on the beginning of that day, or the average unpaid daily
21 balance for that billing cycle, all advances and other permissible
22 amounts charged to the borrower and deducting all payments and other
23 credits made or received that day.

24 (c) A licensee may secure the payment of an open-end loan in the
25 same manner as other loans under this chapter may be secured.

26 (d) The licensee shall deliver a copy of the open-end loan agree-
27 ment to the borrower at the time the open-end loan account is opened.
28 The open-end loan agreement must contain the name and address of the
29 licensee and the borrower and must contain disclosures of finance

1 charges and agreed terms as may be required by regulations adopted by
2 the department and the Board of Governors of the Federal Reserve System.

3 (e) At the end of each billing cycle in which there is an out-
4 standing balance in the account for which a finance charge is imposed,
5 the licensee shall deliver to the borrower a statement in the form
6 required by regulations adopted by the department and the Board of
7 Governors of the Federal Reserve System. This subsection does not apply
8 to accounts which the licensee considers uncollectible or for which an
9 action to collect past due amounts has been filed.

10 Sec. 06.20.287. CREDIT INSURANCE ON OPEN-END LOANS. (a) A licen-
11 see may obtain credit life, credit disability, and property insurance on
12 open-end loans under this chapter. The credit life and credit dis-
13 ability insurance obtained by a licensee shall satisfy the requirements
14 of AS 21.57. The property insurance obtained by a licensee shall
15 satisfy the requirements of AS 21.39 and AS 21.42. The licensee shall
16 comply with AS 21.36.160 and 21.36.165 during all transactions with
17 borrowers involving credit life, credit disability and property
18 insurance.

19 (b) The licensee shall calculate the charge for credit life or
20 disability insurance in each billing cycle by adding to the unpaid
21 balance in the borrower's account the current monthly premium rate for
22 the coverage required at the rate set under AS 21.57, using the method
23 specified in the loan agreement for determining the unpaid balance.

24 (c) A licensee may not cancel credit life or disability insurance
25 obtained for an open-end loan if the borrower is delinquent in paying
26 his monthly installments unless an installment is delinquent for 90 days
27 or longer. The licensee shall advance to the insurer amounts necessary
28 to keep the policy in force until the 90-day delinquency period has
29 elapsed, and the borrower's account may be charged for the amounts

1 advanced to the insurer.

2 * Sec. 2. AS 06.20.230 is amended by adding a new subsection to read:

3 (b) Notwithstanding the provisions of (a) of this section, a
4 licensee who makes open-end loans under this chapter may elect to
5 charge, contract for, and receive interest not to exceed one and one-
6 half per cent a month computed according to the actuarial method on the
7 unpaid principal balance as determined in AS 06.20.285(b).

8 * Sec. 3. AS 06.20.250(a) is amended to read:

9 (a) Interest shall not be paid, deducted, or received in advance.
10 Except for open-end loans made under AS 06.20.285, interest [INTEREST]
11 shall be computed and paid only on unpaid principal balances and shall
12 not be compounded; however, if part or all of the consideration for a
13 loan contract is the unpaid principal balance of a prior loan, the
14 principal amount payable under the loan contract may include any unpaid
15 charges on the prior loan which have accrued within 60 days before the
16 making of the loan contract. The maximum interest permitted on loans
17 made under this chapter shall be computed on the basis of the number of
18 days actually elapsed. For the purpose of these computations a month is
19 any period of 30 consecutive days.

20 * Sec. 4. AS 06.20.250(c) is amended to read:

21 (c) Except for open-end loans under AS 06.20.285, no [NO] licensee
22 may enter into any contract for a loan that provides for a scheduled
23 repayment of principal over more than the maximum terms set out below
24 opposite the respective size of loans.

Principal amount of loan to	Maximum term
\$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

28 * Sec. 5. AS 06.20.260(a) is amended by adding a new paragraph to read:

1 (5) reasonable fees paid by a licensee for appraisals,
2 surveys, and title insurance or reports if the loan is secured by an
3 interest in real estate.

4 * Sec. 6. AS 06.20.270 is amended to read:

5 Sec. 06.20.270. REQUIREMENTS FOR MAKING AND PAYMENT OF LOANS.

6 Except as provided in AS 06.20.285 for open-end loans, every [EVERY]
7 licensee shall

8 (1) deliver to the borrower at the time a loan is made a
9 statement containing a printed copy of AS 06.20.230 - 06.20.260 in the
10 English language and showing in clear and distinct terms the amount and
11 date of the loan and its maturity, the nature of the security, if any,
12 for the loan, the name and address of the borrower and the licensee, and
13 the agreed rate of charge;

14 (2) give to the borrower a plain and complete receipt for all
15 payments made on account of the loan at the time payments are made,
16 specifying the amount applied to interest and the amount, if any,
17 applied to principal, and stating the unpaid principal balance, if any,
18 of the loan;

19 (3) permit payment to be made in advance in any amount on a
20 contract of loan at any time, but the licensee may apply the advance
21 payment first to all interest in full at the agreed rate up to the date
22 of payment;

23 (4) upon repayment of the loan in full, mark indelibly every
24 obligation and security signed by the borrower with the word "Paid" or
25 "Cancelled," and release any mortgage, restore any pledge, cancel and
26 return any note, and cancel and return any assignment given to the
27 licensee by the borrower;

28 (5) display prominently in each licensed place of business a
29 full and accurate schedule, approved by the department, of the charges

1 to be made and the method of computing them.

2 * Sec. 7. AS 06.20.320 is amended by adding a new subsection to read:

3 (c) If a penalty for failure to comply with financing disclosure
4 requirements under regulations adopted by the Board of Governors of the
5 Federal Reserve System is imposed by the federal authorities, the de-
6 partment may not impose a civil penalty under this section for the same
7 act or omission.

8 * Sec. 8. AS 06.20.900 is amended by adding a new paragraph to read:

9 (3) "open-end loan" means a loan made by a licensee under
10 this chapter under an agreement between the licensee and a borrower
11 which provides that

12 (A) the borrower may obtain advances of money from the
13 licensee from time to time or the licensee may advance money on
14 behalf of the borrower from time to time as directed by the
15 borrower;

16 (B) the amount of each advance and interest and charges
17 will be added to the borrower's open-end loan account and payments
18 and other credits are deducted from that account;

19 (C) interest will be computed on the unpaid principal
20 balance or the average unpaid principal balance of the open-end
21 loan account;

22 (D) the borrower may pay all or any part of the unpaid
23 principal balance of his open-end loan account or, if the account
24 is not in default, in monthly installments of fixed amounts as
25 provided in the loan agreement; and

26 (E) the agreement covers open-end loans under this
27 chapter.

28 * Sec. 9. AS 06.30.355 is amended to read:

29 Sec. 06.30.355. BRANCH OFFICES AND AGENCIES SUBJECT TO DIRECTION

1 FROM HOME OFFICE. Each association shall be operated from the home
2 office [WHICH SHALL BE LOCATED IN THE STATE]. All branch offices and
3 agencies are subject to direction from the home office.

4 * Sec. 10. AS 21.57.020 is amended to read:

5 Sec. 21.57.020. SCOPE OF CHAPTER. All life insurance and all
6 disability insurance in connection with loans or other credit trans-
7 actions shall be subject to the provisions of this chapter except
8 insurance in connection with a loan or other credit transaction of five
9 years or more duration involving a loan or other credit transaction
10 which exceeds \$5,000; insurance may not be subject to the provisions of
11 this chapter if the issuance of the insurance is an isolated transaction
12 on the part of the insurer not related to an agreement or a plan for
13 insuring debtor of the creditor.

14 * Sec. 11. AS 06 is amended by adding a new chapter to read:

15 CHAPTER 40. ALASKA CREDIT UNION ACT.

16 ARTICLE 1. FORMATION AND MANAGEMENT OF CREDIT UNIONS.

17 Sec. 06.40.010. FORMATION OF CREDIT UNION. (a) A credit union
18 may be formed by seven or more residents of the state who meet the
19 requirement of common bond under AS 06.40.060 and the requirements of
20 this section and who (1) subscribe for shares of the credit union in the
21 aggregate amount of \$1,000, and (2) execute two copies of articles of
22 incorporation and bylaws of the credit union consistent with the provi-
23 sions of this chapter and the regulations of the commissioner.

24 (b) The incorporators shall submit to the commissioner an appli-
25 cation to establish a credit union, including the proposed articles of
26 incorporation, bylaws, and required fees. The commissioner shall
27 approve the application if he determines that

28 (1) the articles of incorporation and bylaws conform to the
29 provisions of this chapter;

1 (2) the incorporators are fit and of good general character;
2 (3) the proposed credit union is economically feasible;
3 (4) the name of the proposed credit union is not deceptively
4 similar to the name of another credit union doing business in the state;
5 and

6 (5) any conditions imposed by the department in granting the
7 certificate of approval have been fulfilled.

8 (c) The commissioner shall, within 60 days of receipt from the
9 incorporators of all information requested by him under (b) of this
10 section, either approve or disapprove the application. If the commis-
11 sioner approves the application, he shall, within the same 60-day
12 period, issue a certificate of approval and return a copy of the
13 articles of incorporation, the certificate of approval, and bylaws to
14 the organizers to be preserved in the permanent files of the credit
15 union.

16 (d) A credit union may not transact business until formal approval
17 of the charter has been received.

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

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

29 Sec. 06.40.030. BYLAWS. The incorporators shall adopt the initial

1 bylaws of the credit union. The members of the credit union may alter,
2 amend or repeal the bylaws or adopt new bylaws. The bylaws shall pre-
3 scribe the following:

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

6 (A) credit unions shall be open to groups having common
7 bonds of occupation or association, or to residents within a well-
8 defined neighborhood, community, or rural district, or to employees
9 of related or neighborhood industries, or to members of a bona fide
10 fraternal, religious, cooperative, labor, rural, educational, or
11 similar organization and employees of the credit union; members of
12 the immediate family of all qualified persons are eligible for
13 membership; in this section "members of the immediate family"
14 include the wife, husband, parents, and children of a member
15 whether living together in the same household or not and any other
16 relative of the member or spouse of a member living together in the
17 same household as the member;

18 (B) organizations and associations composed of indivi-
19 duals, the majority of whom are eligible for membership, may be
20 admitted to membership in the same manner and under the same condi-
21 tions as individuals;

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

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

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

28 (4) the duties of the officers;

29 (5) the time of the annual meeting of members, which shall be

1 held within 90 days after the end of the calendar year;

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

4 (7) other provisions for the management of the affairs of the
5 credit union consistent with law or the articles of incorporation.

6 Sec. 06.40.040. NAME. The name of a credit union chartered under
7 this chapter shall include the words "credit union". A credit union may
8 not adopt the same name as that of another existing credit union.

9 Sec. 06.40.050. INITIAL DIRECTORS AND COMMITTEES. The incorpora-
10 tors shall select at least five persons to serve on the board of direc-
11 tors, three persons to serve on the supervisory committee, and persons
12 to serve on other committees required by the articles or bylaws. The
13 persons selected serve in these capacities until the first annual
14 meeting of the members and the election of their successors.

15 Sec. 06.40.060. MEMBERSHIP. (a) Except as provided in this sec-
16 tion, the membership of a credit union is limited to persons who have
17 common bonds who have met the requirements stated in the articles of
18 incorporation and the bylaws.

19 (b) Societies and co-partnerships composed primarily of indivi-
20 duals who are eligible for membership and corporations whose stock-
21 holders are composed primarily of individuals who are eligible for
22 membership may be admitted to membership in the same manner and under
23 the same conditions as individuals.

24 (c) A credit union organized under this chapter may permit mem-
25 bership of a central credit union organized under this chapter.

26 Sec. 06.40.070. POWERS. A credit union may

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

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

- 1 (3) sue and be sued in its corporate name;
- 2 (4) make contracts, purchase, hold, lease and dispose of
3 property, either in whole or in part, necessary to its operations;
- 4 (5) require the payment of an entrance fee or annual member-
5 ship fee;
- 6 (6) receive savings from its members in the form of shares,
7 deposits, time certificates or special purpose thrift accounts;
- 8 (7) lend its funds to its members and invest surplus funds as
9 provided in this chapter;
- 10 (8) borrow from any source in an aggregate amount not to
11 exceed 50 per cent of paid-in and unimpaired capital and surplus to meet
12 share withdrawals or for purposes of financing investments in real
13 estate and credit union premises under AS 06.40.276 but a credit union
14 may not borrow for any other investments, and discount or sell eligible
15 obligations, subject to regulations prescribed by the commissioner;
16 however, borrowing must be in accordance with policy established by the
17 board of directors, and a credit union must notify the commissioner when
18 the amount borrowed by the credit union exceeds 35 per cent of its
19 paid-in and unimpaired capital and surplus;
- 20 (9) make deposits in banks chartered by this state or the
21 federal government, in trust companies, in savings and loan associa-
22 tions, and in central credit unions;
- 23 (10) hold membership in a central credit union organized under
24 this chapter and in organizations composed of credit unions;
- 25 (11) declare dividends, pay interest on deposits and pay
26 interest refunds to borrowers as provided in this chapter;
- 27 (12) assess charges to members in accordance with the bylaws
28 for failure to meet obligations to the credit union;
- 29 (13) sell travelers checks, money orders and other money-type

1 instruments to its members;

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

4 (15) perform trust services for its members subject to the
5 provisions of AS 06.25 upon approval by the commissioner, including
6 trust services relating to estates of deceased members, and act as a
7 custodian of qualified pension funds of self-employed individuals under
8 the provisions of P.L. 89-809;

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

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

19 (18) contribute to public service or eleemosynary institutions
20 and contribute to, support or participate in a nonprofit service facil-
21 ity whose services will benefit the credit union, subject to regulations
22 prescribed by the commissioner;

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

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

29 Sec. 06.40.080. MEMBERS' MEETINGS. The annual meeting and special

1 meetings of the members of the credit union shall be held at the time,
2 place and in the manner prescribed in the bylaws. A simple majority of
3 the members must be present or represented by proxies to conduct the
4 annual meeting. However, the proxies shall be equally divided among
5 those members attending the annual meeting. Each member shall have one
6 vote at the annual meeting, irrespective of the amount of his share-
7 holdings. A society, association, partnership or corporation, having
8 membership in the credit union, may be represented and vote by one of
9 its members or shareholders who has been legally authorized by its
10 governing body.

11 Sec. 06.40.090. BOARD OF DIRECTORS. (a) The business affairs,
12 funds and records of the credit union shall be directed by a board of
13 directors elected by and from the members at the annual members'
14 meeting. All members of the board hold office for the term provided in
15 the bylaws. The board of directors shall fill vacancies occurring in
16 the board at the next regular directors' meeting after the vacancy
17 occurs, until successors elected at the next annual members' meeting
18 have been qualified, except that vacancies created by an expansion of
19 the board shall be filled only by election at the next annual members'
20 meeting. The board shall appoint the members of the supervisory com-
21 mittee and other committees required by the bylaws and shall fill
22 vacancies occurring in those committees.

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

28 (c) A member of the board or committee of the board may not be
29 compensated for his service. A member, while on official business of

1 the credit union authorized by the board of directors, may be reimbursed
2 for necessary expenses incidental to the performance of the business.

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

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

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

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

15 (4) determine the number of shares and share certificates and
16 the classes of shares and share certificates that may be held by a
17 member, and determine the security and the maximum amount which may be
18 loaned or provided in lines of credit;

19 (5) direct the investment of surplus funds, except that the
20 board may designate a committee of its number or a qualified individual
21 to have charge of making investments in accordance with AS 06.40.290;

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

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

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

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

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

16 (c) Before the officer in charge of operations may enter upon his
17 duties he shall give bond with good and sufficient surety, in an amount
18 and character to be determined by the board in compliance with regula-
19 tions adopted by the commissioner.

20 Sec. 06.40.110. CREDIT COMMITTEE. (a) The board of directors
21 shall appoint a credit committee consisting of an odd number of members
22 of the credit union, no less than three, or, if provided in the bylaws,
23 appoint one or more loan officers empowered to approve loans under the
24 conditions prescribed by the board. A loan may not be made unless
25 approved by the loan officer or credit committee.

26 (b) A credit committee shall hold meetings as often as the busi-
27 ness of the credit union may require, but not less frequently than once
28 a month. Loans must be approved by a majority of the committee who are
29 present at the meeting at which the application is considered. The

1 credit committee may appoint one or more loan officers, and delegate to
2 him or them the power to approve loans. Not more than one member of the
3 credit committee may be appointed as loan officer or assistant loan
4 officer.

5 Sec. 06.40.120. SUPERVISORY COMMITTEE. (a) The supervisory
6 committee shall make a semiannual audit of the credit union and shall
7 submit a report of the audit to the board of directors and a summary of
8 that report to the members. A copy of the report shall also be sub-
9 mitted to the department within 60 days of its completion. The commit-
10 tee shall provide for supplementary audits which it considers necessary
11 or which may be required by the commissioner, and submit reports of
12 these supplementary audits to the board of directors. The supervisory
13 committee shall also provide for verification of the passbooks and
14 accounts of the members with the records of the treasurer at least once
15 every two years and at least half of the passbooks and accounts shall be
16 verified each year.

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

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

29 (d) A member of the supervisory committee may be suspended by a

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

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

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

15 ARTICLE 2. SUPERVISION AND REGULATION OF CREDIT UNIONS.

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

19 (b) The commissioner shall adopt regulations for the administra-
20 tion of this chapter which prescribe the minimum amount of surety bond
21 coverage required of credit unions in relation to their assets and
22 establish application and examination fees.

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

26 (d) For the purpose of paying the costs incident to the ascertain-
27 ment of whether a certificate of approval should be issued, the incor-
28 porators shall pay, at the time of filing their articles of incorpora-
29 tion and bylaws, the amount prescribed by the commissioner, which shall

1 not exceed \$100 in any case. Not later than January 31 of each calendar
2 year, each credit union shall pay to the department for the preceding
3 calendar year, a supervision fee in accordance with a graduated scale
4 prescribed by this section on the basis of assets as of December 31 of
5 the preceding year, but the fee shall in no event be less than \$100, as
6 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

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

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

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

28 Sec. 06.40.140. EXAMINATIONS. (a) The commissioner or his repre-
29 sentatives shall conduct an annual examination and any additional exam-

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

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

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

23 (d) The examiner shall take and subscribe an oath that he will
24 honestly and impartially examine into and report the condition of state
25 credit unions as to assets and liabilities and other information as may
26 be required by the department, that he will not disclose the information
27 he obtains through the examination to any person other than the depart-
28 ment, that at the time of his employment he is not obligated to or a
29 member of the credit union and that he is not an officer or employee of

1 any credit union conducting business in this state.

2 (e) All records of the department relating to this chapter are
3 public records, including those related to methods and procedures used
4 in examinations, except that all papers, documents, reports, reports of
5 examination, and other writings relating specifically to the supervision
6 and regulation of any state credit union by the department under this
7 chapter are not public records and are not open for examination or
8 copying by the public except under a court subpoena. Reports of exami-
9 nations made by the department shall be retained for five years.

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

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

27 Sec. 06.40.170. CENTRAL CREDIT UNION. (a) A central credit union
28 may be organized and operated under the provisions of this chapter and
29 is subject to all provisions not inconsistent with this section. This

1 credit union shall be known as the Alaska Central Credit Union. Member-
2 ship in the central credit union shall be limited to

3 (1) credit unions organized and operating under the pro-
4 visions of this chapter or operating in this state under the provisions
5 of the Federal Credit Union Act;

6 (2) officers, directors and committee members and employees
7 of credit unions, employees of the central credit union, employees of an
8 association of Alaska credit unions, and resident employees of federal
9 or state government agencies responsible for the supervision of credit
10 unions in this state;

11 (3) organizations or associations of these persons;

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

15 (5) persons who are members of credit unions in this state
16 which have entered into or are about to enter into voluntary or involun-
17 tary dissolution proceedings under the provisions of AS 06.40.330 or
18 credit unions in this state which have entered into or are about to
19 enter into voluntary or involuntary dissolution proceedings under the
20 provisions of Chapter 14 of Title XII of the U.S. Code.

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

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

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

8 ARTICLE 3. FINANCIAL PRACTICES.

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

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

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

27 Sec. 06.40.190. DEPOSITS. A credit union may issue time certifi-
28 cates to its members, subject to the conditions and the returns estab-
29 lished by the board of directors. Time certificates, differ from shares

1 in that a predeclared rate of return may be established on them and they
2 have a prior claim on the assets of the credit union. Christmas clubs,
3 vacation clubs, and other thrift accounts may be operated in accordance
4 with the provisions of the bylaws.

5 Sec. 06.40.200. MULTIPLE PARTY ACCOUNTS. (a) A credit union may
6 enter into multiple party accounts to the same extent that it may enter
7 into single party accounts. A multiple party account is an account in
8 the name of two or more persons, one or more of whom may make with-
9 draws. At least one party to a multiple party account must be a
10 member of the credit union in which the account is established. The
11 account may be created with any person designated by the credit union
12 member, but a nonmember may not vote, obtain loans, or hold office.

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

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

1 the account.

2 (d) During the lifetime of all parties, a multiple party account
3 which provides that the sums on deposit or in shares may be paid on
4 demand of either of two or more parties is presumed to belong to the
5 parties in proportion to the net contributions by each party to the sums
6 on deposit. In the absence of satisfactory proof of net contributions,
7 the parties shall be presumed to own a multiple party account in equal
8 undivided interests.

9 (e) The death of a party to a multiple party account shall have no
10 effect on the beneficial ownership of the account, other than to trans-
11 fer the decedent's right to his estate, unless the account is a survi-
12 vorship account or trust account.

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

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

28 Sec. 06.40.220. PRESUMPTIONS REBUTTABLE. The presumptions created
29 by AS 06.40.190 - 06.40.210 concerning beneficial ownership as between

1 parties, or as between parties and beneficiaries, of multiple party
2 accounts are relevant only to controversies between these persons or
3 their creditors or other successors, and shall have no bearing on the
4 rights of withdrawal of these persons as determined by the terms of the
5 account contracts. These presumptions are based upon inferences of the
6 intention of parties to multiple party accounts and the usual expecta-
7 tions of persons using these accounts and are rebuttable by clear and
8 convincing evidence of a different intention. The presumptions of
9 survivorship are not subject to change by will, but may be rebutted by a
10 written order received by the credit union to change the form of the
11 account or directing that payment not be made in accordance with the
12 account which is signed by a party and is received by the credit union
13 during the party's lifetime. If not rebutted by contrary evidence, the
14 presumptions provided in this chapter are effective to establish bene-
15 ficial ownership. Transfers resulting from the application of these
16 presumptions are effective by reason of the account contracts and are
17 not to be considered as testamentary.

18 Sec. 06.40.230. PAYMENTS BY CREDIT UNION. Payment made in accor-
19 dance with AS 06.40.190 - 06.40.210 discharges the credit union from all
20 claims for amounts so paid whether or not the payment is consistent with
21 the beneficial ownership of the account as between parties, or benefi-
22 cial owners or their successors. The protection given does not extend to
23 payments made after a credit union has received written notice from a
24 party who has a present right of withdrawal that withdrawals in accor-
25 dance with the terms of the account should not be permitted. Unless the
26 notice is withdrawn by the person giving it, the death of any party
27 after notice has no effect on withdrawal rights, and the personal repre-
28 sentative or heirs of the decedent must concur in any demand for with-
29 drawal if the credit union is to be protected under this section. No

1 other notice or information shown to have been available to a credit
2 union shall affect its right to the protection provided here. This
3 protection shall have no bearing on the rights of parties in disputes
4 between themselves or their successors concerning the beneficial owner-
5 ship of funds in, or withdrawn from, multiple party accounts.

6 Sec. 06.40.240. MINORS. Shares may be issued to and deposits
7 received from a minor who may withdraw the shares and deposits, includ-
8 ing dividends and interest. Deposits and share investments made by a
9 minor and withdrawals of them by the minor shall be valid in all re-
10 spects. For these purposes a minor is considered of full age.

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

21 Sec. 06.40.260. DIVIDENDS. After provision for operating ex-
22 penses, interest, accrued taxes and the required reserves, the board of
23 directors may, at intervals determined by them in accordance with regu-
24 lations which may be promulgated by the commissioner, declare a dividend
25 to be paid on the classes of shares determined by them from the remain-
26 ing net earning at a rate not to exceed the rate established by the
27 National Credit Union Administrator. Dividends may be paid at different
28 rates on different types of shares and at different rates and maturity
29 dates in the case of share certificates. Dividend credit may be accrued

1 on various types of shares and share certificates as authorized by the
2 board of directors. No dividend shall be declared if, after payment of
3 the dividend, known losses would exceed the combined balances of the
4 reserve fund and undivided earnings.

5 Sec. 06.40.270. LOANS. (a) A credit union may make loans to its
6 members upon the terms and conditions provided in the bylaws and approv-
7 ed by the credit committee or loan officer. The rate of interest may
8 not exceed one per cent per month on the unpaid balance, and the maximum
9 rate of interest prescribed by this section is inclusive of all charges
10 incident to making the loan. When applicable for real estate loans, the
11 interest rates prescribed in AS 45.45.010(b) shall prevail. Every
12 application for a loan shall be made in writing upon a form approved by
13 the board of directors, and shall state the purpose for which the loan
14 is desired, and the security, if any, offered. Every loan shall be
15 evidenced by a written statement. An unsecured loan shall bear a
16 maturity of no longer than five years and shall be supported by a
17 financial statement of the loan applicant. All secured loans except
18 those secured by improved real estate shall mature within 10 years. In
19 addition to generally accepted types of security, the endorsement of a
20 note by a guarantor or assignment of shares, in a manner consistent with
21 the laws of this state, shall be considered security within the meaning
22 of this chapter; however, when an endorsement of a note by a guarantor
23 is used as security on a loan for more than \$2,000, the loan shall also
24 be supported by a financial statement. The adequacy of all securities
25 shall be within the determination of the credit committee or loan offi-
26 cer, subject to the provisions of this chapter and the bylaws. A bor-
27 rower may repay his loan before maturity in whole or in part on any
28 business day without penalty.

29 (b) The credit committee or loan officer may approve in advance

1 upon its own motion or upon application by a member, an extension of
2 credit, and loans may be granted to the member within the limit of the
3 extension of credit. When an extension of credit has been approved,
4 applications for loans need no further consideration as long as the
5 aggregate obligation does not exceed the limit of the extension of
6 credit. The credit committee or loan officer shall, at least once a
7 year, review all extensions of credit and an extension of credit shall
8 expire if the member becomes more than 90 days delinquent in his obli-
9 gations to the credit union.

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

13 (d) A credit union may make loans to its own directors or to
14 members of its supervisory or credit committee; however, the aggregate
15 of loans to an individual director or committee member which exceeds
16 \$2,500 plus pledged shares must be approved by the board of directors.
17 A credit union may permit directors and committee members to act as
18 guarantor or endorser of loans to other members, except that when the
19 loan standing alone or when added to any outstanding loans of the guar-
20 antor exceeds \$2,500, approval of the board of directors is required.

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

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

26 (g) Subject to modification by the department by regulation, real
27 estate loans may be made to members in conformity with criteria estab-
28 lished by the board of directors under the rules and regulations that
29 apply to federally chartered credit unions, provided that

1 (1) a residential real estate loan which is made to finance
2 the acquisition of a one-to-four family dwelling for the principal
3 residence of a credit union member, the sales price of which is not more
4 than 150 per cent of the median sales price of residential real property
5 situated in the geographical area (as determined by the board of direc-
6 tors) in which the property is located, and which is secured by a first
7 lien upon the dwelling, may have a maturity not exceeding 30 years;

8 (2) a loan to finance the purchase of a mobile home, which
9 shall be secured by a first lien on the mobile home, to be used by the
10 credit union member as his residence, or for the repair, alteration, or
11 improvement of a residential dwelling which is the residence of a credit
12 union member, shall have a maturity not to exceed 15 years unless the
13 loan is insured or guaranteed as provided in (3) of this subsection;

14 (3) a loan secured by the insurance or guarantee of the
15 federal government, or the state, or any agency of either may be made
16 for the maturity and under the terms and conditions specified in the law
17 under which the insurance or guarantee is provided;

18 (4) the unpaid principal balance of loans secured by real
19 estate may not, in the aggregate, exceed 50 per cent of the paid-in
20 capital of the credit union.

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

28 Sec. 06.40.276. INVESTMENT IN REAL ESTATE AND CREDIT UNION PRE-
29 MISES. A credit union may acquire, purchase, hold or lease property for

1 the following purposes only:

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

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

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

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

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

29 (b) All credit unions chartered under this chapter, or credit

1 unions in operation at the time of issuance of a charter under this
2 chapter must submit evidence of share insurance coverage from the admin-
3 istrator of the National Credit Union Administration. The amounts of
4 loss to be protected or guaranteed shall be established by the commis-
5 sioner. The commissioner shall make available reports of condition and
6 examination reports to the administrator of the National Credit Union
7 Administration and may accept any report of examination made on behalf
8 of the administrator. Should a credit union be closed because of bank-
9 ruptcy or insolvency, the commissioner may appoint the National Credit
10 Union Administrator as the liquidating agent.

11 (c) Credit unions that do not maintain share insurance coverage as
12 specified in this section shall be liquidated by the commissioner in
13 accordance with AS 06.40.340.

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

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

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

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

26 (4) loans to or shares or deposits of other credit unions if
27 they do not, in the aggregate, exceed 10 per cent of the paid-in capi-
28 tal;

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

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

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

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

9 (8) stock in a credit union building corporation in accor-
10 dance with AS 06.40.276.

11 Sec. 06.40.300. RESERVE ALLOCATIONS. (a) At the end of each
12 accounting period, the gross income of the credit union shall be deter-
13 mined. Reserve allocations shall be determined according to the fol-
14 lowing:

15 (1) A credit union in operation for more than four years and
16 having assets of \$500,000 or more shall set aside (A) 10 per cent of
17 gross income until the regular reserve shall equal four per cent of the
18 total of outstanding loans and risk assets; then (B) five per cent of
19 gross income until the regular reserve shall equal six per cent of the
20 total of outstanding loans and risk assets.

21 (2) A credit union in operation less than four years or
22 having assets of less than \$500,000 shall set aside (A) 10 per cent of
23 gross income until the regular reserve shall equal seven and one-half
24 per cent of the total of outstanding loans and risk assets; then (B)
25 five per cent of gross income until the regular reserve shall equal 10
26 per cent of the total of outstanding loans and risk assets.

27 (3) When the regular reserve falls below the required per-
28 centages of the total of outstanding loans and risk assets, it shall be
29 replenished in the manner described in this subsection.

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

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

8 (1) cash on hand;

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

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

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

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

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

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

25 (8) the insured portion of common trust investments in gov-
26 ernment securities authorized by this chapter if the credit union is the
27 direct beneficiary of the guarantee or insurance; or

28 (9) accrued interest on nonrisk investments.

29 Sec. 06.40.305. CHARGING OFF OR SETTING UP RESERVES AGAINST BAD

1 DEBTS. The commissioner may require a credit union to establish a
2 reserve for and charge off the whole or part of an asset which has not
3 been lawfully acquired, write down an asset to its market value, charge
4 off that portion of an asset classified as a loss in a state report of
5 examination, or charge off all debts owned to the credit union in which
6 interest due has been unpaid for a period of six months unless the debt
7 principal is adequately secured and the credit union is in the process
8 of collection.

9 ARTICLE 4. MERGER, CONVERSION AND LIQUIDATION.

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

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

27 (c) Before approving a merger the commissioner shall give con-
28 sideration to the purposes of this chapter and the prospects of the
29 surviving or consolidated credit union for financial success and its

1 ability to discharge the duties and conform to the restrictions imposed
2 upon a credit union.

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

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

9 Sec. 06.40.320. CONVERSION OF CHARTER. A credit union chartered
10 under the laws of this state may be converted to a credit union under
11 the laws of any other state or of the United States either inside or
12 outside this state. A credit union chartered under the laws of the
13 United States or any other state may convert to a credit union chartered
14 under the laws of this state. To effect the conversion, a credit union
15 must comply with all the requirements for credit unions originally
16 chartered under this chapter, of the authority under which it was origi-
17 nally chartered and the requirements of the commissioner, and file proof
18 of compliance with the commissioner. A credit union chartered under the
19 laws of this state which proposes to convert its charter to another
20 jurisdiction must, in addition to the other requirements of this sec-
21 tion, have the proposed conversion approved by an affirmative vote of a
22 majority of the members of the credit union.

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

1 specific violations of this chapter.

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

8 (c) If the credit union fails to answer the suspension notice or
9 request a hearing with the commissioner, he may then revoke the credit
10 union's charter, appoint a liquidating agent and liquidate the credit
11 union in accordance with AS 06.40.340.

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

24 (b) If, after issuing notice of suspension and following the pro-
25 cedures set out in AS 06.40.330, the commissioner rejects the credit
26 union's plan to continue operations, he may issue a notice of involun-
27 tary liquidation and appoint a liquidating agent. The credit union may
28 request a stay of execution of this action by appealing to the appro-
29 priate court of the jurisdiction in which the credit union is located.

1 (c) A liquidating credit union shall continue in existence for the
2 purpose of discharging its debts, collecting and distributing its
3 assets, and doing the acts required in order to wind up its business,
4 and may sue and be sued for the purpose of enforcing debts and obliga-
5 tions until its affairs are fully adjusted. The board of directors, or
6 in the case of involuntary liquidation, the liquidating agent, shall use
7 the assets of the credit union to pay, in the following order, (1)
8 expenses incidental to the liquidation, including any surety bond that
9 may be required; (2) trust accounts; (3) any liability due nonmembers;
10 (4) deposits and savings club accounts as provided in this chapter.
11 Assets then remaining shall be distributed to the members proportion-
12 ately to the shares held on the date dissolution was voted.

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

22 ARTICLE 5. PROHIBITED PRACTICES AND SANCTIONS.

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

1 wise as conducting business as a credit union.

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

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

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

22 Sec. 06.40.370. RECEIPT OF DEPOSITS WHILE INSOLVENT. The direc-
23 tor, officer, or employee of a credit union who fraudulently receives
24 any deposit, knowing that the credit union is insolvent, is guilty of a
25 felony, and upon conviction is punishable by a fine of not more than
26 \$5,000, or by imprisonment for not less than one year nor more than
27 three years, or by both.

28 Sec. 06.40.375. SLANDER AND LIBEL OF CREDIT UNION. A person who
29 wilfully and maliciously makes, circulates or transmits to another any

1 statement, rumor or suggestion, written, printed or by word of mouth,
2 which is directly or by implication derogatory to the financial condi-
3 tion or affects the solvency or financial standing of a credit union
4 doing business in the state, or who counsels, aids, procures, or induces
5 another to start, transmit or circulate such a statement or rumor, is
6 guilty of a felony, and upon conviction is punishable by a fine of not
7 more than \$5,000, or by imprisonment for not more than five years, or by
8 both.

9 Sec. 06.40.380. PENALTY. A person who wilfully and knowingly vio-
10 lates any provision of this chapter for which no specific penalty is
11 provided is guilty of a misdemeanor, and upon conviction is punishable
12 by a fine of not more than \$5,000, or by imprisonment for not more than
13 one year, or by both. In case of violation by a corporation, the corpo-
14 ration is punishable by a fine of not more than \$5,000.

15 ARTICLE 6. GENERAL PROVISIONS.

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

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

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

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

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

5 Sec. 06.40.420. BRANCH OFFICE FACILITIES. (a) With the written
6 approval of the commissioner, a credit union may establish a branch
7 office at a location other than its main office. The commissioner may
8 by regulation establish the content of the application and an appropri-
9 ate application fee.

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

12 (1) the branch office proposal is economically feasible;

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

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

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

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

21 Sec. 06.40.430. TAXATION. (a) A credit union organized under
22 this chapter or other credit union law and shares and deposits in them
23 shall be exempt from taxation imposed by this state or any taxing auth-
24 ority within this jurisdiction, and laws which tax corporations in any
25 form, or deposits of them, or the accumulations on them, do not apply to
26 a credit union, except that real property and tangible personal property
27 owned by a credit union shall be subject to taxation to the same extent
28 that other similar property is taxed, provided that this exception does
29 not permit the imposition of a sales or use tax on a credit union except

1 on goods and services distributed to its members under a group purchas-
2 ing or cooperative marketing arrangement. The shares of a credit union
3 are not subject to transfer taxes, either when issued or when trans-
4 ferred from one member to another.

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

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

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

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

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

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

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

25 * Sec. 12. AS 06.30.335(e)(5) is repealed.
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